

Headscarf ban was direct discrimination

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A French employer's ban on employees wearing religious signs (in this case, a female, Muslim employee wearing a headscarf) was directly discriminatory on grounds of religion.

Micropole in France hired Ms Bougnaoui, a Muslim woman, to work as a design engineer. When doing so, Micropole emphasised that Ms Bougnaoui's role would be customer-facing so that she would not be able to wear her headscarf at all times. Later, a

customer complained to Micropole that Ms Bougnaoui had been wearing her headscarf and the company stated that they did not want her to wear it in future. Ms Bougnaoui refused and Micropole dismissed her. Ms Bougnaoui brought a claim for religious discrimination.

Advocate General Sharpston gave her opinion that a ban on employees wearing religious symbols or clothing when in contact with customers constitutes direct discrimination on grounds of religion. The opinion found that Ms Bougnaoui had been dismissed because of her manifestation of her religion, and the right to manifest one's religion is protected within the religious discrimination legislation.

Advocate General Sharpston rejected the argument that there was a genuine occupational requirement for the ban to be in place as nothing suggested that Ms Bougnaoui's performance was affected by her choice to wear her headscarf. Whilst Micropole may have a financial interest in terms of its relations with its customers, it could not justify discrimination.

This decision conflicts with the recent opinion of Advocate General Kokott in *Achbita*, which found a very similar policy against wearing religious symbols to be lawful. Both cases will go to the Court of Justice of the European Union for determination, at which point the Court can clarify the position.

Bougnaoui and another v Micropole SA (Case C-188/15)

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