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
France	2018	France / CCPR / C / 123 / D / 2662 / 2015	https://juris.ohchr.org/casedetails/2548/en-US	Religion	Human Rights Committee	The petitioner, an early childhood educator, wore a headscarf due to her religious beliefs. Upon returning from parental leave in December 2008, she was informed that she could not wear the headscarf at work. On December 9, 2008, she was dismissed for insubordination after refusing to remove her headscarf. She challenged the dismissal in court, arguing it was discriminatory and violated her religious freedom. The Mantes-la-Jolie labour tribunal and the Versailles Court of Appeal upheld the dismissal. However, the Labour Division of the Court of Cassation ruled that the dismissal was discriminatory and nullified it. The Paris Court of Appeal later reaffirmed the dismissal, but the Court of Cassation ultimately rejected the petitioner's final appeal.	The Committee concluded that the State party violated articles 18 and 26 of the Covenant. It recommended that the State provide the author with an effective remedy, including adequate compensation for loss of employment without severance pay, reimbursement of legal costs, and compensation for non-pecuniary losses. The State is also required to take measures to prevent similar violations in the future. The Committee requested the State to provide information within 180 days on the steps taken to implement its views and to publish the Committee's views. This ruling underscores the importance of protecting religious freedom and non-discrimination, setting a precedent for future cases involving similar issues.	The Committee found that the woman's dismissal for wearing a headscarf violated her right to manifest her religion under article 18 of the Covenant. The restriction was not justified by law, necessary, or proportionate to the intended objective of protecting the rights and freedoms of others. The Committee emphasized that wearing a headscarf is a normal practice for many Muslim women and does not constitute an act of pressure/proselytism. France failed to provide sufficient justification for the restriction, making it an infringement on the author's freedom of religion. Additionally, the dismissal was found to be discriminatory under article 26, as the internal regulations disproportionately affected Muslim women, constituting intersectional discrimination based on gender and religion.	The case clarified the wearing of religious clothes under the right of freedom of religion and highlighted that States need to demonstrate that any restrictions on rights are necessary and proportionate. The case also showed that even when apparently neutral, laws may indirectly discriminate as they disproportionally affect certain groups.	"The Committee therefore considers that the State party has failed to establish how the author's dismissal for wearing a headscarf served a legitimate aim or was proportionate to that aim. The Committee thus concludes that the author's dismissal, based on the internal regulations of the childcare centre imposing neutrality on employees and the Labour Code, was not based on reasonable and objective criteria and therefore constitutes intersectional discrimination based on gender and religion, in violation of article 26 of the Covenant."

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