

NEWS REPORT

Date:	20 December 2014
Expert:	Bribosia Emmanuelle
Title:	The Council of State dismissed the action for annulment of an Administrative Circular prohibiting the wearing of any conspicuous philosophical signs at school
Country:	Belgium
<u>Context</u>	
Issue at stake:	The Council of State (administrative section) is not competent to rule on an action for annulment against an Administrative Circular prohibiting the wearing of any conspicuous philosophical signs at school because the Circular is an internal measure and does not directly affect the pupils and the teachers
Ground of discrimination:	Religion/belief
Source:	Council of State (administrative section), rulings of 14 October 2014 no. 228.753, 228.754, 224.755
Field:	Education
Legislative provisions:	Mainly Article 24 of the Belgian Constitution and Article 14 of the consolidated Acts on the Council of State

Content

Case development: On 1st February 2013, the Flemish Education Council (a public authority at the head of 700 public primary and secondary schools in the Flemish Region) approved an Administrative Circular of the Board of the Flemish Community schools, prohibiting the wearing of any conspicuous philosophical signs at school – except for philosophical courses – and enjoined the Boards of the Flemish Community schools to include this prohibition in their internal regulations (see Flash-report 851-BE-40 “The Flemish Community prohibits any religious signs at school”).

Two teachers of Islamic religion, who wanted to wear a headscarf not only within the classroom where their religious courses were taught, filed an action for suspension and annulment of the Flemish Education Council decision of 1st February 2013 (and of the Administrative Circular) before the Council of State. On 27 June 2013, the Council of State refused to suspend the effect of the challenged Circular while examining the request for annulment (ruling no. 224.158 of 27 June 2013; see Flash report BE-90- Council of State Conspicuous Signs Flemish Community December 2013).

At the same time, two actions for annulment of the above-mentioned Circular were also brought before the Council of State by other applicants.

Decision of the Council of State: On 14 October 2014, the Council of State dismissed the requests for annulment in the three cases (no. 228.753, 228.754, 224.755). According to the Council of State, the challenged Circular is an internal measure that is only applicable to the bodies, which are part of the Flemish Education Council (i.e. the boards of the 700 public primary and secondary schools

in the Flemish Region). The Council of State stated that the challenged Circular needs the adoption of subsequent decisions of the school boards to be effectively implemented in each of them. As a consequence, the Circular does not directly affect pupils/students and teachers and cannot be subject to annulment.

Internet link source and additional information: <http://www.raadvst-consetat.be/?page=news&lang=fr&newsitem=239> (the ruling can be downloaded in Dutch).