

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
Belgium	2024	Belgium / European Court / 54795/21	https://www.unia.be/nl/wetgeving-en-rechtspraak/rechtspraak/europees-hof-voor-de-rechten-van-de-mens-26-september-2024	Religion	European Court of Human Rights	Two women attempted to swim in a public pool wearing a burkini, but municipal regulations prohibited this. They challenged the ban in court, both at first instance and on appeal, but the courts ruled against them in both cases. Seeking further action, they consulted a lawyer about filing a cassation appeal, but the lawyer advised against it. Consequently, they turned to the European Court of Human Rights, arguing that their rights under Article 9 (freedom of religion) and Article 14 (prohibition of discrimination) of the European Convention on Human Rights had been violated. However, the Court deemed their application inadmissible, as they had not exhausted all domestic legal remedies.	The European Court of Human Rights declared the case inadmissible because the applicants, who were denied access to a public pool for wearing burkinis, failed to exhaust domestic legal remedies. After losing in lower courts, they sought advice for a cassation appeal but did not proceed due to a negative opinion. Instead, they claimed violations of Articles 9 (freedom of religion) and 14 (prohibition of discrimination) of the European Convention on Human Rights directly before the Court. The ruling emphasized the need to pursue all legal avenues domestically before applying to the ECHR.	The European Court of Human Rights declared the case inadmissible due to the applicants' failure to exhaust domestic remedies. The women who were denied access to a public pool for wearing burkinis, claimed this violated their rights under Articles 9 (freedom of religion) and 14 (prohibition of discrimination) of the European Convention on Human Rights. However, they did not appeal to the Court of Cassation after receiving negative advice from their lawyer. The Court emphasized that a single negative opinion does not exempt applicants from pursuing all available legal avenues domestically.	The European Court of Human Rights ruled that the case was inadmissible for not exhausting domestic remedies. It reasoned that a lawyer's advice is not equivalent to a court ruling, and negative advice doesn't mean the Court of Cassation would have agreed. The lawyer failed to cite Belgian case law proving cassation would fail. Moreover, the Court of Cassation had never ruled on burkini bans in public pools, and given divided Belgian case law, it could have provided clarity. Hence, the applicants should have pursued cassation before appealing to the ECHR.	"En l'occurrence, la Cour observe que ni l'avocat à la Cour de cassation dans son avis du 22 avril 2021, ni les requérantes elles-mêmes devant la Cour ne se sont appuyés sur une jurisprudence nationale ou d'autres éléments pertinents de nature à démontrer qu'un pourvoi était voué à l'échec." "In this case, the Court observes that neither the lawyer at the Court of Cassation in their opinion of April 22, 2021, nor the applicants themselves before the Court relied on national case law or other relevant elements to demonstrate that an appeal was bound to fail."

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