

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
Cyprus	2021	Cyprus/District Court of Nicosia/Djemil Cufi v Republic of Cyprus, No. 4192/08, 27 January 2021, ECLI:CY:EDLEF:2021:A48.	http://www.cylaw.org/cgi-bin/open.pl?file=apofaseised/pol/2021/1120210049.htm&string=Djemil%20and%20Cufi	Racial or ethnic origin	District Court of Nicosia	A Turkish Cyprus submitted an application to Court challenging the refusal of the Republic to permit the sale of her property to a third party. The status of Turkish Cypriots properties in the territory controlled by the Republic is regulated by the institution of the 'Guardian of Turkish Cypriot properties', who administers the properties of Turkish Cypriots, seen by the law as 'abandoned'. The claimant sought an order from the Court enabling her to sell her property without permission from the Guardian and a statement that the Guardian Law is not compliant with the Racial Equality Directive, asking for referral to the CJEU to determine this question.	The Court rejected the claim to the property and refused to refer the question of compatibility of the Guardian Law with the Racial Equality Directive. The ruling sets a precedent at the national level that Turkish Cypriots not residing in the Republic-controlled area cannot claim their properties, on the justification that the restriction is 'temporary' and 'reasonable', even though the restriction spans across several decades and is based on a protected characteristic, i.e., ethnicity.	The Court rejected the claimant's testimony in its entirety as non-credible. As a result, the description of the property and the constituent elements of the sale agreement were deemed unsubstantiated and vague. The Court rejected expert testimony that the Guardian Law was non-compliant with the Racial Equality Directive, on the justification that the reason for rejecting the claim was not the claimant's ethnicity but because the property fell within the scope of the Guardian Law; the possibility that this characteristic may be a proxy for ethnicity was not examined. The Court found that the Guardian was justified in refusing to lift the 'administration' from this property because the claimant was in possession of a Greek Cypriot property in the Turkish occupied areas. It concluded that there was no infringement of the equality principle because the claimant's right to the property was only temporarily and objectively restricted.	The Court listed the reasons for departing from the equality principle and did not consider the ECtHR precedents presented by the claimant that the aftermath of a violent conflict does not amount to reasonable justification for discrimination. It also did not endorse the expert testimony that this was a case of direct discrimination, in respect of which the Racial Equality Directive does not permit any exceptions. Although the court did not explicitly state that the burden of proof was reversed, it concluded that the entirety of the testimony delivered by the respondent was sufficient to discharge this burden.	"Η Κυπριακή Δημοκρατία δεν εμπίδισε τους ενάγοντες... - είτε διά απαγορευμένης διάκρισης βάσει του άρθρου 14 του Χάρτη Θεμελιωδών Δικαιωμάτων της ΕΕ είτε βάσει του άρθρου 2 της Οδηγίας 2000/43/ΕΚ... η ... του άρθρου 14 της ΕΕΔΑ - από το να ασκήσουν ... το δικαίωμα στην ίση μεταχείριση και στην περικοπή. Ως αρκούντως αποδείξε ο εννόμος ... τα περί των λόγων δικαιώματα των ενάγοντων υποκινείται - προσωρινώς και αντικειμενικά ... ο θεσμός και έννομος περιορισμούς ... διά εύλογης, δικαιολογημένης, βέβαιης και αντικειμενικής αιτιολογίας, με μέσα πρόσφορα και αναγκαία για επίτευξη του σκοπού αυτού." - "The Republic of Cyprus has not prevented the claimants... whether by prohibited discrimination under Article 14 of the EU Charter or under Article 2 of Directive 2000/43/EC... or Article 14 of the ECHR - from exercising ... the right to equal treatment and property. As sufficiently demonstrated by the respondent..., the claimants' rights are subject - provisionally and objectively ... to legitimate and legitimate restrictions ... by reasonable, justified, well-founded and objective means, by means appropriate and necessary to achieve this purpose."

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