

Database 2012-2019 on anti-Muslim Hatred

Cases and rulings

COUNTRY CODE	YEAR	REFERENCE DETAILS TITLE	REFERENCE DETAILS URL	HATE BIAS MOTIVATION	COURT / BODY	KEY FACTS OF THE CASE	MAIN REASONING / ARGUMENTATION	KEY ISSUES (CONCEPTS, INTERPRETATIONS) CLARIFIED BY THE CASE	RESULTS (SANCTIONS, OUTCOME) AND KEY CONSEQUENCES OR IMPLICATIONS OF THE CASE	KEY QUOTATION IN ORIGINAL LANGUAGE AND TRANSLATED INTO ENGLISH WITH REFERENCE DETAILS
Belgium	2017	Belgium / Court of Cassation / S.12.0062.N	http://jure.juridat.just.fgov.be/pdfapp/download_blob?idpdf=N-20171009-1%20%28NL%29%20and%20http%3A//jure.juridat.just.fgov.be/pdfapp/download_blob%3Fidpdf%3DF-20171009-1%20%28FR%29	Religion	Court of Cassation of Belgium (Hof van Cassatie van België)	A muslim receptionist was dismissed by the defendant as she refused to conform to the unwritten rule in force in the company, which imposed a prohibition on carrying outward signs of a	The Court of Cassation states that an employer is liable under civil law as soon as anti-discrimination law is violated. The Labour Court did not have to check whether the employer made a mistake or was negligent, but it had to test the employer's neutrality policy against the possibilities of justification under anti-discrimination law. Measures that discriminate indirectly can only be justified if three conditions are met: they must pursue a legitimate aim, the measures must be necessary and appropriate to reach that goal, and they must be proportionate to the	The Court confirmed that the dismissal based on neutrality policy does not constitute direct discrimination. This is in line with the judgment of 14 March 2017 of the Court of Justice, in response to a question from the Court of Cassation in this case. There, the Court of Justice ruled that that the prohibition on wearing an Islamic headscarf, which results from an internal rule of a private company providing for a prohibition on the visible wearing of any political, philosophical or religious sign at work, does not constitute direct discrimination based on religion or belief within the meaning of Council Directive 2000/78 / EC	The Court of Cassation set aside the judgment of the Labour Court of Antwerp of 23 December 2011, with the exception that the dismissal based on neutrality policy does not constitute direct discrimination. The case is referred to the Labour Court of Ghent.	Bij gebrek aan een beoordeling in concreto van de vraag of er binnen de onderneming van verweerder daadwerkelijk behoefte bestond om ter vrijwaring van een vreedzame arbeidsomgeving maatregelen te nemen, enerzijds, en van de vraag of het hiertoe opgelegde verbod op het dragen van uiterlijke tekenen van religieuze overtuigingen op de werkvloer proportioneel is

political, philosophical or religious belief. The Labour Court of Antwerp had ruled that a security firm did not commit abuse of law by dismissing a receptionist who wanted to combine a modest headscarf with her uniform.

pursued goal.

of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

met het nagestreefde doel, anderzijds, kon het bestreden arrest bijgevolg niet wettig besluiten dat indien er sprake zou zijn van indirecte discriminatie, deze objectief en redelijk gerechtvaardigd is waardoor het hierop gesteunde ontslag van eerste eiseres niet onrechtmatig is en geen misbruik van ontslagrecht inhoudt.

In the absence of a specific assessment of whether there was a real need within the defendant's company to take measures to safeguard a peaceful working environment, and whether the prohibition imposed for that purpose on wearing external signs of religious beliefs in the workplace are proportional to the objective pursued, on the other hand, the

