

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Bias motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and key consequences or implications of the case	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Key quotation in original language and translated into English with reference details
Sweden	2017	Sweden / Labour Court / A-163-2016	https://www.arbetsdomstolen.se/sv/meddelade-domar/arkiverade-domar/2017/2017-12-20-ad-2017-nr-65/	Religion	Labour Court (Arbetsdomstolen)	The court found it reasonable for an employer to ban the usage of disposable sleeves at his work place, even though the decision was considered to be discriminating women who cover themselves due to their religious belief. The judgment was based on a weighing of interest, where patient safety was considered to weigh heavier than freedom of discrimination. The plaintiff (A.N.), represented by the Equality Ombudsman, is a Muslim dentist who wears hijab and covers her arms at work. In order to cover her arms she used disposable sleeves. This was originally sanctioned by a representative of the employer's local hygiene committee. In February 2016, the CEO decided to ban the usage of disposable sleeves. The decision was made to follow the regulations of the National Board of Health and Welfare (Socialstyrelsen), which stipulate that healthcare clothes shall be short sleeved, in all different kinds of healthcare. The regulation entered into force in January - a month before the CEO introduced the local ban. The main question of the case was whether the CEO's decision in fact amounted to indirect discrimination against A.N. The case was treated in the Labour Court.	The Court dismissed the Equality Ombudsman's (Diskrimineringsombudsmannen) action against the dentistry and decided that the Ombudsman should pay the dentistry's legal costs.	The plaintiff (A.N.) claimed that banning disposable sleeves is not a necessary measure to maintain patient safety, and that there is no scientific evidence that non-sterile disposable sleeves are a higher risk than the non-sterile disposable gloves that are used in dental care. Therefore, the plaintiff claimed that the ban was especially disadvantaging Muslim women who cover their body. The dentistry said they were aware of the fact that the ban risks to disadvantage some persons but says that their assessment was that the ban is necessary to be able to assure patient safety.	The case clarifies that the protection of person's health and lives, (in this case patient safety) weighs heavier in such a conflict of interests; health concerns triumphs all other concerns. In the case in question, the health concerns and protection against diseases must be weighed against the ban of disposable sleeves and its possible effect on certain religious minorities. The ban of disposable sleeves when treating patients means that Muslim women who for religious reasons cover their arms in front of men, will be excluded from working as dentists in patient-oriented carework at the employer (Folk tandvården) in question. The case clarifies that the protection of patient safety does indeed triumph over other concerns, making the ban proportional.	"Folk tandvården har inte genom att besluta om förbud mot engångsarmar när skyddshandskar ska användas diskriminerat A.N., när hon var arbetstagar hos Folk tandvården, eftersom beslutet haft ett berättigat syfte - att bibehålla patientsäkerheten - och Folk tandvården visat att förbudet mot engångsarmar när skyddshandskar ska användas varit lämpligt och nödvändigt för att uppnå syftet med beslutet. Folk tandvården är därför inte skyldig att betala A.N. diskrimineringsersättning. DO:s talan ska alltså avslås."

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