In Strasbourg, a new affirmation of the neutrality of the workplace, albeit private, provided for by the 2016 *loi travail*.

In Strasbourg, on 11 April 2024, the shop of Geox, a well-known Italian clothing and footwear company, hit the headlines for an issue related to the Islamic headscarf.

A girl of Muslim faith, after being hired as a saleswoman through a temporary employment agency, in whose selection interviews she had participated bare headed, had shown up for work wearing the hijab.

The shop manager reminded her of her obligation of neutrality, which the 2016 labour law reform also expressly provided for private employment, and therefore informed her that he could not hire her if she wanted to continue wearing the Islamic headscarf.

The shop assistant, in turn, objected that the prohibition on wearing religious symbols was not provided for in the employment contract proposed to her by the temporary employment agency.

The legislation applicable here is certainly the principle of the prohibition of discrimination in employment and occupation, regulated by 2000/78/EC[1].

Disputes had already arisen in this area, on which both the national courts, and not only in France[2], and the EU Court of Justice had been called upon to rule.

The first cases decided by the latter in this regard, in fact, were the *Achibita vs G4S Secure Solutions*[3] and *Bougnaoui vs Micropole SA*[4] judgments, which, however, only partly overlap with the current Strasbourg case.

In the first judgment, in fact, the receptionist of the Islamic religion had been dismissed by the French company after she began to wear a headscarf in the workplace, and the Court had considered her dismissal valid for justified reasons.

In the second case, on the other hand, the Court found discriminatory the dismissal of the engineer Mme Bougnaoui, who, although wearing the hijab when not in contact with the public, had refused to remove her headscarf when, as requested by the company, she had to go to the offices of the company's clients; the Court ruled that the willingness to take into account a client's wish not to have to interact with a company employee wearing an Islamic headscarf could not be considered an essential and determining requirement for the performance of work, and the dismissal was therefore discriminatory.

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[1] https://eur-lex.europa.eu/legal-content/IT/TXT/HTML/?uri=CELEX:32000L0078

[2] V. S. TESTA BAPPENHEIM, *Auri sacra fames? Sì, ma non troppo*: *nota a BVerfG, 30 luglio 2003*, in *qdpe*, 2005, pp. 811 ss.

[3] https://curia.europa.eu/juris/document/document.jsf?docid=188852&doclang=IT

[4] https://curia.europa.eu/juris/document/document.jsf?docid=188853&doclang=IT

In France, moreover, the *loi travail*, or *loi El Khomri* (from the name of the Minister of Labour who had it approved), i.e. Law No. 2016-1088, of 8 August 2016, introduced, in the Code du travail, Art. L1321-2-1, according to which a company's internal regulations may also include provisions that protect the principle of neutrality by restricting the expression of employees' beliefs, if these restrictions are justified by the exercise of other freedoms or by the need to ensure the smooth operation of the company, and provided that they are proportionate to the aim sought.

The possibility of company regulations containing a ban on wearing religious symbols has also been confirmed by the most recent jurisprudence of the European Court of Justice, albeit always linked to real requirements of balance and necessity.

In the affaire *WABE vs IX and MH Müller vs MJ*[5] of 2021, in fact, responding to two requests for preliminary rulings on the cases of two Muslim women resident in Germany, one an employee of a pharmacy, the other a nursery worker, the Court ruled that the ban on wearing religious symbols in the workplace is not discriminatory if it applies to all religions and allows the company to avoid internal conflicts, but that the company must demonstrate that the violation of the ban compromises its freedom to conduct business.

Again, in the second judgment, *S.C.R.L. vs LF*[6], of 2022, concerning a Belgian company, then, a situation like that of the Geox case of 2024 arises, since it concerns a woman who was not hired following a job interview because she refused to remove her headscarf.

In this judgment, the Court of Luxembourg affirmed the admissibility of an internal regulation that prohibits the wearing of visible symbols of religious convictions, if it covers all expressions of convictions, not only religious, but also philosophical and spiritual, and applies to all employees.

The constant presence of conflicts of this kind, even within a general European framework of increasing secularization and in a context of ever greater economic development, demonstrates and confirms what has long been predicted, namely how "Even less acceptable, because it is anti-historical, is the view that progress would cancel out religious thought in the secular one"[7].

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5 https://curia.europa.eu/juris/document/document.jsf?text=&docid=244180&pageIndex=0&doclang=it&mode=lst&dir=&occ=first&part=1&cid=4156939

6 https://curia.europa.eu/juris/document/document.jsf?text=&docid=267126&pageIndex=0&doclang=it&mode=lst&dir=&occ=first&part=1&cid=4229844

7 M. TEDESCHI, *Secolarizzazione e libertà religiosa*, in AA.VV., *Studi in onore di G. Saraceni,* Napoli, 1988, pag. 499.