



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

### NEWS REPORT

**Country:** Belgium  
**Title:** Preliminary question to the CJEU on the prohibition to wear the headscarf at work  
**Date:** 26 March 2015  
**Expert:** Bribosia, Emmanuelle  
**Update of flash report nr:** 1256-BE-71-  
BELGIUM\_FR\_65\_LABOUR\_APPEAL\_COURT\_Antwerpen\_  
Neutrality\_PrivateSector\_January2012

#### Context

**Issue at stake:** On 9<sup>th</sup> March 2015, the Belgian Court of cassation decided to submit a preliminary ruling to the Court of Justice of the European Union on the compliance of the prohibition to wear the headscarf at work (private company) with the Council Directive 2000/78/EC of 27 November 2000 (direct discrimination)

**Ground of discrimination:** religion/belief

**Source:** Court of cassation

**Field:** Employment

**Applicable law:**

- Former Act of 25 February 2003 on combating discrimination and amending the Act of 15 February 1993 setting up the Centre for Equal Opportunities and Opposition to Racism
- Directive Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

#### Content

**Case:** *(For the detailed facts, see flash report No 739-BE-71)*

The case concerns a Muslim woman who worked as a permanent contract receptionist at G4S Security Services and decided, in April 2006, three years after her hiring, to wear the Islamic headscarf during working hours. She had not had any duty to wear a specific uniform until then. However, a few days after she decided to wear the headscarf at work, she was informed that it would not be tolerated, because it was contrary to the neutrality policy of the company. The work regulations of the company were also amended in order to forbid the workers to wear any visible symbol expressing their political, philosophical or religious beliefs. Refusing to remove her headscarf within the premises of the company, the employee was dismissed. The employee decided to bring an action, along with the Centre for Equal Opportunities and Opposition to Racism, before the Labour Court of Antwerp that rejected the claim in first instance. Then, they launched an appeal against this judgment unsuccessfully. Indeed, on 23 December 2011, the Labour Court of Appeal of Antwerp held that the dismissal of an employee wearing the headscarf, in order to preserve the neutral image of the company, was not unreasonable and ruled that there was no indirect discrimination against Muslim employees (see FR n°71). It also

concluded to the absence of direct discrimination. Ultimately, the applicants launched an appeal before the Belgian Court of cassation.

**Decision of the Court:** In the ruling of 9 March 2015, the Belgian Court of cassation firstly recalled the purpose of the directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (article 1) as well as the prohibition of direct and indirect discrimination (article 2).

On this basis, considering that the appeal Court ruled that there was not direct discrimination and that the applicants claimed that such an interpretation was not compatible with the text of the directive, the Court of cassation decided to suspend the proceedings and to submit the following preliminary ruling to the Court of Justice of the European Union (henceforth: CJEU):

“May article 2.2.a) of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, be interpreted as meaning that the prohibition to Muslims to wear the headscarf at work does not imply any direct discrimination when the rule forbids all the workers to wear any visible symbol expressing their political, philosophical or religious beliefs” (unofficial translation).

The preliminary ruling has not been registered before the CJEU, yet.

**Key points of analysis:**

- First preliminary ruling before the CJEU on the compliance of the prohibition to wear the headscarf at work with the Council Directive 2000/78/EC of 27 November 2000
- Limited to direct discrimination

**Internet link source:** The decision is not available yet.