

**NEWS REPORT**

<b>Date:</b>	24 February 2011
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<b>Title:</b>	A wide and long Islamic headscarf constitutes a safety and hygienic risk
<b>Country:</b>	The Netherlands
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Opinion of ETC declaring that a placement agency may refuse to try to get a job as a cleaner to a woman who insists on wearing a long and wide headscarf
<b>Ground of discrimination:</b>	Religion
<b>Source:</b>	Equal Treatment Commission Opinion 2011-19 of 4 February 2011
<b>Field:</b>	Employment / Social Benefits
<b>Legislative provisions:</b>	General Equal Treatment Act (GETA), Article 5(1) section b.

**Content****Case Law / political developments:**

According to the GETA, it is prohibited to make a distinction on the ground of (inter alia) religion in the process of job placement. This includes mediation between an unemployed person and possible future employers. The complainant in this case was an Islamic woman who received a social benefit from her local government. The social assistant bureau asked a mediation agency to find a suitable job for this woman in the cleaning sector. For reasons of religious belief, the woman was wearing a hijab. During working hours, she was wearing a shorter version thereof, consisting of a long and wide headscarf covering her hair, neck and shoulders and her back and breasts. The mediation agency accompanied the plaintiff to a potential employer, who made clear that this type of headscarf could not be worn at work for rules concerning safety and hygiene that apply everywhere in the cleaning sector. These rules were ultimately based on the Working Conditions Act (*Arbeidsomstandighedenwet*), regulating health and safety issues at the national level. After having contacted various other employers in the same sector, after having suggested to the woman to wear her headscarf under a wide t-shirt, and after having tried to mediate her to

work in another sector, the agency stopped the mediation process. As a consequence of that, the local government stopped paying part of the social benefit to the woman for a short period of time (because she had a duty to do everything possible to find paid work). (Her appeal against this decision is still pending before the District Court.)

The ETC first concluded that the complainant presented enough facts to presume that the mediation agency made a direct distinction on grounds of religion because the (neutral) safety and hygienic rules as such were not the real reason for stopping the mediation, but the fact that she was wearing this particular long and wide headscarf for religion reasons. Then the ETC shifted the burden of proof and the agency had to prove that the reason to stop is the mediation was not the women's religion, but that other reasons made them do so. The Committee then concluded that the mediation agency had done everything possible to mediate the woman to a job, first in the cleaning sector and later in another sector as well. Everywhere safety and hygienic rules prevented the employers to give a job to her. This could not be blamed on the mediation agency, who therefore did not make a direct distinction on the ground of religion but made this decision on the basis of its experience that the woman was 'non employable'. Therefore, the conclusion of the ETC was that the agency did not make an unlawful distinction (discrimination) on the ground of religion by terminating the mediation process.

**Internet link source and additional information:**

**Reference number:** ETC Opinion 2011-19

**Address of the webpage:**

ETC Opinion: [www.cgb.nl](http://www.cgb.nl) (Search term: 2011-19 - Last accessed 17 February 2011)