

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	2023	Sweden/ Labour Court/ Målnummer R 50/22 AD 2023 nr 71	https://www.arbetsdomstolen.se/sv/meddelade-domar/arkiverade-domar/2023/2023-12-13-ad-2023-nr-71/	Religion, Sex/Gender	Labour Court	The case concerns discrimination against a Muslim woman (S.S.) working as a security host in the Stockholm subway. According to the private company's neutrality policy, it was prohibited to wear visible religious symbols in S.S.'s role as a security host. This meant that S.S. was prohibited from wearing a headscarf at work. S.S. claimed that the company had subjected her to discrimination based on her gender and her religion or other beliefs and filed a complaint to the District Court. The Court dismissed S.S.'s claim and ordered her to compensate the company for its legal costs. S.S. appealed the judgment to the Labour Court and also requested a preliminary ruling from the European Court of Justice to decide the matter.	The Labour Court rejected S.S.'s appeal and denied S.S.'s request for a preliminary ruling.	According to the Labour Court, the private company had the right to unilaterally issue the policy based on the generally recognised managerial prerogative in Swedish law. The Court also concluded that neither the design nor the application of the neutrality policy constituted direct discrimination against S.S. according to chapter 1, section 4, point 1 of the Discrimination Act. In relation to indirect discrimination under chapter 1, section 4, point 2 of the Discrimination Act, the Court further found the policy permissible because it had a legitimate purpose, which was to reduce the risk of threats and violence in the workplace. The Court also determined that the company had demonstrated that the prohibition on wearing visible religious symbols was both an appropriate and necessary means to achieve the purpose of reducing the risk of threats and violence. The Court therefore concluded that S.S. was not subjected to indirect discrimination either.	The key issue in the case was whether S.S. was subject to discrimination based on her gender and her religion or other beliefs due to the company's neutrality policy, which prohibited her from wearing a Muslim headscarf during working hours. The Labour Court also stated that the company's neutrality policy had a legitimate aim, referring, among other things, to the fact that the European Court of Justice has considered whether the legitimate aim relates to rights recognised in the EU Charter. The Labour Court emphasised that the right to healthy, safe, and dignified working conditions is established in Article 31 of the EU Charter. Against this background, the Court found that there was no legal uncertainty requiring a preliminary ruling from the European Court of Justice to decide the matter.	"Arbetsdomstolen gör i denna del samma bedömning som tingsrätten, nämligen att bolaget har haft rätt att ensidigt utfärda policyn med stöd av den i svensk rätt allmänt erkända arbetsledningsrätten. [...] Sammanfattningsvis instämmer Arbetsdomstolen i tingsrättens slutsats, att varken utformningen eller tillämpningen av neutralitetspolicyn har inneburit att S.S. utsatts för direkt diskriminering. [...] Sammanfattningsvis anser Arbetsdomstolen att bolaget har visat att dess förbud mot bärandet av synliga politiska, filosofiska eller religiösa symboler har varit ett både lämpligt och nödvändigt medel för att uppnå syftet att minska risken för hot och våld i arbetsmiljön. I likhet med tingsrätten finner Arbetsdomstolen alltså att S.S. inte utsatts för indirekt diskriminering." "The Labour Court reaches the same conclusion as the District Court on this matter, namely that the company had the right to unilaterally issue the policy based on the generally recognized managerial prerogative in Swedish law. [...] In summary, the Labour Court agrees with the District Court's conclusion that neither the design nor the application of the neutrality policy constituted direct discrimination against S.S. [...] In summary, the Labour Court considers that the company has demonstrated that its prohibition on wearing visible political, philosophical, or religious symbols was both an appropriate and necessary means to achieve the objective of reducing the risk of threats and violence in the workplace. Similar to the District Court, the Labour Court therefore finds that S.S. was not subjected to indirect discrimination either."

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