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	2024	Germany / Labour Court Hamburg / 12 Ca 183/23 / ECLI:DE:ARBGHH:2024:0125.12CA183.23.00	https://www.landesrecht-hamburg.de/bsha/document/NJRE001574624	Racial or ethnic origin	Labour Court Hamburg (Arbeitsgericht Hamburg, 12. Kammer)	An applicant who wore a headscarf on her application profile was denied employment because of her headscarf. The position was for employment at Hamburg Airport as an aviation security assistant, which is a federal civil servant's job.	The defendant was ordered to pay compensation in the amount of €3,500.	There were sufficient indications within the meaning of Section 22 German General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz - AGG) that the applicant had been directly discriminated against on the grounds of religion.	Denying employment due to the applicant wearing a headscarf was found to constitute discrimination under the German General Equal Treatment Act (AGG). Any requirement of neutrality for civil servants could not justify the unequal treatment. Further, the defendant was found to be passively legitimised as an 'employer'. According to Section 6 (2) sentence 1 AGG, an employer within the meaning of the law is anyone who 'employs persons pursuant to paragraph 1' of Section 6 AGG. The employer of an applicant is therefore the person who has requested applications for an employment relationship they are seeking.	"Zeigt der Lebenslauf einer Bewerberin für eine Stelle als Luftsicherheitsassistent diese mit Kopftuch und äußerte das mit der Durchführung des Bewerbungsverfahrens beauftragte Unternehmen, keine Bewerberinnen mit Kopftuch einzustellen, liegen hierin ausreichende Indizien i.S.d. § 22 AGG, welche für eine unmittelbare Benachteiligung der Bewerberin wegen der Religion sprechen. Ein Anspruch auf Zahlung einer Entschädigung wegen Diskriminierung nach § 15 Abs 2 AGG, § 21 AGG ist insoweit begründet." "If the CV of an applicant for a position as an aviation security assistant shows her wearing a headscarf and the company responsible for carrying out the application process stated that it would not hire applicants wearing headscarves, this is sufficient evidence within the meaning of Section 22 AGG that the applicant was directly discriminated against on the basis of religion. A claim to payment of compensation for discrimination in accordance with Section 15 Paragraph 2 AGG and Section 21 AGG is therefore justified." "Ein etwaiges Neutralitätsgebot der Bundesbeamten, welches eventuell auch auf die nach § 16a LuftSiG beliehenen Luftsicherheitsassistenten übertragbar wäre, kann die unmittelbare Benachteiligung i.S.v. § 3 Abs 1 AGG vorliegend nicht rechtfertigen, § 8 Abs 1 AGG.(Rn.43) (Rn.51) Es ist nicht ersichtlich, dass auch Bundesbeamtinnen bei der Ausübung der Luftsicherheit ein Kopftuchverbot auferlegt ist." "Any requirement of neutrality for federal civil servants, which could possibly also be transferred to the aviation security assistants authorized under Section 16a of the Aviation Security Act, cannot justify the direct discrimination within the meaning of Section 3 Paragraph 1 of the General Equal Treatment Act in the present case, Section 8 Paragraph 1 of the General Equal Treatment Act. (Rn.43) (Rn.51) It is not apparent that female federal civil servants are also required to wear a headscarf when exercising aviation security duties."

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