



Resolution 2318 (2020)¹

Provisional version

The protection of freedom of religion or belief in the workplace

Parliamentary Assembly

1. The Parliamentary Assembly recalls that Europe is home to a wide range of religious beliefs and that it promotes the culture of “living together” based on religious pluralism. On many occasions, it has condemned acts of intolerance and discrimination on grounds of religion or belief and has called on Council of Europe member States to take stronger measures to combat such acts.
2. The Assembly recalls its [Resolutions 2036 \(2015\)](#) on tackling intolerance and discrimination in Europe with a special focus on Christians, [2076 \(2015\)](#) on freedom of religion and living together in a democratic society, [1928 \(2013\)](#) on safeguarding human rights in relation to religion and belief, and protecting religious communities from violence and its [Resolution 1846 \(2011\)](#) and [Recommendation 1987 \(2011\)](#) on combating all forms of discrimination based on religion.
3. The Assembly recalls that the freedom of thought, conscience and religion is a universal human right enshrined in Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention on Human Rights (ETS No 5). Moreover, discrimination on grounds of religion or belief is prohibited under Article 26 of the International Covenant on Civil and Political Rights, Article 14 of the Convention and Article 1 of Protocol No. 12 to the Convention.
4. The freedom of thought, conscience and religion has both an internal and an external aspect. The internal aspect – the right to hold or not to hold a belief and to change religion as a matter of conscience – is an absolute right and cannot be subject to limitations. The external aspect – the freedom to manifest one’s religion or beliefs “either alone or in community with others and in public or private” – is not absolute. Any restrictions on it must, however, be “prescribed by law” and “necessary in a democratic society” and must pursue a legitimate aim. The legitimate aims are public safety, the protection of public order, health or morals, or the protection of the rights and freedoms of others. This implies, amongst other things, that any interference with manifestation of religion or belief must be proportionate to the legitimate aim being pursued.
5. The Assembly recalls that freedom to manifest one’s religion or belief applies also in the workplace and that the European Court of Human Rights has developed an extensive case-law on this issue. It also stresses that religion is an essential aspect of one’s identity and that religious identity encompasses religious practice as well as belief. Given the fact that many people spend a large share of their daily lives at work, ensuring the non-discrimination of employees on grounds of their religion or belief is thus of crucial importance.
6. The Assembly also notes that the presence of members of different religious or non-religious groups may cause challenges in the workplace that some employers may try to resolve by imposing prima facie neutral rules. However, the application of prima facie neutral rules in the workplace – such as those on dress codes, dietary rules, public holidays or labour regulations – can lead to indirect discrimination of representatives of certain religious groups, even if they are not targeted specifically.

1. *Assembly debate* on 29 January 2020 (5th Sitting) (see [Doc. 15015](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Davor Ivo Stier). *Text adopted by the Assembly* on 29 January 2020 (5th Sitting).



7. The Assembly reaffirms that member States have an obligation to ensure non-discrimination in the workplace including on the grounds of religion or belief. The freedom of employees to practice their religion or belief may only be restricted if the restrictions are in line with human rights law and standards, necessary, proportionate, and pursue a legitimate aim.
8. The Assembly, therefore, calls on Council of Europe member States to:
 - 8.1. promote a culture of tolerance and “living together” in a religiously pluralist society, in accordance with Articles 9 and 14 of the European Convention on Human Rights and other international legal instruments on human rights protection;
 - 8.2. ensure that the right of all individuals under their jurisdiction to freedom of thought, conscience and religion is respected without impairing for anyone the other rights guaranteed by the European Convention on Human Rights and other international human rights instruments;
 - 8.3. take all necessary measures to combat discrimination based on religion or beliefs in all fields of civil, economic, political and cultural life.
9. Given the importance of the right to manifest one’s religion or belief in the workplace, the Assembly calls on Council of Europe member States to:
 - 9.1. adopt effective anti-discrimination legislation which covers prohibition of discrimination on grounds of religion or belief and establish appropriate monitoring mechanisms to assess its implementation, in case this has not been done yet;
 - 9.2. take legislative and any other appropriate measures, in order to ensure that employees can lodge claims that their right to non-discrimination on the grounds of religion or belief has been breached;
 - 9.3. establish appropriate adjudication and other adequate mechanisms to deal with claims of discrimination on the grounds of religion or belief, or any other prohibited grounds;
 - 9.4. provide training and advice to public and private employers in order to heighten their awareness of the notions of religion and religious diversity, as well as the right to non-discrimination;
 - 9.5. encourage dialogue between employers, religious communities, trade unions and non-governmental organisations working for the protection of human rights in order to foster co-operation and tolerance;
 - 9.6. promote the work of national human rights institutions on combating discrimination, including indirect discrimination based on religion or belief, and encourage them to develop training activities for both public and private employers.