



## NEWS REPORT

<b>Update of flash report n°:</b>	602-NL-40
<b>Date:</b>	13 April 2011
<b>Expert:</b>	Rikki Holtmaat
<b>Title:</b>	Prohibition to wear headscarf in religiously denominated schools: District Court Judgment
<b>Country:</b>	The Netherlands
<b><u>Context</u></b>	
<b>Issue at stake:</b>	District Court Judgment declares prohibition of Islamic headscarf in Christian schools lawful
<b>Ground of discrimination:</b>	Religion
<b>Source:</b>	District Court Haarlem (Zaandam) Judgment of 04-04-2011
<b>Field:</b>	Education
<b>Legislative provisions:</b>	General Equal Treatment Act (GETA), Article 1 and Article 7(1) sub c and 7(2)

### Content

**Case Law:** On 7 January 2011 the Equal Treatment Commission published an opinion in a case of a Muslim pupil against the board of her catholic secondary school in which the ETC came to the conclusion that the school unlawfully discriminated on the ground of religion by prohibiting the pupil to wear the Islamic headscarf.<sup>1</sup> Since ETC opinions are not binding, the school upheld its policy to prohibit the wearing of the scarf. The pupil then brought a case before the District Court of Haarlem (cantonal sector, summary proceedings), in which she asked the Court to declare this policy illegal. The Court, in a very brief decision, declared that a catholic school has the right to prohibit the Islamic headscarf and that the pupil lost her case.

The Court stated that – like the ETC concluded – the catholic school did not have a consistent policy in this regard, but it then continued stating that in fact the school in the first place did not have a policy at all. Next, it reasoned that schools have a very wide margin of appreciation to decide what their policies will be and that it was not for the judge to intervene

<sup>1</sup> See flash report: 1122 NL-40.

unless these policies were clearly unreasonable. This was not the case, according to the court, and therefore the school had a right to prohibit the headscarf. This policy had nothing to do with discrimination or with a limitation of the freedom of religion, said the Court.

One other remarkable point in the judgment is that the Court rejected the argument of the pupil that the school's policy restricted her right to express her religion by stating that this standpoint could not be upheld because the claim to express one's religion unmistakably will intervene with the feelings of other people not to be confronted with any such religious expressions. Finding a balance between these rights is a task for the school board, not for the judge.

**Internet link source and additional information:**

**Reference number:**

District Court Haarlem (Zaandam) Judgment: LJN: BQ0063  
ETC Opinion 2011-02

**Address of the webpage:**

District Court Haarlem (Zaandam):

<http://zoeken.rechtspraak.nl/detailpage.aspx?ljn=BQ0063> (last accessed on 13 April 2011)

ETC Opinion: [www.cgb.nl](http://www.cgb.nl) (Search term: 2011-02 - Last accessed 10 February 2011)

The ETC published a commentary on this judgment on its web site: See:

[http://cgb.nl/nieuws/bericht/1000000743/verbod\\_hoofddoek\\_op\\_katholieke\\_school](http://cgb.nl/nieuws/bericht/1000000743/verbod_hoofddoek_op_katholieke_school) (last accessed on 13 April 2011)