



## **Rights Enshrined**

*Freedom of religion: Tom Eweida*

### **Tom:**

When I first met Nadia it was very clear to me that this was not a case about money, but was a principled case based on a clear conviction, and she should be able to manifest her religious belief at work and to others.

### **Narrator:**

Tom Ellis is a partner in the Salford law firm, Aughton Ainsworth. He represented Nadia Eweida, a British Airways employee who fought for the right to wear a cross to work. When BA changed their uniform in 2004, the cross Nadia wore around her neck became visible, contravening the airline's uniform policy. As a practising Coptic Christian, she argued the cross was the manifestation of her religious belief and refused to remove it. After several confrontations with management, Nadia was told she must remove her jewellery or go home.

She stayed off work for four and a half months until British Airways changed their policy, but when she returned she fought for compensation for her loss of earnings.

### **Tom:**

Nadia felt very disappointed that she wasn't able to get any form of redress through the courts, but Nadia's a fighter and she made it very clear that she would take it as far as it was necessary to take to get compensation which she felt she was entitled to. Hence the decision to continue the case and take it to the European Court of Human Rights.

Nadia's case was essentially that the UK Domestic Board didn't adequately protect her right to express her religious belief by wearing her cross, and that was also discriminatory on the basis that other faiths were allowed to express their beliefs through wearing of religious symbols.

They allowed Sikhs to wear the turban and a bangle and they allowed Muslim ladies to wear the hijab headscarf but because, from a Christian point of view, wearing a cross, some do, some don't, they drew the line and basically saw it as more like jewellery than a religious symbol.

The clear article we were always going to use would be Article 9, which is, everyone has the right to freedom of thought, conscience and religion but, in particular, the right to manifest that belief in worship or in observance or in any other way which is intimately linked to the religion.

The UK argued that wearing of a cross was not a mandatory requirement of the Christian faith and was no more than a personal choice of Nadia Eweida, and therefore not protected under Article 9, and that measures taken by BA were proportionate to protect a legitimate aim, namely uniform policy, and also recognise a corporate image.

The court ruled a domestic court had failed to balance a competing interest fairly – on the one hand Nadia's desire to manifest a religious belief by wearing a cross against BA's desire to protect and promote a corporate image. The domestic court had given too much weight to BA's wish to protect their corporate image. The court agreed that wearing a cross is a manifestation of the Christian faith, which is entitled to be protected.

**Nadia:**

It means that Christians can move around more freely in their workplace without recrimination of discrimination.

**Tom:**

Nadia was absolutely delighted and all the effort and the upset and the worry had all been worthwhile when she felt she'd been vindicated.

**Nadia:**

It gives them the opportunity to display their faith symbols on par with other colleagues who are allowed to display their faith symbols, really.

**Tom:**

The decision has been very important for subsequent religious freedom cases. The principle that court now need to consider a reasonable accommodation when looking at the question of proportionality has become part of English law. So, in one sense it is a clash of rights and you can't reconcile them. So what you have to do is reasonably accommodate both. You don't get to go to Strasbourg very often in your legal career so, from that point of view, it's the only highlight. And when you read the case law, you can look at judgement and say, "I was part of that one, that one, that one." It's a changing area of law because it involved different views and ideas and values that people have and how, in a democratic society, can we all live together and get on together, even though we might disagree on things.