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
Germany	2020	Germany / Federal Constitutional Court (Bundesverfassungsgericht) / 2 BvR 1333/17 / ECLI:DE:BVerfG:2020:rs20200114.2bvr133317	https://www.bundesverfassungsgericht.de/SharedDocs/Entscheidungen/DE/2020/01/rs20200114_2bvr133317.html1	Religion	Federal Constitutional Court (Bundesverfassungsgericht)	The complainant, a German-Moroccan legal trainee who was born in Frankfurt/Main, took action against a legal provision of the state of Hesse, which stipulates that legal trainees, who wear headscarves are prohibited to perform tasks in which they may be seen as representatives of the judiciary or the state. As a consequence, these trainees are not allowed, for instance, to act as judge or public prosecutor.	The complaint was rejected.	The Federal Constitutional Court ruled that the legal provision imposing the ban on legal trainees to wear a headscarf while performing certain functions did not violate the constitution. The relevant provision of the Hesse Legal Training Act was adopted legally within the margin of discretion by the Hesse legislator. Furthermore, the interference with the fundamental right to freedom of religion is appropriate to ensure the neutrality of the state and the functionality of the judiciary, which are the fundamental requirements of the rule of law.	The Court had to decide whether this interference with the fundamental right to freedom of religion is justified on grounds of the constitution itself.	"Angesichts der konkreten Ausgestaltung des verfahrensgegenständlichen Verbots kommt keiner der kollidierenden Rechtspositionen vorliegend ein derart überwiegendes Gewicht zu, das verfassungsrechtlich dazu zwänge, der Beschwerdeführerin das Tragen religiöser Symbole im Gerichtssaal zu verbieten oder zu erlauben. Die Entscheidung des Gesetzgebers für eine Pflicht, sich im Rechtsreferendariat in weltanschaulich-religiöser Hinsicht neutral zu verhalten, ist daher aus verfassungsrechtlicher Sicht zu respektieren. " "In view of the concrete implementation of the prohibition that is subject of the proceeding, none of the conflicting legal positions has a predominant importance which could require either to prohibit or to allow - on grounds of the constitutions - the complainant wearing a religious symbol in the courtroom. Hence, from the perspective of constitutional law, the legislator's decision to impose an obligation to act ideologically and religiously neutral has to be respected."

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