

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	2019	France / Public Defender of Rights/n°2019-119	https://juridique.defenseurdesdroits.fr/doc_num.php?explnum_id=18919	Religion	Public Defender of Rights	The Public Defender of Rights was referred to by a contracted teaching assistant who worked at a high school and who contested the alleged breach of the duty of neutrality used to justify the disciplinary proceedings against him. The disciplinary procedure was based on the following: refusing to greet or say farewell to female colleagues with a kiss on the cheek, speaking Arabic to pupils, praying on the school premises.	The Public Defender of Rights recommended that the education authority undertake training and support measures for heads of establishments on the conduct of disciplinary proceedings and administrative investigations.	The Public Defender of Rights considers that the grounds used to justify disciplinary procedures for a breach of the obligation of neutrality are for the most part unrelated to religion. Only the accusation that he had been praying in the sickbay appears to be directly related to the expression of religious beliefs. Nevertheless, the applicant contests the claim that he had been praying and his colleagues who testified had not seen him praying. Assuming it had been true, it would clearly constitute a breach of the obligation of neutrality. However, at no time before suspending the claimant from his duties did the school's headmistress seek to obtain explanations from the claimant for what she described as a breach of the duty of neutrality. The head of the high school also waited several months after the report about him allegedly praying before relieving the claimant of his duties at the high school. For the Public Defender of Rights, it appears that the context of the case at the time of the criminal attacks of November 2015 strongly influenced the administration in the interpretation of the events, and that the claimant suffered unfavourable treatment because of his origin and his assumed membership of the Islamic religion.	Is praying by a teacher on the premises of a school a breach of the duty of neutrality?	"Le Défenseur des droits considère que la proviseur du lycée a interprété des comportements du réclamant, au regard du contexte dans lequel les faits se sont déroulés, en se fondant indirectement sur son origine et son appartenance à la religion musulmane réelle ou supposée. À cet égard, il est intéressant de relever qu'en 2014 un professeur agrégé auquel on reprochait « des discussions avec les élèves sur des questions relevant des convictions religieuses, prières dans une salle de l'établissement, imposition des mains sur une collégienne souhaitant recevoir le baptême et de la correspondance par courriel avec des élèves hors du temps scolaire » n'a été sanctionné que par un blâme. C'est pourquoi, le Défenseur des droits estime que M. X a été traité de manière moins favorable qu'un autre agent ne l'aurait été pour des motifs tenant à son origine et à son appartenance à la religion musulmane réelle ou supposée, et ce en raison du contexte lié aux attentats. Il est manifeste que c'est la crainte de la radicalisation de M. X qui a déterminé la procédure disciplinaire et il est regrettable que M. X n'ait pas été mis en mesure de faire valoir ses moyens de défense sur cette grave allégation." "The Public Defender of Rights considers that the headmistress of the high school interpreted the claimant's behaviour, with regard to the context in which the events took place, by indirectly relying on his real or supposed membership of the Islamic religion. In this regard, it is interesting to note that in 2014 a senior teacher who was accused of 'discussions with pupils on matters of religious belief, prayers in a school room, laying hands on a schoolgirl wishing to receive baptism and email correspondence with pupils outside school hours' was only given a reprimand. As such, the Public Defender of Rights considers that Mr. X was treated less favourably than another employee for reasons related to his origin and his real or supposed membership of the Islamic religion, and that this was due to the context of the terrorist attacks. It is clear that it was fear of Mr. X's radicalisation that determined the disciplinary proceedings and it is regrettable that Mr. X was not given the opportunity to put his case on this serious allegation."

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