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NEWS REPORT

Country:	The Netherlands
Title:	NIHR regards an overall headscarf ban for police officers as discriminatory
Date:	12 December 2017
Expert:	Titia Loenen
<u>Context</u>	
Issue at stake:	Limitations on the wearing of religious dress in public functions
Ground of discrimination:	Religion
Source:	National equality body
Field:	Employment
Applicable law:	Art. 5b General Equal Treatment Act (GETA)

Content

Case: Complainant is a Muslim woman working with the police. She wears a headscarf for religious reasons. The dress code of the police is based on so called 'life style neutrality'. The policy is informed by the goal of achieving a neutral and uniform appearance to enhance the authority and safety of police officers. As a consequence, all sorts of expressions of personal identity, including not just headscarves and other symbols of personal conviction but also conspicuous tattoos, haircuts and piercings are prohibited.

Complainant is employed as an intake & service assistant and has two main tasks. She has to answer the service number of the police and she takes in reports of citizens through a 3D video connection. In the latter situation she has visible contact with citizens. Usually police personnel taking in reports do so in uniform, but the complainant is not allowed to wear her headscarf with the uniform. Instead, she has been allowed to wear her headscarf if she does the intakes in civilian clothes. Complainant is not satisfied with this as this sets her apart and the prohibition to wear a headscarf with a uniform will limit her career opportunities within the police.

Decision of the Equality Body: The NIHR finds that not allowing the woman to wear her headscarf with a uniform constitutes indirect discrimination on grounds of religion.¹ Though the NIHR accepts the legitimacy of the goals put forward for the dress policy, in the specific circumstances of the case it does not consider application of this policy necessary and thus not objectively justified. As for the safety argument it is clear that this is not at risk as the intake is done through a video connection. As for the neutrality argument, the NIHR considers that in view of the administrative character of the work performed this argument is of limited relevance. The woman just takes in the reports,

¹ NIHR 20 November 2017, Opinion 2017-167. <https://www.mensenrechten.nl/publicaties/oordelen/2017-135/detail>.

but does not decide on any further steps to be taken by the police. For this reason, the NIHR considers that not allowing her to wear a headscarf with a uniform goes beyond what is strictly necessary, which is the standard of review required by equality law.

Key points of analysis: This is an important opinion of the NIHR regarding a very sensitive issue. The NIHR accepts the argument of 'state neutrality' to prohibit the wearing of religious dress and other symbols in public functions, but seeks to limit such restrictions to what can be regarded as strictly necessary. In a first reaction, the police indicated that they will take the opinion seriously and will take a closer look at it and at their neutrality policy.²

Internet link source: NIHR Opinion 2017-167 of 20 November 2017 can be found at: <https://www.mensenrechten.nl/publicaties/oordelen/2017-135/detail>.

² Police will take a closer look to opinion on headscarf (Politie gaat uitspraak over hoofddoek bestuderen), Algemeen Dagblad 20 November 2017, <https://www.ad.nl/binnenland/politie-gaat-uitspraak-over-hoofddoek-bestuderen~a0fa702e/>.