DATABASE 2012-2024 ON ANTI-MUSLIM HATRED

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
Spain	2018	Spain / Supreme Court Social Section (Tribunal Supremo, Sala de lo Social) / ATS 6331/2018 - ECLI:ES:TS:2018:6331A	http://www.poderjudicial.es/search/openDocument/7cfa6fd7c2f67522/20180622	Religion	Supreme Court (Tribunal Supremo)	The court found lawful and proportionate a penalty of suspension of employment of a Muslim woman because she was using her Islamic veil at the workplace. The claimant worked at a mushroom collection pawn, Cultivos Riojal SL, under a permanent and full-time employment contract since July 2015. On April 2016, the company communicated her by written a penalty of suspension of employment and wages of 15 days, for serious infringement and breach of contract, because using the Islamic veil at her workplace. The factory argued that the Islamic veil was outside the cap (part of the mandatory working uniform) she was obliged to wear at her workplace based on hygienic reasons. She did continue to wear it though and on July 2016, the company informed her again by written of her second disciplinary dismissal for the same reason.	Her disciplinary dismissal was considered as appropriate. This last appeal was declared inadmissible. Another appeal is not possible. It was declared as the final instance. No litigation cost were imposed on the claimant. It was an appeal against the judgment of the Social Chamber of the High Court of Justice of La Rioja of 22 June 2017 - appeal. 179/2017 (Sala de lo Social del Tribunal Superior de Justicia de La Rioja, de 22 de junio de 2017 - R. Supl. 179/2017) which dismissed the worker's appeal and upheld the judgment issued at the first instance, where it was declared its disciplinary dismissal appropriate.	The Court did not find any evidence of injury to the right to dignity of the claimant. The Court considers that the measure complies with the principle of proportionality. The Court did not consider there is indirect discrimination in the decision to require women workers to strictly observe rules on work uniform.	To what exent the company's decision to set aside the Islamic veil constitutes a decision that does not curteil the constitutional right to religious freedom and it did response only to labour safety and hygiene reasons.	"It should be inferred that the measure taken by the defendant has not any kind of connection or relationship with the use of the Islamic veil, but that the defendant has fully established that its decision is totally unrelated to that circumstance "...cupiera inferir que la medida adoptada por la empresa tenga cualquier tipo de vinculación o relación con el uso del velo islámico, sino que la empresa ha acreditado cumplidamente que su decisión es totalmente extraña y ajena a dicha circunstancia."

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