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	2016	France / CERD / C / 89 / D / 52 / 2012	https://www.bayefsky.com/pdf/france_t5_cerd_052_2012.pdf	Racial or ethnic origin	Committee on the Elimination of Racial Discrimination	A French national of African origin, was hired by Renault in 1975. He claimed facing discriminatory practices starting in 1982 when he sought a management position. Despite his qualifications, Renault would have obstructed his career advancement, subjected him to racist remarks, and pressured him to renounce his French nationality. In 1986, he went on a hunger strike, leading to an agreement with Renault. However, he claimed continued discrimination and sidelining in his career. In 2003, he sued Renault for racial discrimination. The Paris Labour Tribunal awarded him damages, but the Paris Court of Appeal overturned the decision, finding no evidence of discrimination. The Court of Cassation later declared his request for review inadmissible.	The Committee found the petitioners general allegations under article 3 inadmissible due to lack of evidence. However, it noted that the Paris Court of Appeal wrongly required him to prove discriminatory intent, contrary to the Convention and national law on reversing the burden of proof. This misapplication violated his right to an effective remedy under articles 2 and 6. The Committee recommended that France ensure proper application of the burden of proof principle.	The Committee reviewed the case and noted that the petitioner argued the employer should prove it did not use illegitimate criteria for unequal treatment. The Committee emphasized that victims of racial discrimination do not need to show discriminatory intent. The Court of Appeal's requirement for the petitioner to prove discriminatory intent was against the Convention and national law on reversing the burden of proof. This misapplication violated the petitioner's right to an effective remedy under articles 2 and 6. The Committee recommended improving judicial procedures and disseminating information about remedies for racial discrimination victims.	The ruling emphasized that in racial discrimination cases, the burden of proof should be on the employer to demonstrate that their actions were not discriminatory, rather than on the victim to prove discriminatory intent. The latter, instead only need to prove a discriminatory effect, not intent.	"The Committee is of the view that the persistence of the courts, in particular the Court of Appeal, in requiring the petitioner to prove discriminatory intent runs counter to the Convention's prohibition against any and all behaviour that has a discriminatory effect and counter to the procedure for the reversal of the burden of proof provided in article L-1134-1 (formerly article L.122-45) of the Labour Code. As it was the State party itself that adopted this procedure, the fact that it is not applying the procedure correctly constitutes a violation of the petitioner's right to an effective remedy. The Committee therefore finds that the petitioner's rights under articles 2 and 6 of the Convention have been violated."

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