

# European court rules in favour of headscarf ban at workplaces

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Corporate freedom stands higher than the freedom of religion: this is the key content of two judgments made Tuesday by the European Court of Justice (ECJ) on the Muslim headscarf, which will serve to strengthen the Islamophobic and xenophobic tendencies that are growing throughout Europe.

The court ruled that companies may prohibit Muslim women from wearing a headscarf at work, especially if they have contact with customers. However, companies cannot justify such a ban based on complaints from individual customers, or on the basis of prejudices against Muslims. Companies must adopt a method of work that projects the employer's desire for "an image of neutrality towards both its public and private sector customers," the judgment reads.

"That desire relates to the freedom to conduct a business, which is recognised in the Charter," argues the ECJ. This objective justifies prohibitions of ideological symbols "notably where the only workers involved are those who come into contact with customers."

In other words, religious discrimination is permitted if all religions are discriminated against. The court is quite aware that, in practice, it is Muslim women who are particularly affected by the judgment. It acknowledges that the commitment to neutrality can also conceal an "indirect discrimination" against Muslims. Nevertheless, the freedom of business stands higher than their rights.

A commentary in the *Süddeutsche Zeitung* recalls the famous phrase of Anatole France to the effect that, the law in its majestic equality prohibits "both the rich as well as the poor from sleeping under bridges, begging on streets and stealing bread." The same sentiment is expressed in the ECJ rulings, i.e. "the law, in its majestic equality, forbids Christians, atheists and

Muslims alike, from wearing a headscarf."

If companies were to make broad use of this "corporate freedom," it would exclude Muslim women from a wide range of professions, preventing them from working as salespeople, supermarket cashiers, and service counter employees.

The two judgments were based on the case of a software designer from France whose company called upon her to discard her headscarf, and a receptionist from Belgium, who had been dismissed because she had worn a headscarf.

The judgments of the European Court of Justice apply throughout the EU. They will serve to intensify attacks on religious freedom in many countries that have hitherto given priority to religious freedom in the workplace.

Thus, in 2002, the German Federal Labor Court ruled on a saleswoman who had been sacked by a department store because she had decided to wear a headscarf. The judgment contained a number of exception clauses. Thus, the court declared a ban on the headscarf to be admissible if there was a definite "disturbance of the working peace" or the turnover of the department store suffered. Nevertheless, a more liberal practice with regard to headscarves has prevailed in Germany since then.

In 2015, the German Federal Constitutional Court ruled that a headscarf ban in schools is only possible in exceptional cases. It thus raised the individual's right to freedom of belief above the state's commitment to neutrality. Now the ECJ has overturned this principle to the benefit of private companies.

Experts assume that German jurisprudence will quickly apply the new line and abolish religious freedom in the workplace. "The Federal Labor Court will take over the verdict from Luxembourg in identical

form,” said Gregor Thüsing, Professor of Labor Law in Bonn.

The second-highest European court, the European Court of Human Rights, also recently ruled against religious freedom for Muslims. In 2014, it approved a general ban on burkas in France, a French ban on headscarves in public services in 2015, and in 2016 ruled against exempting Muslim girls from obligatory swimming lessons.

The right to freely choose and practice a religion is, like the right to freedom of opinion, a fundamental democratic right. It is not the task of the state to determine what someone should believe, think or do.

The restriction of this right by the supreme European court is an integral part of a shift to the right by the entire ruling class, which is reacting to growing social and international tensions by promoting militarism at home and abroad, and fostering right-wing, xenophobic sentiments.



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