



## European network of legal experts in gender equality and non-discrimination

### FLASH REPORT

<b>Country:</b>	Denmark
<b>Title:</b>	Dismissals of teachers because of religion
<b>Date:</b>	18 March 2019
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<b><u>Context</u></b>	
<b>Issue at stake:</b>	First decisions by the Board of Equal Treatment to conclude discriminatory dismissals because of religion or belief
<b>Grounds of discrimination:</b>	Religion or belief
<b>Field of application:</b>	Employment
<b>Source:</b>	National equality body
<b>Applicable law:</b>	Section 1, 2 and 7 of the Act on Prohibition of Discrimination in the Labour Market etc.

### **Content**

**Case:** The complainants in both cases were teachers who due to their religion or belief were dismissed from their jobs because they declined to comply with instructions from their employers.

The first complainant was a member of Jehovah's Witnesses and therefore did not celebrate Christmas. In September 2017, she informed her employer that she could not participate in the dance around the Christmas tree, which would take place during the end of season celebration at her school in December 2017. The teacher perceived the dance as an active religious act violating her religion. She suggested that she could take a holiday that particular day or that she could perform other tasks during the actual dance around the Christmas tree. When she continued to refuse participating in the dance, she was dismissed.

The other complainant was a Seventh Day Adventist and it was a crucial part of his belief not to work on Saturdays. In the fall of 2017, his school planned for an open house and the teacher was asked to teach at the special event. The teacher refused teaching at the planned open house and argued that another member of his team could do the teaching instead of him, similar to what had been organised the previous year. When the teacher did not show up for the actual Saturday open house event, he was dismissed.

**Decision of the Board:** In both cases, the Board of Equal Treatment made the assessment that there was a clear correlation between the teachers' religious convictions and their refusal to participate in the Christmas dance and to work on a Saturday respectively. Thus, the circumstances were encompassed by the Act on Prohibition of Discrimination in the Labour Market etc. The Board then assessed whether the dismissals constituted indirect discrimination because of religion or belief. The Board found that the requirements by the employers were both legitimate and appropriate.

The question for the Board was therefore whether the requirements were necessary. In both cases, the Board found that the employers had without any dialogue just rejected the various suggestions for alternative solutions from the teachers. Thus, the Board concluded that the employers could not prove that the principle of equal treatment had not been violated. The Jehovah's Witnesses teacher received a compensation equalling 12 months of salary due to the discrimination because of religion or belief.<sup>1</sup> The Seventh Day Adventist teacher received a compensation equalling 9 months of salary due to the discrimination because of religion or belief.<sup>2</sup>

**Key points of analysis:** There is limited case law on religious discrimination within employment in Denmark. The decisions by the Board of Equal Treatment are the first decisions in which the Board decides in favour of complainants who claim to have been dismissed from their job because of their religion or belief. The decisions clarify the scope of the protection against indirect discrimination because of religion or belief on the labour market.

**Internet link source:**

Decision No. 9192 of 28 February 2019:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=207738>.

Decision No. 9193 of 28 February 2019:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=207739>.

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<sup>1</sup> Board of Equal Treatment, Decision No. 9193 of 28 February 2019.

<sup>2</sup> Board of Equal Treatment, Decision No. 9192 of 28 February 2019.