



# The Federal Anti-Discrimination Agency's research projects at a glance: Discrimination in Employment owing to Islamic Religious Affiliation

## Findings, questions and recommendations for action

### Overview of the expert opinion

In two expertises, the Federal Anti-Discrimination Agency (FADA) provides an overview of the discrimination of Muslims in the context of employment. The social science expert opinion compiles empirical data and identifies key gaps in research. The jurisprudential expert opinion gives insights into the relationship of tension between discrimination and the protection of public and private interests.

#### Author, title and year of publication of the expert opinion

Prof. Dr. Dorothee Frings: *Diskriminierung aufgrund der islamischen Religionszugehörigkeit im Kontext Arbeitsleben – Erkenntnisse, Fragen und Handlungsempfehlungen. Diskriminierung von Musliminnen und Muslimen im Arbeitsleben und das AGG (2010)* (Discrimination in Employment owing to Islamic Religious Affiliation and the General Equal Treatment Act – Findings, questions and recommendations for action. Discrimination of Muslims in the labour market and the General Equal Treatment Act (2010))

Mario Peucker: *Diskriminierung aufgrund der islamischen Religionszugehörigkeit im Kontext Arbeitsleben – Erkenntnisse, Fragen und Handlungsempfehlungen. Erkenntnisse der sozialwissenschaftlichen Forschung (2010)* (Discrimination in Employment owing to Islamic Religious Affiliation – Findings, questions and recommendations for action. Findings of social science research (2010))

### Results of the social science expert opinion

#### The interwovenness of various discrimination grounds as a research challenge

- Empirical analyses can prove to be particularly demanding as a result of the interwovenness of various reasons for discrimination. The attributes: religion, ethnic origin and gender, as well as age and social status affect each other and are mutually reinforcing. It is frequently not possible to investigate Islamic religious affiliation as disconnected from other factors.

#### The state of research on the employment discrimination of Muslims

- Qualitative data suggest that persons who follow the Islamic faith encounter interpersonal and structural discrimination, to begin with, mostly as a result of their (ascribed) ethnic origin.
- In a job interview context, migrants from specific regions are presumed to have a below-average level of qualification and lower productivity.
- Employers fear that employing Muslim applicants could lead to financial losses, either because of (anticipated) negative customer reactions or feared conflicts within the company.
- Especially Muslim women who wear a headscarf are particularly affected by discrimination in seeking to enter the labour market.

- At the workplace itself, internal regulations and practices can render it disproportionately difficult to observe religions commandments and can therefore lead to structural discrimination. However, this has so far not been researched.
- Legally legitimised forms of unequal treatment such as ‘headscarf bans’ in Land law, and the ‘church clause’ of the General Equal Treatment Act, constitute barriers for Muslims.
- Research is needed into the degree to which the (negative) climate of opinion regarding ‘Islam’ influences the discrimination of Muslims and whether this has led to special forms of anti-Muslim discrimination.

## Results of the jurisprudential expert opinion

- With the exception of a few cases, decisions regarding hiring, transfers, firing etc. in the private sector may not be influenced by religion affiliation.
- Religious communities and denominational/religiously-oriented charity organisations may make the commitment to their religion a prerequisite for employment (‘church clause’) if they are connected with the religious mission. If their activities are not connected with the religious mission, discrimination is forbidden.
- In the case of schools, religious freedom can be limited under the Constitution if the limitation is based on Land legislation that limits the exercise of religion equally for all religions. It is doubtful whether these Land regulations comply with the provisions contained in the General Equal Treatment Act and the legislation of the European Union. The transfer of the ban on religious symbols to other areas of the public service is neither in conformity with the General Equal Treatment Act nor with EU law.
- Discrimination is only admissible if the different concerns cannot be reconciled with each other and a company’s interest is of overriding importance.

## Recommendations on the prevention and elimination of discrimination

- The authors recommend that the statutory provisions be revised to achieve, for example: the adaptation of Section 9 of the General Equal Treatment Act (church clause) to meet European requirements, the introduction of the right of collective action, the extension of the Social Code II to include the characteristic of religion and, on a case-by-case basis, opening clauses in Land regulations governing the ban on religions symbols.
- Furthermore, the authors recommend, *inter alia*, information and awareness-building campaigns to publicise equal rights, awareness campaigns for employers, the development and implementation of comprehensive diversity management concepts, innovative personnel recruitment channels and appeals to migrants to submit job applications, the promotion of the reconciliation of job requirements with the observance of Islamic commandments.

## More information

- The science expert opinion can be accessed => [here](#), available only in German language.
- The jurisprudential expert opinion can be accessed => [here](#), available only in German language.

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