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STORY OF THE DAY



UK businesses may face claims after headscarf ruling

Employers are entitled to ban workers from wearing Islamic headscarves or any other "visible wearing of any political, philosophical or religious sign", Europe's highest court ruled yesterday.

But experts warned that UK companies could face a rash of discrimination claims if they adopt the ban in this country.

Juliet Carp, vice-chairman of the Employment Lawyers Association and partner at Kingsley Napley said: "There is a danger that many UK employers might misread the headlines around this ruling and feel that it is legally ok to ban the wearing of headscarves by those in public-facing roles, provided they impose a neutral and across the board ban on all employees."

However, in Europe, the court ruled that ban does not constitute "direct discrimination" if it is based on internal company rules that apply to all employees and require them to "dress neutrally". The Court of Justice said: "It cannot be based on the wishes of a customer."

The wearing of religious symbols such as Islamic headscarves has become a sensitive and controversial topic with the rise of populist sentiment around Europe. Belgium's court of cassation had referred the case to Europe's highest court for clarification. The ruling –

the first on the issue of Islamic headscarves at work – was prompted by a case dating to 2003 of a Muslim receptionist, Samira Achbita, who was fired for wearing a headscarf.

At the time the company had an "unwritten rule" that employees should not wear any political, religious or philosophical symbols at work.

Achbita claimed that she was being discriminated against on the ground of her religion. However, the company subsequently introduced a formal ban and amended workplace regulations to forbid employees "from wearing any visible signs of their political, philosophical or religious beliefs and/or from engaging in any observance of such beliefs".

Yesterday the court ruled that the company's rule covered "any manifestation of such beliefs without distinction", and was therefore not discriminatory. It ruled that "an employer's desire to project an image of neutrality towards both its public and private sector customers is legitimate". But the judges went on to say that national courts must make sure this policy of neutrality is applied equally to all employees.

Kevin James, an employment partner at Payne Hicks Beach, said: "The main point coming out of this ruling for employers is that as long as they apply their dress code policies neutrally and fairly then they will not be in breach of discrimination law. "So as long as you ban all religious symbols – headscarves and crucifixes, for example – then you should be all right. Employers must not differentiate between religious or political beliefs."