

## Appearance-Based Discrimination in a Workplace: An Emerging Problem for Labor Law Relationships

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**Abstract :** Nowadays, dress codes and widely understood appearance are becoming more important in the workplace. They are often used in the workplace to standardize image of an employer, to communicate a corporate image and ensure that customers can easily identify it. It is also a way to build professionalism of employer. Additionally, in many cases, an employer will introduce a dress code for health and safety reasons. Employers more often oblige employees to follow certain rules concerning their clothing, grooming, make-up, body art or even weight. An important research problem is to find the limits of the employer's interference with the external appearance of employees. They are primarily determined by the two main obligations of the employer, i. e. the obligation to respect the employee's personal rights and the principle of equal treatment and non-discrimination in employment. It should also be remembered that the limits of the employer's interference will be different when certain rules concerning the employee's appearance result directly from the provisions of laws and other acts of universally binding law (workwear, official clothing, and uniform). The analysis of this issue was based on literature and jurisprudence, both domestic and foreign, including the U.S. and European case law, and led the author to put forward a thesis that there are four main principles, which will protect the employer from the allegation of discrimination. First, it is the principle of adequacy - the means requirements regarding dress code must be appropriate to the position and type of work performed by the employee. Secondly, in accordance with the purpose limitation principle, an employer may introduce certain requirements regarding the appearance of employees if there is a legitimate, objective justification for this (such as work safety or type of work performed), not dictated by the employer's subjective feelings and preferences. Thirdly, these requirements must not place an excessive burden on workers and be disproportionate in relation to the employer's objective (principle of proportionality). Fourthly, the employer should also ensure that the requirements imposed in the workplace are equally burdensome and enforceable from all groups of employees. Otherwise, it may expose itself to grounds of discrimination based on sex or age. At the same time, it is also possible to differentiate the situation of some employees if these differences are small and reflect established habits and traditions and if employees are obliged to maintain the same level of professionalism in their positions. Although this subject may seem to be insignificant, frequent application of dress codes and increasing awareness of both employees and employers indicate that its legal aspects need to be thoroughly analyzed. Many legal cases brought before U.S. and European courts show that employees look for legal protection when they consider that their rights are violated by dress code introduced in a workplace.

**Keywords :** labor law, the appearance of an employee, discrimination in the workplace, dress code in a workplace

**Conference Title :** ICLLR 2018 : International Conference on Labour Law and Regulations

**Conference Location :** Venice, Italy

**Conference Dates :** April 12-13, 2018