

Cases and rulings

Country Code	Year	Reference details title	Reference details URL	Hate Bias motivation	Court / Body	Key facts of the case	Results (sanctions, outcome) and key consequences or implications of the case	Main reasoning / argumentation	Key issues (concepts, interpretations) clarified by the case	Key quotation in original language and translated into English with reference details
France	2018	France / Public Defender of Rights/018-289	https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18219	Religion	Public Defender of Rights	The Public Defender of Rights received a complaint from a Muslim woman who had been offered a job, which did not involve customer contact, upon the condition that she removes her headscarf. The internal regulations then in force in the company provided for a neutrality clause applicable to all employees of the company, including those without contact with customers, which therefore prohibited them from wearing religious symbols. The Claimant had to relinquish the job in question.	The Public Defender of Rights has taken note of the fact that the internal regulations of company Y have been amended and that they now restrict the obligation of neutrality applicable to only staff who are in contact with customers. It noted the willingness of Company Y to settle the case amicably with Mrs X and to compensate her in full.	The fact that Ms X's recruitment is subject to the condition that she remove her headscarf for a job requiring no contact with customers, and the requirement of neutrality imposed on staff without contact with customers within company Y by the applicable internal regulations, characterise discrimination based on religious convictions prohibited by Articles 8, 9 and 14 of the European Convention on Human Rights, Article 2-2 of the law of 27 May 2008 transposing Article 3 of Directive 2000/78 and Articles L.1321- 2-1, L.1321-3 and L. 1132-1 of the Labour Code.	The requirement of neutrality imposed on staff without contact with customers characterises discrimination based on religious beliefs	"La Société Y ne conteste pas l'existence de ce règlement intérieur de sorte que si Madame X avait donné suite à la promesse d'embauche faite par la société Y, elle aurait, de fait, été contrainte de retirer son foulard en application du règlement intérieur. L'ensemble des faits laissent présumer l'existence d'une discrimination religieuse. En application des règles d'aménagement de la charge de la preuve posées par l'article L. 1134-1 du Code du travail, il appartient alors à l'employeur de démontrer que cette situation est étrangère à toute discrimination. Or, les éléments du dossier et les observations de la société Y ne permettent pas de faire cette démonstration. La subordination de l'embauche effective de Madame X au fait qu'elle retire son foulard dans un poste n'exigeant aucun contact avec la clientèle ainsi que l'exigence de neutralité posée au personnel sans contact avec la clientèle au sein de la société Y posée par le règlement intérieur applicable avant juillet 2017 caractérisent une discrimination fondée sur les convictions religieuses prohibée par les articles 8, 9 et 14 de la Convention européenne des droits de l'homme, l'article 2-2 de la loi du 27 mai 2008 transposant l'article 3 de la directive 2000/78 ainsi que les articles L.1321- 2-1, L.1321-3 et L. 1132-1 du Code du travail." "Company Y does not dispute the existence of these internal regulations, meaning that if Ms. X had taken up the promise of employment made by company Y, she would, in fact, have been forced to remove her headscarf pursuant to the internal regulations. All the facts suggest that there is religious discrimination. In accordance with the rules on the burden of proof laid down by Article L. 1134-1 of the Labour Code, it is then up to the employer to demonstrate that this situation is unrelated to any discrimination. However, the elements of the case and the observations of company Y do not allow for this to be demonstrated. The condition that Ms X remove her headscarf in order to be recruited to a position requiring no contact with customers and the requirement of neutrality imposed on staff without contact with customers within company Y by the internal rules applicable before July 2017 characterise discrimination based on religious convictions prohibited by Articles 8, 9 and 14 of the European Convention on Human Rights, Article 2-2 of the law of 27 May 2008 transposing Article 3 of Directive 2000/78 and Articles L. 1321-2-1, L. 1321-3 and L. 1132-1 of the Labour Code. "

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