



*Directorate-General for Library,  
Research and Documentation*

## **RESEARCH NOTE**

**The wearing of religious symbols at the place of work**

[...]

**Subject:** Examination of the relevant legislation, case-law and practices in the most representative legal systems, including the case-law of the ECtHR and of the Supreme Court of the United States of America, regarding the wearing of religious symbols at the place of work, the restrictions that may be imposed thereon and any unequal treatment arising therefrom.

[...]

*March 2016*

[...]

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*Men stand apart by reason of what  
they show and stand together by  
reason of what they hide*<sup>1</sup>

Paul Valéry

## OVERVIEW

### I. INTRODUCTION

1. The tensions stirred by the proposal to include a reference to ‘Christian heritage’ in the draft Treaty establishing a Constitution for Europe reveal how different the Member States are in their stance on religion. Indeed, there is a great diversity within the European Union in the manner in which the relationship between State and religion is organised, and this may be ascribed to the particular history and culture of each of the Member States.
2. On the one hand, there are secular States, in which the separation between State and religion is in principle complete. On the other, there are States which have an established or official religion. In between we find States in which there are systems for the recognition of beliefs, without any single creed or Church predominating, and which recognise certain institutions and grant them rights and advantages.
3. Nevertheless, despite the variety of ways in which relationships with religion are organised, in so far as concerns freedom of conscience and the principle of non-discrimination on grounds of religion, the Member States must abide by universal rules as well as common EU rules, namely Articles 9 and 14 of the European Convention on Human Rights (ECHR), which take up the provisions of the Universal Declaration of Human Rights of 1948, and Articles 10 and 21 of the Charter of Fundamental Rights of the European Union.

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<sup>1</sup> *Mélange*, p. 346, in *Œuvre* t. 1, La Pléiade.

4. While the freedom to choose a religion, and to change religion, is absolute, in that it is a matter of conscience, the freedom to make one's convictions manifest is, on the other hand, relative. Indeed, manifesting one's beliefs, being a matter subject to the authority of human justice, may come into conflict not only with other beliefs, but also with other specific interests, such as the neutrality of the State, and thus cause a disturbance of public order.
5. Outward shows of religious belief are manifold, ranging from customary behaviour or specific precepts (fasting, dietary strictures, religious holidays, places of worship) to the wearing of special clothing or symbols having religious significance (the yarmulke, the cross, a veil, a scarf, a turban), which symbolise a person's belonging to a given religion or creed.
6. The issue of whether school children may wear religious symbols at school and the issue of the concealment of the face in public places by the wearing of a full veil, such as the burqa, have been debated in some Member States for many years now. France decided to pass legislation on these two issues, in 2004 and 2010 respectively. Belgium followed suit in 2011, enacting a law to prohibit the wearing of any clothing which completely or substantially conceals the face. After withdrawing, in 2012, a draft law prohibiting the concealment of the face, the Netherlands announced, in 2015, a new draft law on the subject. Finally, in Spain, a debate on the prohibition of the full veil took place in 2010. A draft law was ultimately rejected. The same year, a number of municipal regulations were adopted, including in Catalonia, prohibiting the wearing of the full veil in public places. In 2013, the Spanish Supreme Court censured those regulations, holding that any limitation of a freedom as fundamental as the freedom of religion must be imposed by law.
7. This research note deals, more specifically, with the question of the wearing of religious symbols at the place of work. [...]
8. In that context, this research note examines the relevant legislation, case-law and

practices in the most representative legal systems, including the case-law of the European Court of Human Rights (ECtHR) and of the Supreme Court of the United States of America, regarding the wearing of religious symbols at the place of work, the restrictions that may be imposed thereon and any unequal treatment arising therefrom.

9. In addition to the case-law of the ECtHR and of the Supreme Court, this research addresses the legal systems of Germany, Belgium, Bulgaria, Denmark, Spain, France, Greece, Italy, the Netherlands, Poland and the United Kingdom.<sup>2</sup>
10. A review of the legal systems of **Bulgaria, Spain, Greece, Poland** and **Italy**, has revealed no legislation, case-law or practice relating to the wearing of religious symbols at the place of work or restrictions imposed thereon. In those Member States, either the issue does not arise as such (**Bulgaria, Greece, Poland** and **Italy**) or is extremely marginal (**Spain**). The reasons for the absence of relevant information are many. They include, but are not limited to the focussing of the debate on the prohibition on wearing a full veil in public places (**Spain**), the authority of the dominant religion, the fact that the termination by the employer of a contract of employment of indefinite duration is an unjustified legal act, or the broad discretion which, in accordance with the case-law, employers enjoy in the matter of dismissal for reasons relating to appearance and apparel in the place of work (**Greece**). The homogeneity of a society in ethnic and religious terms (**Poland**) or the fact that a society is accustomed to the presence of religious symbols in public places, which has led to a positive laicity, open to religious and cultural pluralism (**Italy**) are further explanations for this.
11. The issue of the wearing of religious symbols at the place of work, and possible restrictions thereon is, however, present in the other legal systems studied, namely those of **Germany, Belgium, Denmark, France, the Netherlands** and the **United Kingdom**. In order to provide a more complete overview of the subject, we have given a broad interpretation to the concept of 'place of work'. The note deals in turn with the sometimes differing rules which apply to the wearing of religious symbols in the public

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<sup>2</sup> A review of the legal systems of Estonia, Latvia and Lithuania has disclosed no information relevant to the issue addressed in this research note.

sector (**Section II**) and in the private sector (**Section III**).

## II. THE WEARING OF RELIGIOUS SYMBOLS IN THE PUBLIC SECTOR

12. In the legal systems under consideration, the spectrum of rules which apply to the wearing of religious symbols in the public sector is very wide, ranging from *de facto* authorisation (A) to absolute prohibition (C), with a system of review by the courts of possible restrictions in between (B).

### A. *DE FACTO* AUTHORISATION OF THE WEARING OF RELIGIOUS SYMBOLS

13. In **Germany**, by a judgment establishing a principle, of 24 September 2003, the *Bundesverfassungsgericht* (Federal Constitutional Court) held that, although the prohibition by certain Länder of the wearing of religious symbols by teachers in State schools was not in itself incompatible with the fundamental rights of the persons concerned, it must nevertheless have a legal basis in a formal law that strikes a balance between all the interests at stake.<sup>3</sup>

14. However, by an order of 27 January 2015,<sup>4</sup> which may be regarded as marking a reversal of previous case-law, the *Bundesverfassungsgericht*, attaching considerable importance to the freedom of religion of teachers, significantly restricted the freedom of the Länder to prohibit them from wearing religious symbols. Two actions had been brought before the *Bundesverfassungsgericht* by Muslim teachers and the court held to be contrary to fundamental law two provisions of the schools regulations of one Land which authorised the prohibition of the wearing of religious symbols generally, while at the same time promoting the presentation of Judeo-Christian values. The *Bundesverfassungsgericht* found that reliance on an abstract danger of undermining the neutrality of the State was contrary to freedom of religion and that the privileged treatment of Judeo-Christian values constituted unjustified direct discrimination. On the other hand, the *Bundesverfassungsgericht* emphasised that a general prohibition could be justified where the outward appearance of teachers created or significantly contributed to a sufficiently specific danger of undermining the State's neutrality or peaceful co-existence at the school.

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<sup>3</sup> Judgment of 24 September 2003, 2 BvR 1436/02.

<sup>4</sup> Order of 30 June 2015, 2 BvR 1282/11.

As a result, the wearing of religious symbols will be permitted in the majority of cases. Prior to that decision, the Länder could, on the basis of a formal law, prohibit the wearing of religious symbols if there was merely an abstract danger of the abovementioned interests being undermined. Although the *Bundesverfassungsgericht* expressly limited the scope of its decision to the schools sector, to which the two actions before it related, it seems that the decision may apply in other areas of public service.

15. In **Belgium**, public service employees must observe the principle of neutrality. That principle, which is not enshrined in the Constitution, is nevertheless included in a certain number of royal decrees and orders of the governments of regions and communities. The legislation section of the Conseil d'État (Council of State) has issued an opinion in which it states that 'the neutrality of public authorities is a constitutional principle which, although not enshrined as such in the Constitution, is nevertheless intimately linked to the prohibition of discrimination in general and to the principle of equality for users of public services in particular. In a democratic State subject to the rule of law, authorities must be neutral, because they are the authorities of and for all citizens, and they must, in principle, treat all citizens equally, without discrimination on grounds of religion, conviction or preference for a community or party. For that reason, in the performance of their duties, public service employees may be expected strictly to observe, in their dealings with citizens, the principles of neutrality and equality among users.'
16. However, the principle of the neutrality of public service employees is not defined in Belgian law. Indeed, that principle has been interpreted in completely different senses in the case-law: it has been interpreted in an 'exclusive' sense, as prohibiting the wearing by public servants of any religious symbols, and it has been interpreted in an 'inclusive' sense, as implying the absence of any restrictions on the wearing of religious symbols and permitting the outward show of a plurality of religious affiliations.
17. However, in a recent interlocutory ruling of 16 November 2015, the President of the Tribunal du travail de Bruxelles (Brussels Labour Court) seemed to tip the balance in favour of an 'inclusive' interpretation of the principle of the neutrality of public servants, that is to say, one implying the absence of any restrictions on the wearing of religious symbols. The dispute in question was between a body operating in the

public interest, whose task was to place people in employment, and three of its employees who were being dismissed for refusing to remove their Islamic headscarf at their place of work. The President of the Tribunal found that there had been indirect discrimination and ordered that a provision of the body's internal regulations cease to apply, the provision in question providing that 'in the performance of their duties, staff members shall not display their religious, political or philosophical preferences either in their apparel or in their conduct'. The President of the Tribunal held that the principle of neutrality could in no way justify the prohibition forbidding the public servants from wearing religious symbols, stating that the neutrality of public servants related to the services they provided to users and the work they did, not to the appearance of the servant providing the service in the performance of his job.

B. REVIEW BY THE COURTS OF POSSIBLE RESTRICTIONS ON THE  
WEARING OF RELIGIOUS SYMBOLS

18. In **Denmark**,<sup>5</sup> the **Netherlands** and the **United Kingdom**, public servants are, in principle, free to wear religious symbols at their place of work. However, reasons relating to health or safety, in particular, may justify restrictions imposed by their employers, provided that the restrictions are proportionate to the objective pursued. Thus, in the **United Kingdom**, the dismissal of a member of prison staff of the Sikh faith for insisting on carrying a kirpan<sup>6</sup> contrary to the prison's internal regulations was upheld as valid, it being found that the need to ensure the safety and security of staff members, visitors and prisoners was a legitimate objective and that the restriction on carrying a kirpan within the prison service was an appropriate means of achieving that end.<sup>7</sup>
19. The ECtHR upheld that approach in its judgment of 15 January 2013, *Eweida and Others v. United Kingdom*, holding that the refusal to allow a nurse working in a public hospital to wear a Christian cross was justified by the legitimate objective of protecting the health and safety of other employees and of patients, and was thus

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<sup>5</sup> In Denmark, where there is no prohibition of the wearing of religious symbols in the public sector, the Procedural Code specifically forbids judges from wearing political or religious symbols during hearings.

<sup>6</sup> The kirpan is symbolic instrument with an iron or steel blade that is carried by people of the Sikh faith. According to their religion, the instrument is not regarded as a weapon, and it is offensive to call it a knife or dagger.

<sup>7</sup> The judgment in *Dhinsa v Serco and Another* [2011] ET 1315002/2009.

proportionate to that objective, given its importance in an area in which national authorities are allowed a broad margin of discretion.<sup>8</sup>

C. ABSOLUTE PROHIBITION OF THE WEARING OF RELIGIOUS SYMBOLS

20. In **France**, in the public sector, in accordance with the principle of secularity enshrined in Article 1 of the Constitution, public servants are under a strict obligation of neutrality which prohibits them from showing their religious convictions in the performance of their duties. This obligation of neutrality has been extended to employees of private undertakings entrusted with a public service remit. The obligation does not, on the other hand, apply to employees of private undertakings carrying out tasks of general interest. Any failure to comply with the obligation of strict religious neutrality, which is a disciplinary offence, must be assessed on the facts by the administrative authorities and administrative courts. Although the obligation of neutrality has been given expression only in case-law to date, the intention is that it will shortly be enshrined in legislation in the staff rules applicable to public servants: a draft law on the ethical rules, rights and obligations of civil servants is currently before the French Parliament.
21. As regards the principle of secularity, as applied by the French administrative courts, it should be noted that, in its judgment of 26 November 2015, *Ebrahimian v. France*,<sup>9</sup> the ECtHR found, in a case concerning the non-renewal of the employment contract of a social assistant working in a public hospital, on the ground that she had refused to remove her Islamic headscarf at her place of work, that upholding the principle of secularity was an objective consistent with the values underlying the ECHR and that the neutrality of the French public hospital service could be regarded as related to the attitude of its employees. The objective was also to ensure that users of the service enjoyed equal treatment, without distinction as to religion. The ECtHR held that, in the circumstances of the case, the national authorities had not exceeded the bounds of their discretion in finding that it was impossible to reconcile the applicant's religious convictions with the obligation not to show those convictions and in deciding that the requirement of State neutrality and impartiality which flows from the principle of secularity should take

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<sup>8</sup> The judgment in *Eweida and Others v. United Kingdom*, 15 January 2013, Application No 59842/10.

<sup>9</sup> Judgment in *Ebrahimian v. France*, 26 November 2015, Application No 64846/11. However, see the reservations expressed in the separate opinions of Judge O'Leary (concurring, but critical) and Judge De Gaetano (dissenting).

precedence.

22. While, in the legal systems considered, the rules on the wearing of religious symbols in the public sector are varied, to say the least, the rules which apply in the private sector seem to be rather more homogenous.

### III. THE WEARING OF RELIGIOUS SYMBOLS IN THE PRIVATE SECTOR

23. Although employees in the private sector are, in principle, free to wear religious symbols at their place of work, national courts have nevertheless recognised the right of employers to impose restrictions on that freedom, which may be subject to review (A). So-called '*entreprises de tendance*' (conviction-oriented undertakings) often find themselves in a special position in this regard (B).

#### A. REVIEW BY THE COURTS OF POSSIBLE RESTRICTIONS ON THE WEARING OF RELIGIOUS SYMBOLS

24. The first question which arises is whether, in the legal systems examined, restrictions imposed by employers are to be regarded as an infringement of individual freedoms or as prohibited discrimination (1). Secondly, it will be necessary to consider what legitimate grounds may, provided that they are proportional to the objective pursued, justify such restrictions (2).

#### 1. INFRINGEMENT OF INDIVIDUAL FREEDOMS OR PROHIBITED DISCRIMINATION

25. Subject to certain conditions, employers may impose restrictions on the wearing by their employees of religious symbols at the place of work, and may do so in the contract of employment, in the company's internal regulations or in a dress code.
26. It seems that the courts in **France** and **Germany**, like the ECtHR, regard such restrictions as infringements of individual freedoms rather than as possible discrimination, without, however, ruling out the latter characterisation. This was the approach adopted by the Full Court (*assemblée plénière*) of the French Cour de cassation (Court of Cassation) in a judgment of 25 June 2014 concerning the dismissal of an employee of 'Baby Loup' crèche on the ground that she wore the

Islamic veil, in breach of internal regulations.<sup>10</sup> In **Germany**, the *Bundesarbeitsgericht* (Federal Labour Court) took the same approach in a case concerning the dismissal of a saleswoman in a department store for refusing to remove her veil when dealing with customers.<sup>11</sup>

27. By contrast, the courts in **Belgium, Denmark** and the **United Kingdom** address the question from the viewpoint of possible indirect discrimination. In a 2005 judgment in **Denmark**, the Supreme Court held that there had been no indirect discrimination in the case of a female Muslim employee of a supermarket bakery who dealt directly with customers and had been dismissed after making clear her intention to wear a headscarf. According to the dress code in force, employees were required to wear work clothes provided by the supermarket and, in certain cases, a cap or other specific form of headgear, any other headgear being prohibited. However, the prohibition applied only to employees dealing directly with customers and was intended to signal to customers that the supermarket was neutral from a political and religious standpoint.<sup>12</sup>
28. It is interesting to note that, in the **Netherlands**, the Human Rights Commission<sup>13</sup> has found that rules or instructions issued by employers expressly prohibiting the wearing of religious symbols amount to direct discrimination. On the other hand, where such rules or instructions are drafted in neutral fashion the restriction may be regarded as indirect discrimination.
29. Finally, as regards the United States, it is worth mentioning the case of *Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores*,<sup>14</sup> the only case concerning the wearing of religious symbols at the place of work to be found in the case-law of the Supreme Court. Title VII of the Civil Rights Act of 1964 prohibits discrimination on grounds of religion in the hiring of employees, except where the employer can show that it cannot ‘reasonably accommodate’ its business

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<sup>10</sup> Cass., Ass.plén., 25 June 2014, No 13-28.845.

<sup>11</sup> Bundesarbeitsgericht, judgment of 10 October 2002, 2 AZR 472/01. See, concerning this case, paragraph 36 below.

<sup>12</sup> Ufr.2005.1265H.

<sup>13</sup> In accordance with Article 10 of the Law on the Human Rights Commission, on a written application from an employee or an employer, the commission will examine whether there has been discrimination in a specific case, within the meaning of the general law on equal treatment. Decisions of the commission are not binding and may diverge from decisions of the courts. Nevertheless, the commission is an authority in the area and so its decisions are, in most cases, followed by the courts.

<sup>14</sup> 575 U.S (2015), 1 June 2015.

to a religious practice. In this case, the Supreme Court was called on to decide whether an employer could be found guilty of discrimination for having refused to hire a job applicant because of her religious practices where the employer was not directly aware that a religious accommodation was necessary. The case concerned an applicant for a sales position with Abercrombie & Fitch who wore an Islamic headscarf and the company's refusal to recruit her on grounds of the company's 'Look Policy'. During her interview for the position, the applicant had not said anything about her headscarf and had not indicated that she would need a religious accommodation at variance with the company's dress code. In an almost unanimous decision (eight judges to one), the Supreme Court found that there had been direct discrimination on grounds of religion. The law did not, it found, require an employer to be aware that religious accommodation of the company's policy was necessary. The Supreme Court stated that, in this case, the employer had at least assumed that the headscarf was being worn on religious grounds, and the reason for its refusal to hire the applicant was therefore to avoid having to accommodate the company's policy to the applicant's religious practices.

## 2. POSSIBLE JUSTIFICATIONS

30. In the only case concerning the wearing of religious symbols in the private sector that it has decided to date, the ECtHR held, in *Eweida and Others v. United Kingdom*, cited above,<sup>15</sup> that there had been an infringement of Article 9 of the ECHR and that the national courts had not sufficiently protected the applicant's right to show her religion, having regard to the fact that no real harm had been done to the rights of any other person. The applicant, a practising Christian, was an employee of the private company British Airways, which required all staff members who dealt directly with the public to wear a uniform, the company's dress code stipulating that any accessories worn for overriding religious reasons must at all times be covered up by the uniform. The applicant had refused to remove or hide the cross that bore witness to her Christian faith. The ECtHR first of all found that the applicant's determination to wear her cross visibly at her place of work was a manifestation of her religious conviction and that there had indeed been an interference with her right to show her religion. The ECtHR then stated that the employer's wish to project a certain commercial image and to

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<sup>15</sup> The judgment in *Eweida and Others v. United Kingdom*, 15 January 2013, Application No 48420/10. See, however, the partly dissenting joint opinion of Judges Bratza and David Thór Björgvinsson.

promote the identity of its brand and its staff was a legitimate objective justifying the restriction. However, it stated that no fair balance had been struck between that wish and the applicant's right to show her religious conviction. According to the ECtHR, the national courts, although enjoying a broad discretion in assessing the proportionality of the measures taken by a private company with regard to its employee, had attached too much importance to the employer's wishes: the applicant's cross was discreet and was incapable of impairing her professional appearance. Moreover, there was nothing to show that any harm had been done to the airline's brand by employees wearing other, authorised religious symbols. Furthermore, the fact that the employer had been able to alter its dress code so as to allow pieces of symbolic religious jewellery to be worn visibly demonstrated that the prohibition had not been of vital importance.

31. Adopting a similar approach to that of the ECtHR, the courts in the Member States studied assess the particular facts of the cases before them and, in each case in turn, seek to strike a balance between the interests at stake.
32. Restrictions connected with the protection of individuals, relating to safety, health and hygiene at the place of work, have been upheld by courts in **Belgium, Denmark, France, the Netherlands** and the **United Kingdom**.
33. Similarly, restrictions justified by the commercial interests of companies have been upheld in the case-law of courts in **Germany, France, the Netherlands** and the **United Kingdom**. The case-law of courts in **Belgium** bears witness to an ongoing debate on this ground of justification.
34. While the legitimate objectives just mentioned may justify restrictions on the wearing of religious symbols in private undertakings, those restrictions must still be proportionate to the objective pursued.
35. In **France**, the Full Court (*assemblée plénière*) of the Cour de cassation in the 'Baby Loup' case cited above,<sup>16</sup> upheld the reasoning of the Cour d'appel (Court of Appeal) inasmuch as it had inferred from the internal regulations in question that the restriction on the freedom to show one's religion laid down therein was not general in character and was sufficiently precise and justified by the nature of the tasks performed by the employees of the crèche and proportionate to the objective

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<sup>16</sup> See footnote 10 above.

pursued. The Cour d'appel had assessed the specific operating methods of the crèche, which was a small organisation with only 18 employees, who dealt or were likely to deal directly with the children and their parents.

36. In **Germany**, prohibiting employees from wearing religious symbols in the private sector is permitted only in exceptional circumstances. According to the case-law, while employers are, in principle, entitled to require those of their employees who deal with customers to dress in a manner that is consistent with the business and its clientele, the freedom of belief of employees precludes any preventive prohibition of the wearing of a veil. Thus, employers are not entitled to dismiss staff unless their freedom of occupation, or more specifically their freedom to conduct a business, is actually restricted, such as where operations within the undertaking are disrupted or financial losses are incurred because a saleswoman wears a veil.<sup>17</sup>
37. Similarly, in France, employers must, according to the case-law, establish that actual disruption has been caused to the business, not merely that there is a 'fear' that disruption may be caused. Employers may not rely on the fact that the undertaking wishes to promote an image of neutrality in order to require employees to wear neutral clothing.<sup>18</sup>
38. Whether or not the employer offers the employee a compromise solution, or some alternative (such as a headscarf knotted into a bonnet or one in the colours of the uniform that employees are required to wear) in order to attain the legitimate objective pursued will be an important factor in the assessment of the proportionality of a restriction on the wearing of religious symbols. Such considerations are similar to the 'reasonable accommodation' referred to in American case-law.<sup>19</sup> As regards discrimination based on religion or belief, Directive 2000/78 [Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, p. 16.)] does not require the Member States to provide that 'reasonable accommodation' must be made, as is required by Article 5 of the directive in the

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<sup>17</sup> See footnote 11 above.

<sup>18</sup> Cour d'appel, Saint-Denis-de-la-Réunion, 9 September 1997, No 97/703.306.

<sup>19</sup> See section III A 1 above on *Equal Employment Opportunity Commission v. Abercrombie & Fitch Stores*.

case of discrimination based on disability, which does require reasonable accommodation to be made for disabled persons.

39. There are also special situations, where an undertaking may require a specific form of loyalty from its employees, as is the case with ‘*entreprises de tendance*’ (conviction-oriented undertakings).

B. THE SPECIAL POSITION OF *ENTREPRISES DE TENDANCE*

40. The concept of an ‘*entreprise de tendance*’ (conviction-oriented undertaking) is recognised in Article 4(2) of Directive 2000/78, which provides that, in the case of occupational activities within churches and other public or private organisations the ethos of which is based on religion or belief, a difference of treatment based on a person’s religion or belief does not constitute discrimination where, by reason of the nature of these activities or of the context in which they are carried out, a person’s religion or belief constitutes a genuine, legitimate and justified occupational requirement, having regard to the organisation’s ethos.
41. It is apparent from the legal systems examined that recourse to this concept may justify a difference in treatment in **Germany, Belgium, Denmark, France** and the **Netherlands**. However, it should be noted that, in **France**, the concept has no legislative or regulatory basis; to date, it has merely been recognised in legal theory, which has drawn on a few case-law precedents.

#### IV. CONCLUSION

42. The rules governing the wearing of religious symbols at the place of work may, in some cases, vary between the public sector and the private sector. While none of the legal systems examined provides for a total prohibition on the wearing of religious symbols in the private sector, the same cannot be said of the public sector.
43. In so far as concerns the wearing of religious symbols in the public sector, a unique stance is taken in **France**, where strict neutrality is required of public servants, in accordance with the principle of secularity enshrined in the Constitution, which requires an absolute prohibition of the showing of religious convictions in the performance of public duties. That prohibition even extends to the employees of

private undertakings entrusted with a public service remit. However, in **Belgium**, it seems that the principle of the neutrality of public servants, which is not enshrined in the Constitution, results in the absence of restrictions on the wearing of religious symbols. Only the service provided must be neutral, rather than the appearance of the public servant.

44. In **Germany**, recent case-law developments tend towards *de facto* authorisation, in both the public and the private sectors, of the wearing of religious symbols, permitting prohibition only where there is a real risk of significant interests being undermined, which must be assessed on a case-by-case basis.
45. As regards **Denmark**,<sup>20</sup> the **Netherlands** and the **United Kingdom**, these Member States have rules common to the public and private sectors, where workers are, in principle, free to wear religious symbols at their place of work. Restrictions imposed by public-sector or private-sector employers may be justified by a legitimate objective, provided that they are proportionate to the objective pursued. **Belgium** also has that rule, in the private sector.
46. Lastly, the freedom of employees to show their religious convictions by wearing religious symbols is, in contrast, not the same in *entreprises de tendance* (conviction-oriented undertakings), which may require their employees to adhere to the specific values they hold (**Germany, Belgium, Denmark, France** and the **Netherlands**).

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<sup>20</sup> Except in the case of judges, who are specifically forbidden by the Procedural Code from wearing religious symbols during hearings. See footnote 5 above.