

Decision of the Federal Labor Court of 24 February 2011

- Decision:** Invalidity of dismissal if other employment is possible
- Circumstances of the case:** The claimant is Muslim and has worked for the defendant since 1994. On February 2008 the claimant has refused to work in the defendant's drinks department since his religion forbids coming in touch with alcohol and even distribute alcohol. Consequently the defendant terminated the claimant's employment contract.
- Reasoning:** The court has to grant the claim. The termination of an employer's employment contract is invalid if the religious reasons which keep the employee from working enable the employer to instruct other work to the employee. Therefore the employee has to explain the religious reasons which lead to the work refusal and the exact excluded work as such. Only then the employer is able to find another work for the employee. If there is another employment for the employee the dismissal will be always invalid.
- Generally a store assistant like the claimant in the case at stake has to expect that he receives work encountering with alcohol.
- Comment:** Trial court decision of Higher Labor Court of Schleswig-Holstein on January 20, 2009.
- Keywords:** Germany, workplace, invalidity of dismissal, employment, Muslim, alcohol, store assistant
- Sources:**
1. Decision of the Federal Labor Court of 24 February 2011; BAG Urteil vom 24.02.2011 – 2 AZR 636/09
 2. <http://www.bundesarbeitsgericht.de/termine/februartermine.html>
 3. <http://www.kostenlose-urteile.de/BAG-Keine-Kuendigung-wegen-Arbeitsverweigerung-aus-Glaubensgruenden.news11202.htm>