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

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Finland	2019	Finland / District Court of Helsinki / 19/140548, R18/710 A copy of the decision can be requested from the registry of the District Court of Helsinki	https://oikeus.fi/karajaoikeudet/helsinginkarajaoikeus/fi/index.html	Religion	District Court of Helsinki (Helsingin käräjäoikeus / Helsingfors tingsrätt)	The city housing production office had decided to employ A. According to the regulations of the housing production office, the CEO decides on hiring new employees. When A's employment contract was to be signed, the CEO was on leave. She had authorised the project manager to sign the employment contract. A HR specialist was also present. A then told that he was a Muslim and would like to take an (unpaid) prayer break each day, one hour on Fridays and five minutes during other days. This had not come up earlier in the recruitment process. The project manager decided to postpone the signing of the contract, in order to consult the CEO and find out how to proceed. The HR specialist, in turn, had second thoughts about hiring A. A week later and a day after the CEO was back from her leave, the project manager told A that the employment contract with A would not be made. A then said he was willing to seek a compromise on the issue of the Friday prayer. He was still not hired. The court considered whether this amounted to work discrimination, and if yes, who was the person responsible.	The district court sentenced the CEO to 40 day fines (€ 1,800) for work discrimination and violation of official duty. The HR specialist was sentenced to 20 day fines (€ 760) for abetting. The charges against the housing project manager were dismissed.	Both the CEO and the HR specialist blamed the project manager for not signing the contract. The court held that the project manager had a justifiable reason to postpone the signing of the contract and leave it for the CEO to decide. The project manager had acted as the CEO's replacement for a short period of time only and had no power to decide on the matter after the CEO was back from her leave. The court found that it was evident that the CEO had made the final decision not to sign the contract. E-mail correspondence between the CEO and the HR specialist showed that both had been against hiring A after it turned out he was a Muslim. Despite A's will to compromise, the CEO had still not hired him. An employer has no obligation to allow a prayer break during working hours. However, in this case, evidence showed that a possibility for a daily prayer could have been arranged by adjusting A's lunch breaks. The court concluded that the CEO had neglected her duties and had not seen to it that the principle of non-discrimination is respected. The HR specialist, in her role as an adviser in the employment process, had agreed with the CEO's decision not to hire A.	An employer, who puts an applicant for a job or an employee in an inferior position because of religion (among other grounds), without an important and justifiable reason, is guilty of work discrimination. In assessing who in the organisation is liable, due consideration is given to the position of the person, the nature and extent of his or her duties and competence and his or her participation in the origin and continuation of the unlawful situation. (Criminal Code 39/1889, Chapter 47, sections 3 and 7). The essential elements of work discrimination are not fulfilled if an employer has an important, justifiable and work-related reason to put a job applicant or an employee in an inferior position. The district court decision studies this question in particular. The decision also illustrates the assessment of liability within the employer organisation.	"Kuten edellä sanottu osoittaa, työnantajalla ei ole ehdotonta velvollisuutta rukoushetken järjestämiseen. Asiassa on kuitenkin V1:n ja V2:n kertomuksilla selvitetty, että rukoushetket olisivat olleet käytännössä toteutettavissa muun muassa ruokataukojen avulla. Tätä mieltä on ollut myös V3 A:n vastaantulon jälkeen. Rukoushetken järjestämisessä ei ole myöskään noudatettu Helsingin kaupungin 23.9.2015 antamaa ohjetta, jonka mukaan taukojen pitäminen on pyrittävä järjestämään siten, että henkilöllä on tarvittaessa mahdollisuus uskontonsa harjoittamiseen. Lisäksi A oli myöhemmin kirjallisesti ilmoittanut voivansa joustaa tarvittaessa rukoushetkestä. Käräjäoikeus katsoo näissä olosuhteissa, että A:n työhön liittyvää hyväksyttävää painavaa syytä ei ole ollut." "As explained above, an employer has no absolute duty to arrange a prayer break. However, the statements made by V1 [the CEO] and V2 [the project manager] show that prayer breaks could in fact have been arranged, for example, during lunch breaks. V3 [the HR specialist] also held this opinion after A had suggested a compromise. The guidelines, issued by the city of Helsinki on 23.9.2015, had also not been complied with. According to the guidelines, the aim should be to arrange the breaks so that a person has a possibility to practice his or her religion when necessary. Furthermore, A had later told in writing that he can be flexible about the prayer break, when necessary. The district court finds that, under the current circumstances, there was no important and justifiable, work-related reason [to put A in an inferior position]. "

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