CONTENTS

Foreword	v
Preface	xiii
Acknowledgements	
List of Abbreviations	
Table of Cases	

Int			Religion and Employment in Europe. Thick Identities
Colliding with Muscular Liberalism1			
	I.		Turn Towards Religion and Accommodation1
	II.	Scor	be of Analysis and Overview6
	III. Reasonable Accommodation: Typology, Hard Cases,		
		Subs	stantive Equality and Decommodification13
		A.	Towards a Typology of Reasonable Accommodation14
		B.	Substantive Equality and Decommodification
	IV.	Libe	ralism, Thick Identities and Coping Mechanisms20
	PAI	RT I.	Freedom of Religion out of its Comfort Zone. Religion in the Workplace and Europe's Two Supranational Courts
Ma	inoeuv	vring	a Multi-layered Fundamental Rights Architecture27
1.	1. Religion or Belief in the Workplace under the Human		
Rights Framework			
	I.	Hur	nan Rights, Religious Freedom and Diversity31
		A.	Introduction
		B.	From Toleration of Minorities to Religious
			Freedom for All?
		C.	Early Developments under International Law
			to Horizontalisation of Human Rights
	II.	The	European Convention on Human Rights and the ECtHR40
		A.	Article 9 ECHR and Religion or Belief in the
			Workplace: Overview40
		B.	Facing the Restraints of Time: Religious Time
			Claims before the ECtHR
		C.	Religious Dress before the ECtHR: Surrender of the
			'Clashing Headscarves' Debate to Member States

Contents

		D. E.	Other Religious Practices before the ECtHR Human Rights in the Workplace in Flux: <i>Eweida</i>	53
		،نا	and its Ramifications	56
		F.	Clashing Rights and Religious Accommodations:	
		1.	Calling for the Wisdom of Solomon?	62
~	mi	PTT .		
2.			nd Religion or Belief in the Workplace: From the e of EU Non-Discrimination Law to the Limits	
			-Rationalised Equality Law	71
	I.	Intr	oduction: The EU 'Fundamental Rights Revolution'	
	1.	A.	The Story of Equality Law as a Metaphor	
			for the EU project	71
		B.	From Market Efficiency to Decommodification?	
		C.	The Employment Equality Directive: Convergence of	
			Terminology, Divergence of Understanding?	76
		D.	On 'Religion or Belief' Discrimination under	
			EU Equality Law	82
		Ε.	Direct-Indirect Discrimination Dichotomy and the	
			Duty of Reasonable Accommodation	9 0
		F.	Indirect Discrimination and Reasonable Accommodations:	~ -
		(TT)	Different Sides of the Same Coin?	95
	II.	The	CJEU and Religious Accommodations ne Workplace	100
		In tr	Towards the First Two CJEU Religious	100
		А.	Discrimination Decisions	100
		B.	Religious Dress: Direct Discrimination versus Indirect	100
		Б.	Discrimination, and the Duty to Accommodate	106
		C.	Reconciling Work and Religious Time under	
			EU Equality Law: Remembering Vivien Prais	109
Cor	clud	ing R	emarks on Part I	
COI		•		110
	PA	RT II	. Religion or Belief in the Belgian, Dutch and British Private	
			Sector Workplace: Between Assimilation Demands and Reasonable Accommodation	
		_		
Eur	opea	n Coi	intry Studies: The Importance of Contextualisation	117
3.			-)Accommodation of Religious Dress in the	
	Euro		Workplace	
	I.		oduction	125
	II.	Reli	gious Dress in the Employment Context in Belgium:	
		-	ment-Proof Restrictive Employer Practices	125
		Α.	HEMA: Normalised Intolerance towards the	107
		р	Headscarf in Belgium?	12/
		В.	G4S: Company Neutrality 'Practice' Suffices	100

		C. The Club Case in Brussels: Headscarves,	
		Books and Shoes	134
	III.	Accommodation of Religious Dress in the Dutch Workplace:	
		Illustrating the Divergent General and Special Effects	
		of Anti-Discrimination Law	
		A. The ETC and Religious Dress Accommodation	137
		B. Dutch Courts and the Accommodation	
		of Religious Dress	146
	IV.	Accommodating Religiously Distinct Dress in the	
		British Workplace: Progressive Case Law and	
		'Flexible Tolerance' on the Ground	151
		A. Religious Dress and Grooming Disputes in Britain	152
	V.	Comparison: Corporate Neutrality Policies and the	
		Uneven Rooting of Reasonable Accommodation	157
		A. Legal Assessment of Private Neutrality Policies: Bias	
		Hidden in Plain Sight	160
	~		
4.		flicting Religion-Worktime Demands: Is Europe Keeping	167
	-	with the Times?	16/
	I.	Introduction: Intersection of Human Rights	167
		and Working Time Regulation	16/
	II.	Belgian Case Law on Religion-Worktime Conflicts	169
		A. Sabbath and Religious Service	
		B. Resting During Ramadan	
	III.	Dutch Case Law on Religion-Worktime Conflicts	
	IV.	British Case Law on Religion-Worktime Conflicts	
	V.	Conclusion	188
5.	Reli	gious Affiliation Discrimination and Miscellaneous	
0.		ommodation	193
	I.	Introduction	
	II.	Religious Affiliation Discrimination: The Thin	
		Heart of the Matter?	196
	III.	Negative Work Environment and Harassment;	
		Proselytising in the Workplace	199
	IV.	Objections to Job Duties Grounded on Religion or Belief	
	1	A. Traditional Conscientious Objections	
		B. Modern Conscientious Objections	
		C. Multicultural Objections	
	V.	Let's Shake on it? Social and Gender Relations	
	••	in the Workplace	211
		A. Redefining the Parameters of Politeness? Refusal to	
		Shake Hands in the Netherlands	
		B. Shaking Hands in Belgium	
		C. Shaking Hands in the UK	

	VI.		gious Prayer and Dietary Considerations ne Workplace	228
6.	Cou	ntry	Study Insights and Reasonable Accommodation	231
	I.	The	Limits of the Law	231
	II.	The	Added Value of Reasonable Accommodation	
		for	Religion and Belief in the European Context	234
	III.	Arg	uments Against Reasonable Accommodation	
		and	Rebuttal	239
		A.	Comprehensive EU Anti-discrimination Law	
			Makes Reasonable Accommodation Obsolete	
		B.	Adopting such Right is Undesirable and/or	
			Politically Unfeasible	
		C.	'Voluntary Accommodation' Renders Legal	
			Enforceability Redundant	
		D.		
			is Short Selling Minorities	
		E.	Reasonable Accommodation in Europe is a Misfit	
			-	

Conclusion	
Bibliography	
Index	