

# EU: European Court of Justice rules against the wearing of the headscarf in the private sector

European Parliament Anti-Racism and Diversity Intergroup (ARDI) (14.03.2017) – <http://bit.ly/2lZsRIR> – The European Court of Justice (ECJ) issued a ruling against two women employees who were dismissed because they wore the headscarf. *“An internal rule of an undertaking which prohibits the visible wearing of any political, philosophical or religious sign does not constitute direct discrimination,”* the court said in a statement. *“However, in the absence of such a rule, the willingness of an employer to take account of the wishes of a customer no longer to have the employer’s services provided by a worker wearing an Islamic headscarf cannot be considered an occupational requirement that could rule out discrimination.”*

The Court also ruled that a ban may also constitute *“indirect discrimination”* if people adhering to a particular religion or belief were specifically targeted. The Court added that indirect discrimination is permissible if it is *“objectively justified by a legitimate aim,”* such as a company’s policy of neutrality, as long as the means of achieving it are appropriate and necessary.

The two cases concern two female Muslim employees in [Belgium](#) and [France](#) who had been dismissed for refusing to remove their headscarves, which did not cover the face.

The Belgian woman had been working as a receptionist for G4S Secure Solutions, which has a general ban on wearing visible religious or political symbols, while the French claimant is an IT consultant who was told to remove her headscarf after a client complained.

The case of the Belgian women stems from an “unwritten rule” where G4S banned employees from wearing signs of their political, philosophical or religious beliefs, although the company only updated its workplace regulations the day after the woman started wearing a hijab.

Although they rules apply to all beliefs, the ECJ said it was possible that such rules could be deemed indirect discrimination for targeting Muslims or other religious groups with visible manifestations of their faith and referred the issue back to the Belgian Court of Cassation.

*Soraya Post, Co-President of ARDI, said: “I welcome the decision that employers are not now allowed to pander to the prejudices of their clients. However at a time of increasing hate crimes against Muslims, this ruling sends the wrong signal and will lead to only further direct and indirect discrimination against Muslims both in the labour market and in society at large. Muslim women already face high levels of discrimination and difficulties in accessing the labour market according to the European Network Against Racism’s Forgotten Women project and this decision will prevent more Muslim women from being able to access the labour market. Moreover in countries where national law doesn’t provide appropriate safeguards, this ruling opens a Pandora’s Box and will result*

*in many Muslim women and those who wear visible manifestations of their faith being fired under the guise of neutrality. This is anything but neutrality.”*

Sajjad Karim, Vice-President of ARDI, said: *“Today’s ruling in effect makes Muslim women and people from other religious groups have to choose between their fundamental right to religious expression and access to the labour market. This is unacceptable and will only isolate people with religious convictions who wish to express their belief.”*

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