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NEWS REPORT

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| Country: | Spain |
| Title: | The High Court of Catalonia annuls the burka ban in the town of Reus (Catalonia) |
| Date: | 27 March 2015 |
| Expert: | Lorenzo Cachon |
| Context | |
| Issue at stake: | The High Court of Catalonia annuls the regulation of Reus City Council banning access to municipal facilities for people with burka |
| Ground of discrimination: | Religion/belief |
| Source: | Court decision |
| Field: | Access to goods and services |
| Applicable law: | Spanish Constitution, Art. 16 (freedom of religion) |

Content

Case development: The Ordinance of Civic Behaviour of the city of Reus (Ordenança de Civisme de la ciutat de Reus) (Province of Tarragona, Catalonia),¹ approved on 21 July 2014, establishes that “It is not allowed to access municipal buses or municipal facilities, equipment or premises wearing the full veil, burka, niqab, balaclava, integral case (...) or other clothing or accessories that prevent or hinder identification (...)” (Article 10.4). Article 44 considers these actions as minor offenses.

A group of associations (especially Islamic cultural associations) have requested the suspension of these articles because they violate their right to religious freedom and discriminate against them.

Decision of the Court: The High Court of Catalonia (ATSJ CAT 1/2015, 29 January 2015) has decided to suspend the two articles (10.4 and 44) of the Ordinance of Civic Behaviour of the city of Reus.

This case is similar to the case of the city of Lleida (also in Catalonia). In the case of Lleida, the Judgment of the Supreme Court 4118/2011 of 14 February 2013 cancelled the Lleida City Council Ordinance banning the wearing of full face veils in public city spaces. The fundamental argument of the judgment was that the use of the veil by some women is part of their religious freedom. Religious freedom is a fundamental right recognized in the Spanish Constitution (art. 16) that can only be further regulated by a law passed in Parliament. Therefore, the judgment voided the City Council Ordinance because Lleida City Council did not have the power to limit freedom of religion (see *Flash Report* 984-ES-16 “The Supreme Court annuls the burka ban in the town of Lleida”). The burka ban by the Lleida City Council was followed by twelve other municipalities in Spain, most of them in Catalonia, including the city of Reus, now annulled by the High Court of Catalonia.

¹ The ordinance is available at <https://serveis.reus.cat/ordenances.php>.

The High Court of Catalonia notes that the Ordinance of Civic Behaviour of Reus is equal to the Ordinance of Lleida City Council. The Court noted that there has been no change in legislation and therefore applied the reasoning of the Supreme Court and suspended the application of the two articles of the Ordinance of Reus.

Key points of analysis:

- High Court of Catalonia cancels City Council Ordinance ban of Reus on wearing full veil in public places, based on Constitutional principle of freedom of religion;
- Part of public opinion considers the full veil to symbolise the oppression of women;
- A ban of the full veil would need to be imposed by a law passed by the National Parliament of Spain.

Internet link source:

<http://www.poderjudicial.es/search/doAction?action=contentpdf&databasematch=AN&reference=7281991&links=reus%20ayuntamiento&optimize=20150210&publicinterface=true>