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
Sweden	2018	Sweden / Labour Court / A-12-2017	https://www.arbetsdomstolen.se/sv/meddelade-domar/arkiverade-domar/2018/2018-04-11-ad-2018-nr-19/	Religion	Labour Court (Arbetsdomstolen)	The court found that a woman who worked at a school and refused to shake hands with a male colleague and as a consequence did not return to work at the school the following day was not discriminated against. The plaintiff (F.E-S) worked as a substitute teacher when she refused to shake hands with a male colleague. F.E-S claimed that she after the incident was told that she could not work at the school anymore. Thus, F.E-S maintained that she was discriminated on grounds of her religion. The school stated that nobody in the school had discriminated F.E-S. The case was processed in the Labour Court.	The Court dismissed the action against the school. Consequently, the Union, who represented F.E-S, had to pay the school's legal costs as well. The situation was not considered to be discrimination as it is defined by law.	The plaintiff (F.E-S) represented by the labour union, the Union, claimed that she was exposed to discrimination after she had refused to shake hands with a male colleague at the school where she worked. F.E-S claimed that the principal of the school (L.M) had told her that to not shake hands with a person of the opposite sex was not compatible with the Education Act, which emphasises equal treatment. F.E-S said that the principal gave her an ultimatum stating that she had to shake hands with all persons if she wanted to continue her work at the school. F.E-S left the meeting with the principal. Furthermore, she did not return to school the next day, although she was scheduled to work. L.M claimed that no uch ultimatum was given, but F.E-S was called to a meeting to discuss the incident. During the meeting the principal had asked F.E-S how she considered that her acting was in line with the school's work on equal treatment. L.M claimed that F.E-S did not answer any questions. Instead she left the meeting and did not come back the following day. The Court argued that the act of not shaking hands with persons of the opposite sex is not by ifelf a general expression of Islam and thus a refusal to shake hands cannot be considered a recognised way to express the Islamic faith. Consequently, the Court found that F.E-S was not exposed to neither direct nor indirect discrimination.	The case shows that one person's descriptions of discriminating incident, without any further proof e.g. a policy or a witness, is not enough to sentence someone for discrimination. It also clarifies that a general rule to avoid discrimination on all grounds (including sex) trumphs a religious minority's wish to avoid shaking hands with the opposite sex. Thus, a rule that enforce handshaking on such religious minorities cannot be considered discriminatory since the rule itself is in place to minimise discrimination. t is also interesting to note that the Labour Court's position on what kind of religious expressions that can be considered protected by Swedish law is different here than in the case above - processed only a couple of months earlier.	"Sammantaget finner Arbetsdomstolen att Unionen inte har förmått visa att Kunskapsskolan har uppställt ett krav på att handhälsa även på manliga kollegor som lett till att F.E-S. inte har kunnat utföra vare sig inplanerade eller framtida vikarieuppdrag på skolan. Detta gäller alldeles oavsett att L.M. har uppgett att hennes uppfattning är att det inte är förenligt med skollagen och läroplanen att arbeta på skolan och inte kunna ta samtliga kollegor i hand. Eftersom Unionen inte kunnat göra diskriminering antaglig, behöver de omständigheter som motparten åberopat mot att diskriminering föreligger inte prövas. Arbetsdomstolen konstaterar således att utredningen i målet inte gett stöd för att F.E-S. har diskriminerats. " "All in all, the Labour Court finds that the Union has not been able to show that the Knowledge School has imposed a requirement to shake hands also with male colleagues, which made F.E-S. unable to perform either planned or future temporary assignments at the school. This remains the case regardless of whether L.M. stated that her opinion is that it is not compatible with the Education Act and the school curriculum to work at the school while not being able to shake the hand of all colleagues. Since the Union has not been able to make discrimination plausible, the circumstances the plaintiff relied upon to prove discrimination do not need to be further examined. Thus, the Labour Court finds that the investigation in the case does not support F.E-S.' claim that she has been discriminated against."

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