

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
France	2023	France / Conseil d'État / N°487891 / ECLI:FR:CEORD:2023:487891.20230907	https://www.conseil-etat.fr/fr/arianeweb/CE/decision/2023-09-07/487891	Religion	Conseil d'État	The case related to an application for the annulment of a decision by the Minister of National Education and Youth, expressed in a memorandum on respect for the values of the Republic published on 31 August 2023 in the official bulletin of the French education system (bulletin officiel de l'éducation nationale), to ban the wearing of the abaya and qamis on school premises.	The Council of State (Conseil d'État) ruled that "by considering that the wearing of this type of clothing, which cannot be considered discreet, constituted a conspicuous manifestation of the religious affiliation of the pupils involved (...) and by asking school heads, when the pupil has not renounced it following a dialogue phase, to initiate disciplinary proceedings, the French Minister for Education and Youth" had not contravened the right to respect for privacy, freedom of worship, the right to education or the principle of non-discrimination.	The Council of State (Conseil d'État) noted that the term "abaya", "a term which the representatives of the administration indicated during the hearing should be understood as a female garment covering the entire body with the exception of the face and hands, or qamis, its male equivalent", as well as the choice of such clothing, were "part of a rationale of religious affirmation". Also, since the clothing "constituted a conspicuous manifestation of the religious affiliation of the pupils concerned", the Minister's decision did not disregard the rights of the said pupils. To reach this conclusion and as a basis for its decision, the Council of State (Conseil d'État) referred to Article L. 141-5-1 of the French Education Code, which prohibits the wearing in schools of signs or clothing by which pupils ostensibly manifest their religious affiliation.	The question was whether the ban on the "abaya and qamis" constituted a serious and manifestly unlawful infringement of the right to privacy, freedom of worship, the right to education and respect for the best interests of the child, or the principle of non-discrimination, such as to justify an interim injunction.	"(...) il n'apparaît pas qu'en estimant que le port de ce type de vêtements, qui ne peuvent être regardés comme étant discrets, constitue une manifestation ostensible de l'appartenance religieuse des élèves concernés méconnaissant l'interdiction posée par les dispositions de l'article L. 141-5-1 du code de l'éducation et en invitant les chefs d'établissement, lorsque l'élève n'y a pas renoncé à l'issue d'une phase de dialogue, à engager une procédure disciplinaire, le ministre de l'éducation nationale et de la jeunesse aurait porté une atteinte grave et manifestement illégale au droit au respect de la vie privée, à la liberté de culte, au droit à l'éducation et au respect de l'intérêt supérieur de l'enfant ou au principe de non-discrimination." (...) It did not appear that by considering that the wearing of this type of clothing, which cannot be considered discreet, constituted a conspicuous manifestation of the religious affiliation of the pupils involved disregarding the prohibition contained in Article L. 141-5-1 of the French Education Code and by asking school heads, when the pupil has not renounced it following a dialogue phase, to initiate disciplinary proceedings, the French Minister for Education and Youth" had seriously and manifestly unlawfully infringed the right to privacy, freedom of religion, the right to education, respect for the best interests of the child or the principle of non-discrimination."

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