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Judgment of the Court of Justice in Case C-344/20 | *SCRL (Religious clothing)*

The internal rule of an undertaking prohibiting the visible wearing of religious, philosophical or spiritual signs does not constitute direct discrimination if it is applied to all workers in a general and undifferentiated way

According to the Court of Justice, religion and belief must be regarded as a single ground of discrimination, otherwise the general framework for equal treatment in employment and occupation provided for by EU law, in particular by Directive 2000/78, will be undermined

A dispute has been ongoing since 2018 between L.F., a woman of the Muslim faith who wears the Islamic headscarf, and SCRL, a company which manages social housing. The dispute concerns a failure to take into consideration L.F.'s unsolicited application for an internship on the ground that, during an interview, L.F. indicated that she would refuse to remove her headscarf in order to comply with the policy of neutrality promoted within SCRL and included in its terms of employment.

A few weeks later, L.F. renewed her request for an internship with SCRL, offering to wear another type of head covering; that request was refused on the ground that no type of head covering was permitted on SCRL's premises, be it a cap, a hat or a headscarf.

Consequently, L.F. reported a case of discrimination to the independent public body competent to combat discrimination in Belgium, before bringing an action for a prohibitory injunction before the tribunal du travail francophone de Bruxelles (Brussels Labour Court (French-speaking), Belgium): complaining that there has been a failure to conclude an internship agreement, which she believes to be directly or indirectly based on religious belief, L.F. accuses SCRL of having infringed the provisions of the Belgian General Anti-discrimination Law.

The tribunal du travail francophone de Bruxelles has questioned the Court of Justice as to whether the words 'religion or belief' contained in the directive on equal treatment in employment and occupation¹ are to be interpreted as two facets of a single protected criterion or, on the contrary, as two separate criteria. It also asks the Court whether the prohibition on the wearing of a sign or an item of clothing with connotations contained in SCRL's terms of employment constitutes direct discrimination based on religion.

By its judgment, delivered today, the Court indicates that Article 1 of Directive 2000/78 must be interpreted as meaning that the words 'religion or belief' contained therein constitute **a single ground of discrimination** covering both **religious belief** and **philosophical or spiritual belief**. It recalls in that regard that it is apparent from its case-law that the ground of discrimination based on 'religion or belief' **is to be distinguished** from the ground based on

¹ Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ 2000 L 303, p. 16).

'political or any other opinion'.

Making specific reference to the judgments in *G4S Secure Solutions 2* and in *Wabe and MH Müller Handel*,³ the Court observes that a provision of an undertaking's terms of employment which prohibits workers from manifesting, through words, through clothing, or in any other way, their religious or philosophical beliefs, whatever those beliefs may be, **does not constitute**, with regard to workers who intend to exercise their freedom of religion and conscience through the visible wearing of a sign or an item of clothing with religious connotations, **direct discrimination** 'on the [ground] of religion or belief' for the purposes of EU law, provided that that provision is applied in a general and undifferentiated way. Indeed, since every person may have a religion or religious, philosophical or spiritual belief, such a rule, provided that it is applied in **a general and undifferentiated way**, does not establish a difference in treatment based on a criterion that is inextricably linked to religion or to those beliefs.

The Court specifies that an internal rule such as that applied within SCRL may, however, constitute a difference in treatment that is **indirectly** based on religion or belief if it is established – which it is for the tribunal du travail francophone de Bruxelles to ascertain – that the apparently neutral obligation it encompasses results, in fact, **in persons adhering to a particular religion or belief being put at a particular disadvantage**.

It adds that a difference in treatment would not constitute indirect discrimination if it were objectively justified by a **legitimate aim** and the means of achieving that aim were **appropriate and necessary**, while at the same time recalling that the mere desire of an employer to pursue a policy of neutrality – while in itself a legitimate aim – **is not sufficient**, as such, **to justify objectively a difference in treatment indirectly based on religion or belief**, since such a justification can be regarded as being objective only where there is a **genuine need** on the part of that employer, which it is for that employer to demonstrate.

Lastly, the Court notes that, when a national court is assessing whether there is justification for indirect discrimination, EU law does not preclude that national court from ascribing, in the context of balancing diverging interests, greater importance to those relating to religion or belief than to those resulting from, inter alia, the freedom to conduct a business, provided that such an approach stems from its domestic law.

It specifies, in that regard, that the degree of discretion afforded to the Member States nonetheless cannot go so far as to enable those States or their national courts to split one of the grounds of discrimination exhaustively listed in Article 1 of the directive into several grounds without calling into question the wording, the context and the intended purpose of that ground and undermining the effectiveness of the general framework for equal treatment in employment and occupation introduced by EU law.

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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² Judgment of 14 March 2017, *G4S Secure Solutions*, [C-157/15](#), paragraphs 30 and 32 (see also PR [No 30/17](#)).

³ Judgment of 15 July 2021, *WABE and MH Müller Handel*, [C-804/18 and C-341/19](#), paragraph 52 (see also PR [No 128/21](#)).