

Restrictions on Muslim Women's Dress in the 27 EU Member States and the United Kingdom

**Current Law, Recent Legal Developments,
and the State of Play**

March 2022

This report maps laws and legal developments restricting religious dress—specifically the headscarf and face veil worn by Muslim women—in the 27 countries of the European Union (EU) and the United Kingdom. Country-by-country, this study examines relevant laws, bylaws, and case law, as well as political platforms, legislative proposals, and public discourse. It also covers restrictions in employment, education, services, and public space.

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Foreword

All women still must confront being judged by what they wear. But when trying to access ordinary spaces or activities, no group of women has their bodies policed as much as Muslim women. Headscarves and other types of dress worn by Muslim women have regularly sparked national debates and controversy in Europe. A deluge of regulations banning religious dress in public and private spaces has severely restricted Muslim women's ability to go to school and to work, to access sports and other services, and even to leave their homes.

Such restrictions were considered unacceptable for most of the post-World War II era in Europe, where respect for the religious liberties of minorities formed an essential component of European liberal democracy. Things started to change in the 1980s and 1990s, as Muslim youth came of age and expected to participate in European societies on equal footing. Geopolitical developments in the Middle East accelerated the change and gave rise to the bogeyman of the suspicious Muslim. After 9/11, policymakers declared a global war on terror premised on this stereotype. A popular narrative proclaimed the discordance of Islam and the West, with Muslim women's religious dress—allegedly always imposed by Muslim men—rising as the ultimate symbol of incompatibility. The burqa forced on Afghan women by the Taliban served as the dominant reference. The idea that Muslims as a group were the new “enemy within,” with beliefs and practices reflecting values and norms inferior to those of Europe, acquired legitimacy across the political spectrum. Echoing Orientalist prejudices and stereotypes about Muslims already prevalent in Europe, it served to justify banning the visible presence of Muslim women and Islam from various spaces.

Restrictions on Muslim Women's Dress in the 27 EU Member States and the United Kingdom maps as comprehensively as possible the restrictions faced by Muslim women in EU member states and the United Kingdom. The aim is to expose the full scope of limitations imposed on Muslim women over a short period of time by European governments, employers, educational institutions, service providers, and others. Despite frequent claims to the contrary, religious dress bans did not arise out of a genuine concern for women, gender equality, security, integration, or neutrality. Rather, they most often arose from anti-Muslim or anti-Islam sentiment and fear, infused with sexist bias questioning Muslim women's ability to think and decide for themselves.

As far-right and nationalist parties rose to power in EU countries and institutions, they gained influence over mainstream politics and drove political narratives further to the right. They rode anti-Muslim discourse to success, and

mainstream political forces conceded its normalization rather than fight for previously prevalent European values of tolerance. The far-right pushed many legislative proposals and provided decisive support for various headscarf and face veil bans. France in particular allowed Islamophobia to reign freely and become institutionally embedded, and then proceeded to shape debates and initiatives leading to the restriction of the rights of Muslim women in the rest of the European Union.

For their part, Muslim women have persistently fought back. Of all the manifestations of Islamophobia in Europe, religious dress restrictions are the most litigated against. This is hardly surprising considering the impact they have on Muslim women's daily lives and ability to survive. Despite the clear targeting and disproportionate impact on Muslim women, European high courts have failed to protect them against discrimination and put a halt to rising Islamophobia. Instead, these courts have provided nation states with a wide "margin of appreciation" to decide on these matters, and accepted employers' religious dress bans without proper scrutiny. Such rulings have drawn sharp rebukes from the legal community. Presented with cases of Muslim women barred from wearing religious dress at work and in public space, the UN Human Rights Committee has also taken a more critical stance, rejecting the bans as discriminatory rights violations.

But it is at national and local levels where resistance is gaining the most traction. Demonstrators have been taking to the streets in various European cities in support of Muslim women, against Islamophobia and against racism more broadly. Private employers are increasingly embracing Muslim women who wear a headscarf, while politicians and public sector employers call into question headscarf bans. National equality bodies in a few countries provided early warning of rising Islamophobia, and protection against discrimination. Elsewhere it is communities and civil society groups shifting the debate by raising awareness and creating public pressure. Many national courts have also come out strongly against religious dress bans.

Will all of this affect the interpretation of EU law? There may be reason for optimism. Even with its poor track record on the issue, the European Court of Human Rights (ECtHR) has admitted to the existence of Islamophobia and the disproportionate impact on Muslim women in *S.A.S v France* (2014) and rejected one headscarf ban in *Lachiri v Belgium* (2018). The Court of Justice of the EU (CJEU) continues to receive referral submissions from national courts encouraging it to improve on its poor landmark ruling in *Achbita v G4S* (2017) and strengthen EU antidiscrimination law.

To build this movement's momentum and improve the situation of Muslim women in Europe, leaders, policymakers, and courts need to take a clear stance against discrimination and ensure genuine equal treatment. As a starting point, Muslim women must be accepted as Europeans who hold certain beliefs and manifest them a certain way. In this, they are no different from other groups making up the full mosaic of beliefs and personal convictions requiring protection in a pluralist Europe. Revoking and rejecting religious dress bans that deny Muslim women access to education, jobs, services and public space, and reviewing European Equality Law to prevent employers and institutions from passing the antidiscrimination test with measures that further entrench structural discrimination, is the natural next step. This guide serves as a reference for those who are leading the way.

Executive Summary

a. Statement of purpose and scope of research

This report maps restrictions on religious dress, specifically the headscarf and face veil worn by Muslim women,¹ in the 27 Member States of the European Union (EU) and the United Kingdom (UK).² The restrictions, including proposed restrictions, outlined in this report have been advanced through legislation, administrative law case law, as well as political and legislative proposals across various sectors, including employment, education, services, and public space.

The report is divided into 28 chapters, which present the most up-to-date information on restrictions in each Member State and the UK. Background information on the Muslim community in each country, in particular on women who wear religious headscarves or face veils, is included. The chapters also trace the development of public discourse and media coverage on rising Islamophobia and key political developments to outline the backdrop against which religious dress restrictions have been introduced.

Restrictions on religious dress are split into the national and local levels, as well as institutional and private bans in practice. Each section is complemented by relevant case law where applicable. The report additionally tracks the development of legislative and political proposals in each country. Such initiatives may become national legislation or influence the enforcement of existing laws as well as public discourse. Where possible, the report briefly touches upon each country's national legislative protections against religious discrimination, with a focus on religious discrimination in employment.

In Europe today, academia and civil society are paying increasing attention to Islamophobia and discrimination against Muslims in general. However, there has been less focus on how governmental, institutional, and private sector policies restricting religious dress beyond legislation discriminate against Muslim women. What sets this report apart is that it looks beyond the usual suspects reported on when it comes to religious dress restrictions such as

¹ In addition to the headscarf and face veil, this report briefly examines other dress restrictions, such as bans on body-covering swimwear, bandanas, and long skirts. The purpose being to demonstrate an ever-widening scope of restrictions on Muslim women's dress specifically, beyond general restrictions on all religious dress.

² The first version of this report was published in 2018 before the implementation of Brexit on January 31, 2020. For reasons of continuity and comparability we have continued to include the UK in the report.

France, Belgium, Germany, the Netherlands, Austria or the United Kingdom, and pays equal attention to each EU member. It also goes beyond statutory restrictions, which only give a very limited account of the restrictions to access faced by Muslim women. The objective is to provide a more comprehensive and comparable view of the limitations Muslim women encounter in their daily lives in the European Union and the United Kingdom when they choose to practice their religion by wearing religious dress.

Discrimination against Muslim women must be understood from an intersectional perspective. Although it goes beyond the scope of this paper to examine this aspect fully,¹ where possible we highlight findings of intersectional discrimination in cases related to Muslim women's dress. The trend to bring such a claim is increasing, although evidence to support it is often missing.² In her Shadow Opinion on the joined German cases before the Court of Justice of the European Union (C-804/18 and C-341/19), former advocate general Eleanor Sharpston commented on *IX v WABE* (C-804/18) stating:

*[T]he material before the Court, whilst it may certainly give rise to concerns as to the possibility not only of “double discrimination” (on the basis of religion and gender) but indeed of triple discrimination (on the basis of religion and gender and ethnic origin), is inadequate to enable the Court to apply any rigorous analysis to those issues. In particular, there are no findings of fact in the order for reference that would provide a solid basis for such an analysis.*³

In one successful Belgian case, evidence refers to how Muslim men who wear a beard for religious reasons are not affected by a company's ban on religious symbols, and how the majority of complaints about religious discrimination in employment in Belgium relate to Muslim women who wear religious dress.⁴ It is acknowledged in case law that Muslim women are the most impacted of all religious groups that wear religious attire.⁵ Whereas national courts and the Institute of Human Rights in the Netherlands have often rejected religious dress bans for this reason, EU High Courts tend to find that the aim justifies the means.

Public national and local debates and developments targeting Muslims and Islam that indicate Islamophobia or anti-Muslim racism and prompt the introduction of religious dress restrictions, help define the context in which restrictions arise. Courts, especially the CJEU, tend to rule on religious dress cases with no reference or acknowledgement of this context assuming—and often stating explicitly—that policies banning religious dress apply equally to all religious groups, disregarding how the public and political vilification of aspects related to Muslim identity drives such policies. This report starts its analysis by looking at Muslims as a racialized community whose racial

identity is constructed based on their perceived Muslimness, irrespective of their actual religious practice or even religion.

Muslim women's head covering has served as an instrumental tool in this racialization process. The diverse meanings it holds for the women themselves have been flattened and homogenized, and reduced to representing gender oppression projected onto Islam and contrasted to an allegedly egalitarian Europe or "West."⁶ Moreover, European and domestic counter-terrorism policies presuppose that Islamic religiosity is a threat to peaceful coexistence, which further enflames the controversies, bans and attacks on visible signs, including headscarves, and the women who wear them.⁷ When Muslim women are excluded from employment, education and other spaces, they are prevented from potentially disrupting this status quo and racializing logic.

The report does not cover legal restrictions on headwear in photographs required for official documents (such as passports, ID cards, and driver's licenses). While wearing face veils is strictly prohibited in official photographs across the European Union, the wearing of headscarves for religious reasons is normally permitted as long as the face is clearly visible. Such restrictions are often long-standing and largely motivated by the need to establish a person's identity rather than by religious discrimination. Although Muslim women⁸ and Sikh men⁹ have faced difficulties in some countries even when they only cover their heads in photographs—particularly in France, which requires photographs be taken with the head uncovered,¹⁰ and in Bulgaria, which has a similar requirement¹¹—this issue falls outside the scope of this report.

b. Updates and changes made to earlier versions

This report and the accompanying factsheet were first published on April 25, 2018. A few minor updates related to newly adopted legal restrictions in Austria, Denmark, and the Netherlands, were included later that year resulting in new versions of the documents being published on July 10, 2018. The current version represents a more thorough revision of the base report, carried out in collaboration with students from the Berkeley Center on Comparative Equality and Anti-Discrimination Law under the supervision of Professor David B. Oppenheimer. This version includes the latest updates on restrictions and case law, including by national equality bodies, as well as political developments relevant to restrictions on Muslim women's dress as of December 2021.

The structure of the report was adjusted as follows: Every chapter now includes a short executive summary outlining the state of play. The case law relevant to each restriction now follows directly after the description of the restriction in question and is presented in reverse chronological order, starting with the leading and most recent precedents.

A few minor practical changes were also made. For instance, the language was also adjusted to take account of Brexit, although still incorporating an assessment of the United Kingdom for reasons of consistency and comparability.

c. Terminology and methodology

The terms “headscarf,” and “face veil,” are used in this report rather than “hijab” or “niqab” for purposes of clarity and to sidestep debates about accurate terminology within the Muslim community. We also refer to “body-covering swimsuit” rather than burkini or burqini which is the name the Australian designer Aheda Zanetti gave to the garment she first developed to enable Muslim women who wear religious dress to swim in public swimming spaces wearing attire made of swimwear fabric that is loose and covers the entire body including the hair and neck. The term blends the words burka or burqa and bikini. We use “religious clothing,” and “religious dress” to refer more broadly to all the religious attire that is targeted by a particular dress code or policy, including but not limited to Muslim women’s dress.

A headscarf refers to a garment that covers only the hair and neck of the wearer; it is often referred to as a hijab or dupatta and is most commonly worn by Muslim women who wear religious dress in accordance with their faith.¹² The face veil covers the head and face but not the eyes; it is also known as the niqab. The niqab is often confused with a burqa, which is a one-piece garment that also covers the eyes with a grille and falls under the same legal restrictions as niqabs.

Scope—Types of garments covered: Three types of bans figure prominently in this report: headscarf bans, face veil bans, and bans that apply to both. The distinction is important. While some legal bans, case law, political statements, and public debates target clothing that covers the face under the rationale of ensuring “public security,” others focus on both face and head coverings in the name of prohibiting the outward display of “religious symbols.” The report also discusses instances of restrictions being placed on body-covering swimsuits, but these are currently limited to very few countries, most notably France, Belgium, and the Netherlands.

Scope–Spatial and temporal: Within each jurisdiction, bans on religious dress are classified into five geographic categories:

- A national general ban: A ban that applies to all public places in the entire country;
- A national specific ban: A ban that applies to specific sectors (such as government service employees) across the entire country;
- A local general ban: A ban that applies to all public spaces in a specific jurisdiction within a country (i.e., a region, city, or district);
- A local specific ban: A ban that applies to particular sectors in a specific jurisdiction within a country (such as teaching jobs in particular cities);
- Institutional and private bans in practice: Bans enshrined in the rules or regulations of a particular institution or private company, or unwritten bans enforced in practice, for example, by restaurants or fitness clubs. This type of ban is most common in places of employment and education.

Throughout the report, notations in the margins will guide readers interested in tracking the different kinds of bans (by garment and spatial and temporal scope). This report also draws a distinction between legislative proposals seeking to ban the headscarf and/or face veil, and political platforms or statements. A legislative proposal or a bill under consideration by the legislature is classified as a potential law, whereas political platforms, proposals, or statements to ban religious dress are not, unless they are submitted to parliament as a bill.

This report draws on a variety of sources, both primary and secondary, including statutes, case law, NGO reports, academic journals, and news reports. Wherever possible, the country sections were reviewed by at least one expert on that country. Most reviewers have expertise in the field of anti-Muslim discrimination and Muslim women's rights, or are local lawyers, academics, or activists (please see Annex II for a list of reviewers).

Time and resource constraints limited examining every single restrictive policy set by nongovernmental or semi-autonomous institutions and private sector employers in all of the European Union and United Kingdom. However, where data were available, we did include as much information as possible to give a more accurate account of the large number of restrictions Muslim women encounter.

d. Central findings

- Actual, legally enforceable restrictions are relatively rare in the European Union. Of the 27 EU member states and the United Kingdom, nine states³ have enacted some form of national ban. In addition, local bans exist in six countries,⁴ five⁵ of which also have national bans. Another two states⁶ are currently considering legislative proposals for a ban. In 16⁷ out of 28 EU countries, there have been reports of institutional/private bans or bans in practice. Twelve countries⁸ have no legal bans, or cases or reports about institutional or private bans. Of these, 5 countries⁹ have never had a proposal for a ban.
- Most bans on religious dress were instituted after 9/11, in a context of increasing Islamophobia. France has been a leader in adopting bans and shaping much of the discourse through its extensive case law and heated public debates, with select other countries, chiefly Belgium, following suit.
- Beyond these common roots, at least five interlinked discourses, discussed below, dominate debates about bans and the justification for them.
- Nationalist and far-right political parties played a major role in introducing and promoting legal bans and proposals for bans, but in most cases it was mainstream political parties that actually enacted religious dress restrictions.
- There has been significant pushback against bans in different EU countries, with a few important wins. In 20 countries, previous legislative proposals to ban the headscarf or face veil or to extend existing bans were rejected. In the majority of countries with case law, bans in private and public employment, in education, and elsewhere have been struck down by court rulings, or reversed after grassroots mobilization and action.
- Although national litigation has often led to rulings against bans, case law from the two major regional courts, the European Court of Human Rights (ECtHR) and the Court of Justice of the European Union (CJEU), has given states and private actors more leeway in instituting bans.

³ National general ban: Austria, Belgium, Bulgaria, Denmark, France; national specific ban: Denmark, France, Germany, Luxembourg, Netherlands, Spain.

⁴ Local general ban: Belgium, Bulgaria, Luxembourg, Spain; local specific ban: Belgium, Germany, Italy, Spain.

⁵ Belgium, Bulgaria, Luxembourg, Spain, Germany.

⁶ Belgium and France.

⁷ Austria, Belgium, Bulgaria, Croatia, Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, Netherlands, Spain, Sweden, and the UK.

⁸ Estonia, Hungary, Latvia, Lithuania, Malta, Romania, Slovenia, Cyprus, Greece, Poland, Portugal, and Slovakia.

⁹ Croatia, Cyprus, Greece, Poland, and Portugal.

Background

Muslims live in every EU country. However, the history and size of Muslim communities and the number of Muslim women wearing religious clothing varies from country to country.

While anti-Muslim sentiments have increased in many countries in the European Union, the level of restrictions faced by Muslim women because of their religious dress is not the same everywhere. The situation is by far the worst in Belgium and France, the two countries that have the most bans, related case law, and institutional or practice bans covering different types of Muslim women's dress. In Austria, Bulgaria, Denmark, Germany, Luxembourg, the Netherlands, and Spain, there are important legal restrictions affecting Muslim women at the national level, but they are less far-reaching in the number of Muslim women affected or in scope. In Croatia, the Czech Republic, Finland, Ireland, Italy, Sweden, and the United Kingdom, restrictions are more limited to local and/or institutional and private bans, while no bans exist in Cyprus, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Romania, Slovakia, Slovenia, Poland, and Portugal.

The attempt to prevent Muslim women wearing headscarves and face veils from entering specific spaces, however justified, can also be attributed to increasing Islamophobia in Europe. Almost all religious dress restrictions were introduced after 9/11. The global discourse surrounding the attacks and the subsequent "war on terror," supported by the "clash of civilizations" hypothesis, provided various justifications for restrictions on religious dress worn by Muslim women that was viewed as essentially oppressive. France, which already banned religious dress for public employees and whose experience with politicizing the Muslim veil traces back to its colonial history, set the tone with its 2004 law banning religious dress in public schools, which followed two years of national debates.¹³

France's debates about neutrality, or *laïcité* (French state secularism), influenced debates about religious dress restrictions elsewhere. The French ban on headscarves in schools reverberated in Belgium, in particular, where bans on religious dress were introduced in many schools and were applied to both pupils and teachers. In countries including Austria, Belgium, Germany, and the Netherlands, the French interpretations of neutrality and state secularism have become more popular and have been invoked to justify bans in public and private employment as well as in education, despite different institutional contexts and historical traditions. France's 2010 legal ban on the face veil, and particularly the ECtHR case *S.A.S. v France*, which upheld the 2010 ban, likewise inspired political action in other countries, even if only a

small number of women actually wear the face veil in those countries. The majority of these proposals were rejected, and only Austria, Belgium, Bulgaria, Denmark, Luxembourg, the Netherlands, and Spain have enacted a legal ban on the face veil, as have several towns in Italy.

Headscarf and face veil debates often took place against the backdrop of struggles over equal economic and social rights and against racism. Islamophobia legitimized the demonization and exclusion of Muslims based on their religious identity and allowed the disqualification of their claims to equal rights.¹⁴ Disparities between dominant and minoritized populations deepened when religion became an added ground for discrimination. Muslim women who wore religious dress bore the brunt of discrimination, as they are the most visible and easiest targets.¹⁵ The increasing numbers of refugees and migrants in Europe further intensified debates, with bans on religious dress proposed or introduced as a way to stop a perceived or feared “Islamic invasion” of European countries.¹⁶ Negative stereotypes associating Islam with terrorism and associating headscarves and/or face veils with the oppression of women have become increasingly entrenched.

In some countries, courts, public and private institutions, and civil society have been able to push back against religious dress restrictions relying on strict antidiscrimination law and historically accommodating cultures, preventing such restrictions from becoming part of everyday life. However, political pressure from the far-right combined with a global rise in Islamophobia did eventually lead to some restrictions in countries that long opposed them. In the Netherlands, the Institute for Human Rights (College voor de Rechten van de Mens) and its predecessor, the Committee for Equal Treatment (Commissie Gelijke Behandeling), systematically rejected headscarf bans and religious dress restrictions more broadly, either as direct or indirect discrimination, ever since the General Law for Equal Treatment (Algemene Wet Gelijke Behandeling) was adopted in 1994. Despite these rulings being non-binding, it appears from the case proceedings that they did lead to a greater understanding of such bans as being discriminatory, not only in the private sector and education, but also in some public services. In many cases this greater understanding of face bans and religious dress restrictions led to their abolition. Austria for years stood out as a model in Europe for its accommodating Church-State relations, according equal status to Islam as to other religions, and its rejection of religious dress restrictions. Yet, both Austria and the Netherlands ended up adopting face veil bans. Only in the United Kingdom are legal restrictions on Muslim women’s religious dress consistently rejected. There is even accommodation in the police and the

judiciary, despite a number of attacks from senior Tory politicians aimed at the face veil.

Motivations and justifications

In most EU countries, bans on headscarves or face veils were promoted primarily by nationalist and far-right political parties. Many of the legislative proposals for bans were initiated and sponsored by these parties or their members. This has been the case in Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, Germany, Ireland, Italy, Luxembourg, the Netherlands, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

While the discourse surrounding face veils is different from that about headscarves, the research has identified five common justifications for legal bans on religious clothing proposed by politicians and considered by judges, among others. These categories often overlap in a given national or transnational debate on religious dress restrictions. These commonly cited justifications include the need for integration and assimilation; the imperative to provide security and counter terrorism; the drive for equality between men and women; the pursuit of “neutrality” and “secularity”; and the desire for homogeneity.

The assertion that those who wear a headscarf and/or face veil are unable to integrate into Western culture and society is often made by supporters of bans, most prominently in Austria, the Czech Republic, Denmark, Finland, Ireland, and the Netherlands. In other countries, such as Belgium, France, Luxembourg, and Spain, the justification is slightly different: face veils, specifically, undermine the possibility of “living together” in society.¹⁷ Similarly, Austria has argued for the concept of an “open society” that, the argument goes, cannot be achieved if face-concealing practices are permitted.¹⁸

Face veils are also said to threaten public and national security. This appears to be the most popular grounds for a ban on face veils in many EU states, including Belgium, Bulgaria, Estonia, Italy, Latvia, Lithuania, and Spain.¹⁹

The idea that Muslim women are forced to wear headscarves or face veils against their will is particularly persistent in public debates and in mainstream media, but this argument can also be found in some legal justifications. Muslim women’s religious dress is said to “degrade” women’s dignity, and these women therefore need to be “freed.” This belief became the basis for bans or proposed bans in a number of EU states, including Belgium, France, Luxembourg, and Spain. In *S.A.S. v France*, discussed further below, the ECtHR did not accept the “respect for equality between men and women” as a

legitimate justification for France's 2010 national ban on full-face covering veils.²⁰

Many bans are justified as a means to promote “neutrality” and/or “secularism,” which, some argue, is undermined by religious dress. This reasoning is particularly popular in certain municipalities and has been applied to areas that range from courtrooms to classrooms, and from public to private employment. Austria, Belgium, France, Germany, and the Netherlands are among the countries where this argument is often advanced. The need to implement “neutrality” or “secularism” in the form of a dress code even trumped individual rights to religious freedom in decisions from the CJEU and ECtHR.

Lastly, homogeneity or the rejection of diversity also became a motivation for banning religious clothing. In the town of Assothalom in Hungary, a push for a ban on face veils was explicitly motivated by the desire for a homogeneous society.²¹ Although this motivation is usually not expressed overtly, it is implicit in many EU countries.

Jurisprudence

Jurisprudence has played an important role in shaping legal frameworks both regionally and within national jurisdictions, as many cases have required courts to strike an appropriate balance between a broad state interest, such as neutrality or security, and individual rights, namely non-discrimination and religious freedom. Accordingly, numerous lawsuits—argued before both domestic and regional courts—have challenged restrictions on wearing a headscarf or face veil. At the domestic level, the states with the most case law by far are France and Belgium, followed by Austria, the Czech Republic, Denmark, Finland, Germany, Spain, and the United Kingdom.

At the regional level, various cases have been brought before the ECtHR and the CJEU. These cases are particularly important because the rulings apply across the Council of Europe (in the case of the ECtHR), or the European Union (in the case of the CJEU). For those cases where judgments were delivered, the bans were often upheld by both courts.

The ECtHR has decided many cases pertaining to Muslim women's religious dress.²² These cases cover various contexts, including bans in schools,²³ in public service,²⁴ and in public places.²⁵ In its jurisprudence, regardless of the settings in which bans have been challenged, the ECtHR has mostly upheld the bans, failing to find violations of Article 9 (religious freedom), Article 8 (right to respect for private and family life), or Article 14 (prohibition of discrimination) of the European Convention on Human Rights. In only one

case, *Lachiri v Belgium* (No. 3413/09, 2018), which concerns the wearing of a headscarf by a civil party in a courtroom, did the Court find a violation of the right to freedom of religion.²⁶

One of the most notable cases decided to date is *S.A.S. v France* (No. 43835/11; 2014), which challenged France's national general ban on face veils. The case was brought by a Muslim French national who complained that the ban prevented her from wearing the burqa and niqab, which are required by her religious faith, thereby infringing on her right to private life and her right to freedom of religion. Despite dismissing popular justifications for a face veil ban, such as public security and gender equality, in its judgment the ECtHR's Grand Chamber for the first time relied upon the novel concept of "living together" to conclude that the ban did not violate the right to private life or the religious freedom of Muslim women who wear face veils.²⁷

The two cases on Muslim women's religious dress decided by the CJEU, which established an important baseline, are *Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV* (Case C-157/15; 2017); and *Asma Bougnaoui Association de défense des droits de l'homme (ADDH) v Micropole SA* (Case C-188/15; 2017). These cases were the first to invoke the Employment Equality Directive 2000/78. At the heart of both cases are bans on the headscarf imposed by private companies, one in Belgium and one in France.

In both judgments, delivered simultaneously, the court acknowledged that restrictions on headscarves in the workplace could constitute indirect discrimination. But the court concluded that such discrimination may be justified by companies' wish to promote an image of "neutrality" to customers, as long as the ban is the result of a clear and consistent internal policy, and only when it is applied to customer-facing (as opposed to back-office) jobs. However, the judgments are inconsistent on the importance of customer opinions. In *Achbita*, the court stated that the company's ban could be more "justifiable" when applied to employees having direct contact with customers, since these positions affect a company's projection of "neutrality."²⁸ However, in *Bougnaoui*, the court stated that, under EU law, customers' wishes cannot be a basis on which employers can order employees to alter their clothing.²⁹ Indeed, the court stressed that "the willingness of an employer to take account of the wishes of a customer who did not want to work with someone wearing a headscarf cannot be considered a genuine and determining occupational requirement."³⁰

More recently, rulings in two cases referred to the CJEU by German courts, *IX v WABE e.V* (Case C-804/18, 2021) and *MH Müller Handels GmbH v MJ*

(Case C-341/19, 2021), slightly nuanced the first ruling.³¹ The CJEU ruled that an employer needs to demonstrate a “genuine need” for a neutrality policy. This “genuine need” can follow from “the rights and legitimate wishes of customers,” from the economically “adverse consequences” a company may suffer without an internal rule banning religious dress, and to “prevent social conflict” within the company. Whether or not the “genuine need” requirement will in fact serve as an additional legal safeguard for affected employees is most likely to depend on how strictly it is enforced by national courts.

Many criticisms raised about the *Achbita* and *Bougnaoui* rulings remain relevant in that the CJEU does not question why the mere fact that an employee wears a headscarf affects the corporate image of the employer. It still fails to scrutinize employers’ wishes to portray an image of neutrality to assess whether the aim is not simply to satisfy prejudiced customers. Despite views expressed in its previous case law, the CJEU continues to reject a possible categorization of a neutrality policy as direct discrimination, given their direct reference to a protected ground or because of specific elements in a case. The Court neglects to specify the duty of employers to accommodate religion and combat discrimination. This is but a selection of the many criticisms launched at what are said to be the most highly criticized rulings of the CJEU.³²

At the time of writing, there is another case from Belgium pending before the CJEU, *Ms L.F. v The S.C.R.L.* (C-344/20), related to a Muslim woman who could not secure an administrative internship with a property management company because she had to take off her headscarf.³³ The referring Court raises a number of critical questions about the CJEU’s first ruling on the matter, questioning in particular whether a neutrality policy constitutes direct discrimination if the practical application of the policy shows that a female worker who intends to wear a visible sign, e.g., a headscarf, is treated less favorably than another employee.

National bans

At the time of writing, there are five EU states that have passed a national general ban on face veils: Austria, Belgium, Bulgaria, Denmark, and France. France was the first, issuing the act “On the Prohibition of Concealing the Face in Public Space” in 2010, which prohibits anyone from concealing his or her face in public. The penalty for violating the mentioned provisions is a fine of €150 and/or a requirement to take part in classes on French citizenship.³⁴ Shortly after the law was passed in France, Belgium adopted the same ban in its Criminal Code, under article 563 *bis*. The Belgian law bans the practice of face covering, either completely or partially, in any place that is accessible to

the public. Offenders are subject to “a fine of between fifteen and twenty-five Euros and imprisonment of between one and seven days, or only one of those sanctions.”³⁵ Austria, Bulgaria, and Denmark adopted their bans more recently. In Bulgaria, the law was enacted in September 2016 and stipulates that clothing that hides the face may not be worn in public spaces. People who do not comply with the ban in Bulgaria face fines of up to 1,500 leva (€760). In Austria, the law that bans face coverings in public was adopted in May 2017 and enforcement began in October 2017. Police reported that the majority of fines were not served on Muslim women who wear face veils, remarking – or rather admitting – that this defeated the true purpose of the law.³⁶ Denmark’s law that bans face veils in public was enforced as of August 2018 with a fine of 1,000 kroner for anyone who violates it (€134).

Overview of existing and proposed bans

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Legislative Proposals
Austria				
Belgium		Belgium	Belgium	Belgium
Bulgaria		Bulgaria		
Denmark	Denmark			
France	France			France
	Germany		Germany	
			Italy	
	Luxembourg	Luxembourg		
	Netherlands			
	Spain	Spain	Spain	

All five national general bans have two elements in common. First, they do not explicitly target the face veil worn by Muslim women but are instead framed in general terms. Legal provisions that ban wearing face veils are worded using the terms “concealing or covering the face.” This, despite evidence that the impetus for the bans and accompanying political discourses

largely centered on the face veil worn by Muslim women. Second, each ban provides exceptions that establish certain circumstances in which covering the face is allowed, but the concealment of the face as a manifestation of one's religion is not one of them. Common exceptions include the concealment of the face for health and professional reasons,³⁷ festive events,³⁸ sporting activities, and artistic or traditional occasions.³⁹

National bans on religious clothing (including headscarves, in addition to face veils) in specific settings or sectors exist in France, Denmark, Germany, Luxembourg, the Netherlands, and Spain. In France, a ban on religious dress for public employees (including government administration, public schools, and hospitals, among others) has been in effect since 1983 owing to a Constitutional Court ruling, although only explicitly legislated in 2016. A national ban on headscarves for public school pupils was enacted in 2004. In 2016, an amendment was inserted into the Labor Code that allows private businesses to introduce internal regulations banning religious manifestation for the sake of "neutrality," a development that was largely shaped by public debate over the high-profile "Baby Loup" case. The owner of Baby Loup, a children's day care center, dismissed a Muslim woman for wearing a headscarf. After lengthy legal proceedings, the Court of Cassation decided that the employer's action, and the resulting restriction of the employee's right to religious manifestation, was justified by the need to protect young children's freedom of conscience. The United Nations Human Rights Committee (UNHRC) rejected France's views on the matter, finding that the internal company rule banning religious dress violated the employee's freedom of religion and constituted discrimination based on gender and religion. In Denmark, the ban applies to judges wearing headscarves and similar religious or political symbols, including crucifixes, Jewish skullcaps (also known as yarmulkes or kippahs), and turbans in courtrooms. The law (called the Headscarf Act) was passed by parliament in 2009, but to date no cases challenging it have been filed.⁴⁰ In Germany, state authorities may ban certain items of clothing, including religious dress, if they interfere with the "duty of respectful and trustworthy behavior" under new legislation adopted in June 2021. Since 2017, a national law prohibits civil servants, judges, and soldiers from covering their faces at work except for health and safety reasons. In Luxembourg, the "Face Concealment Act" prohibits the concealment of faces in schools, public transport, public hospitals, homes for underage people, retirement homes, court houses, and public administration buildings since its adoption in 2018. The Netherlands passed a law banning the wearing of face veils in public transportation, education, health care and government buildings, that went into force on August 1, 2019. Individuals who violate the

face-covering regulations are to be made aware of the law and given the opportunity to remove the piece of clothing or leave the premises. Only if the individual refuses, can the police issue a fine. After one year, Dutch police reported having issued no fines and only four warnings,⁴¹ while civil society organizations reported a significant increase in hate crimes and hate speech against Muslim women following the law.⁴² The Netherlands also bans religious dress for police. In Spain, using any kind of cloth that covers the face during demonstrations is prohibited by the Ley mordaza (“gag law”), enacted in 2015.

Local bans

Six EU states apply legal bans at the local (provincial or municipal) level: Belgium, Bulgaria, Germany, Italy, Luxembourg and Spain. In Belgium, Bulgaria, Luxembourg and Spain, these local bans overlap with general bans. In almost all major cities and towns in Belgium, the face veil is banned in public places under local regulations. In Bulgaria, the local government of Pazardzhik issued a regulation that bars the wearing of clothing or accessories that hide the face and prevent identification of the citizen or public servant in public space, with fines from 300 BGN (€150) to 1,000 BGN (€500) for noncompliance. In Luxembourg, 47 out of 102 municipalities had already enacted local bans on face veils in public prior to the adoption of the national ban. In Spain, several municipalities (all but one of them are in Catalonia) introduced a ban on face veils. The Spanish Supreme Court struck down bans in two municipalities. Eight out of 16 states in Germany (Baden-Württemberg, Bavaria, Berlin, Bremen, Hesse, Lower Saxony, North Rhine-Westphalia, and Saarland) have local specific bans on visible religious symbols including headscarves and face veils, but they are applied differently in the different states. Local specific bans exist in at least two regions in Italy, Lombardy and Veneto. The bans apply to head coverings that could conceal the wearer’s identity in public buildings, including government offices and hospitals.

Legislative proposals

In Belgium and France, there are pending legislative and/or political proposals seeking to ban religious dress for Flemish government employees in Belgium and headscarves at sports events in France.

Institutional/private bans/bans in practice

Even where a country has no legal ban(s), there may still be limitations on wearing certain forms of religious dress. Aside from legal bans at national and local levels, in several EU countries there are bans that are not set out by law, but rather by the written rules of an individual entity such as a private company or institutions such as Bar Associations, or by unwritten practices, such as bans by a restaurant or a fitness club. This type of ban, which exists at the sub-national level, is most commonly found in the fields of employment and education. Of the 27 EU states and the United Kingdom, there are 16 where data on restrictions is available: Austria, Belgium, Bulgaria, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Ireland, Italy, Luxembourg, the Netherlands, Spain, Sweden, and the United Kingdom. Belgium, which has regionalized many federal competencies and devolved governance responsibility to certain institutions, has the most restrictions. Many of these restrictions are the result of the autonomy individual schools, local governments, or private companies enjoy in deciding their dress policies. The restrictions tend to apply to private employees, students and/or teachers, and public servants. These bans are implemented in the form of a “guideline” issued by the relevant ministerial authorities, or through dress codes or internal regulations.⁴³

Case law on bans in private employment

Eleven countries—Austria, Belgium, Denmark, Finland, France, Germany, the Netherlands, Romania, Spain, Sweden, and the United Kingdom—have case law that challenges restrictions by private companies. Even though these restrictions are not legal bans but rather internal policies, they interfere with the religious freedom of the affected persons.

Case law on bans in education

There is a large body of case law challenging restrictions placed on Muslim students' and/or teachers' dress by educational institutions. The countries in which such challenges have taken place include Austria, Belgium, Bulgaria, the Czech Republic, Denmark, France, Germany, the Netherlands, Spain, Sweden, and the United Kingdom.

Free of restrictions

While the majority of EU countries have seen public discussions regarding bans and even legal actions at some level, there are five EU states where the headscarf and/or face veil ban have not been a subject of public debate at all. Those countries are Croatia, Cyprus, Greece, Poland, and Portugal.

EU country	Out of 28 EU countries
With a national ban	9
With a local ban	6
With a legislative proposal under review	2
With past failed legislative proposals	23
With reported institutional/private bans/bans in practice	16
With case law on private employment bans	11
With case law on bans in education	11
Without any bans	12
No past or present proposal for a ban	5

Recommendations

Action by Governments

- Revoke and reject religious dress restrictions that limit Muslim women's access to employment, education, services and public space.
- Ensure the right to freedom of belief including the right to manifest those beliefs, with limits imposed only in exceptional circumstances as prescribed by EU law.
- Collect and publish disaggregated data to reveal discrimination of Muslim women in private and public sectors.
- Acknowledge and take concrete action against rising anti-Muslim racism or Islamophobia.

Action by the European Union

- Adopt a resolution acknowledging the racialization of Muslims and the specific forms of racism they face, as substantiated by their lived experience and a broad consensus among scholars.
- Adopt a resolution encouraging Member States to collect disaggregated equality data at the domestic level, including religious background, to counter the specific discrimination of Muslims in the European Union, and investigate patterns of discrimination.
- Highlight good practices of countries, cities, businesses, courts, and equality bodies that push back against religious dress restrictions and promote pluralism and equality.
- Survey the impact of dress restrictions on Muslim women's access to education, work, services, and public space.
- Protect and engage with civil society groups that expose and counter Islamophobia and the discrimination of Muslims in the European Union.
- Provide sufficient funding opportunities to civil society groups countering Islamophobia, especially those that come under threat from national governments because of their work.
- Strengthen the mandates of equality bodies and/or human rights institutes to investigate claims of discrimination, providing sufficient funding and facilitating exchange on good practices.

Action by Courts

- Consider with greater weight that the disproportionate impact of religious dress restrictions has on Muslim women who wear religious dress because of their beliefs.
- Ensure stronger protections against discrimination for applicants from racialized communities.
- Reject unsubstantiated claims of Muslim women exerting pressure on others, treating others unfairly because of their beliefs, and/or imposing their beliefs on employers, or others.
- Assess cases that make a claim of discrimination on multiple grounds, such as race, religion, and gender, or that present evidence of intersectional discrimination, accordingly.
- Close gaps in the protection of Muslim women by rigorously scrutinizing the justifications provided by those instituting religious dress restrictions in the assessment of direct and indirect discrimination.

Action by Funders

- Increase support for countering Islamophobia in Europe.
- Support the capacity building of Muslim civil society groups.
- Facilitate transnational exchange and collaboration against Islamophobia.
- Support engagement with affected Muslim women to better understand their experiences of discrimination and the collection of evidence of multiple or intersectional discrimination.
- Support the development of a strategy for litigation to increase its effectiveness and relieve the strain on community resources and wellbeing.
- Support litigators and civil society groups that collect evidence about the context of racialization and Islamophobia that Muslims face, or that show discriminatory intent.

Country Profiles

Austria

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
Yes	No	No	No	Yes	No

Executive Summary

Laws targeting Austria's Muslim population have arisen out of an increasingly xenophobic and Islamophobic political landscape, primarily shaped by the far-right Freedom Party of Austria (FPÖ). The first coalition government under the leadership of Sebastian Kurz, made up of the Austrian People's Party (ÖVP) and the FPÖ, in power from 2017 to 2019, appears to have made anti-Muslim rhetoric and repression more mainstream. At the federal level, face veils are banned in public spaces. In addition, a federal law was passed in 2019 banning headscarves for students under the age of 10. While the text of the law was broad, statements by government representatives clearly showed that the ban targeted headscarves worn by Muslim women and permitted head coverings worn by Sikh and Jewish students. There were proposals to expand the ban to students aged 14 and under, but in 2020, the Austrian Constitutional Court struck down the law as discriminatory. There have also been discussions of explicitly banning headscarves for judicial officers (police officers, judges, and prosecutors), but the proposal was shelved because the proponents concluded that the current laws setting forth specific dress codes implicitly prohibited religious symbols. There is nonetheless sufficient ambiguity that as recently as 2019 there have been calls for a neutrality rule that would explicitly ban judges from wearing religious symbols.

Background

Austria is home to a Muslim community of approximately 700,000 people.⁴⁴

Austria did not have any religious dress bans for many years (in contrast to for example neighboring country Germany) and successfully pushed back against pressure from the far-right to adopt such restrictions. It stood out as a model in the European Union (EU) for its inclusive state-church relations treating different faith communities, including Muslims, equally as well as promoting cooperation and dialogue.⁴⁵ Islam was acknowledged as an

official religion as early as 1912 as a result of the annexation of Bosnia and Herzegovina, and Muslim minorities were incorporated through the founding of an official representative body in 1979, the Islamic Religious Community in Austria (Islamische Glaubensgemeinschaft in Österreich).

In recent years, however, the increasing popularity and electoral success of the far-right FPÖ has led to widespread anti-migrant and anti-Islam sentiments and increased calls for exclusionary policies. This eventually resulted in mainstream political parties adopting a similar discourse to that of the FPÖ as well as the introduction of legal restrictions on religious dress, thereby ending the Austrian tradition of religious freedom and inclusion.

Austria's socialist and conservative parties have entered into coalition governments with the FPÖ on several occasions over the years. This has led to criticism by EU Member States, including the application of sanctions in 2000 when the conservative ÖVP formed a coalition with the FPÖ led by Jörg Haider, who was known for his Nazi background.⁴⁶ Yet, it was not until Sebastian Kurz took over ÖVP leadership and became chancellor in 2017 that—some claim to win back votes from the right—the government's approach to Muslims became more restrictive, including through the Islam Act of 2015, and additional measures taken to curb the rights and freedoms of Muslims. When the ÖVP formed a government with the FPÖ in 2017,⁴⁷ several measures were taken that targeted the Muslim community including new religious dress restrictions.⁴⁸

Islamophobia has been a growing concern in Austria.⁴⁹ According to one study, 79 percent of respondents believe that Islamic institutions should be surveilled more; 70 percent believe that Islam is not compatible with the Western world, and 87 percent advocated that Muslims have to adapt to Austrian culture.⁵⁰ Muslim women appear to face a great deal of discrimination and stigmatization.⁵¹ In 2020, the European Commission against Racism and Intolerance (ECRI) reported that there were “high levels of Islamophobia” in Austria, citing an “increasingly xenophobic” public discourse targeting Muslims and refugees in particular. The ECRI also reported that in 2018, there were 540 incidents of violence and threats against Muslims, with women specifically targeted. The attacks often involved “pulling off face veils and headscarves or being spat at,” and represented an increase from the previous year.⁵²

On November 2, 2020, an Islamist extremist shot and killed several people in Vienna. In the midst of policy officials admitting blame and resigning over important intelligence failures, raids were carried out in the homes of dozens of Muslims for reportedly “belonging to and supporting the terrorist Muslim

Brotherhood and Hamas organizations" as part of "Operation Luxor."⁵³ Officials stated that the raids were unrelated to the November terror attack and instead formed part of a "year-long terrorism probe."⁵⁴ Among those whose homes were raided was the respected and well-known academic Farid Hafez, founder of the European Islamophobia Reports and a fierce critic of the Austrian government and the Islamophobia industry,⁵⁵ as well as the residences of other activists, and charity workers. Shortly after then-Austrian Chancellor Sebastian Kurz announced actions against "political Islam" in order to fight "terrorism and radicalization" by going after not only those who commit violent acts but also those "who create the breeding ground for it."⁵⁶ The broad undefined concept of "political Islam" has already been used to justify religious dress restrictions, and fears abound that new legislative measures will lead to a further crackdown on Muslim dissent and even more restrictions on fundamental rights and freedoms. The Kurz government's move to publish a map sharing locations and other details about mosques, Islamic associations, and officials across the country, raising suspicion about Muslims and their activities thereby exposing them to harm, did not bode well with Austrian Muslims and their civil society leaders.⁵⁷

National Bans

[Face Veil]

National general bans: Despite opposition from Muslim women,⁵⁸ the Austrian Parliament adopted a bill to ban face coverings in public space in May 2017, which entered into force in October 2017.⁵⁹ People who wear veils that cover their face risk a fine of €150. The national ban currently prohibits all face coverings in public spaces, but provides certain exemptions for "cultural," artistic, health (including protections from infectious disease), sports, and professional reasons.⁶⁰

An online newspaper reported that there are only between 100 and 150 women who wear the full-face veil in Austria.⁶¹ Although few in number, Muslim women in Austria are more likely to face discrimination in various areas in society, especially in education and employment.⁶² Various verbal and physical attacks against Muslim women who wear a veil have been reported.⁶³

Muslim groups have criticized the ban, and the Austrian bar association proposed dropping the law, calling it "unnecessary, inappropriate, and questionable from a fundamental rights point of view."⁶⁴ On the other hand, the far-right FPÖ criticized the law for being insufficiently strict.⁶⁵

Head of the Austrian police union, Hermann Greylinger, said that the law, if intended as a "contribution in the fight against conservative Islam," had

“gone belly up.”⁶⁶ Due to the law’s vague language and exemptions, police were having to administer it in a way that led to fewer Muslim women being fined for wearing face veils than persons wearing other kinds of face coverings.⁶⁷ Police issued warnings for face coverings such as ski masks and asked individuals wearing costumes to remove their face coverings.⁶⁸ Police recorded 52 violations in the first three months of the law, but only 96 violations in all of 2018, showing an overall decline.⁶⁹

The COVID-19 pandemic further undermined the legitimacy of the ban on face veils. In early 2020, Austria implemented a mandate requiring face masks for supermarket shoppers and police officers in order to slow the spread of COVID-19. Sebastian Kurz, Austria’s then chancellor who introduced the 2017 face covering ban and called the burqa “a symbol for a counter-society,” said that masks are not part of Austria’s culture and represent a major adjustment, but that the mandate was necessary because of the pandemic.⁷⁰

The ban on face coverings was adopted as part of an “integration package” passed after many months of negotiations.⁷¹ Attempts to legalize a national ban on face veils in Austria had first started in January 2017. While the FPÖ made several attempts to adopt a face veil ban (see below), it was the governing coalition made up of the leftist Social Democrats (SPÖ) and the conservative ÖVP that eventually introduced the ban. The ruling coalition used the concept of an “open society” to support their bill, claiming this could not be achieved by allowing face veils.⁷²

[Both]

Citing the principle of neutrality, the coalition originally intended to include a ban on religious and ideological symbols, including headscarves, for judges, prosecutors, and policewomen. Ultimately, this provision did not make it into the law because politicians felt that the current dress codes for these professions made an explicit ban on religious symbols unnecessary. While the dress codes do not explicitly ban religious symbols, the discussion suggests that some politicians interpreted the dress codes to implicitly prohibit religious symbols. However, as recently as 2019, there have been renewed calls from a judge’s association for a neutrality law banning all religious symbols.⁷³

[Face Veil]

The FPÖ has long played a central role in promoting Islamophobia in Austria. Prior to the national ban, the FPÖ had already made several attempts to institute a national ban on face veils.⁷⁴ In 2010, the FPÖ called for a referendum on whether to ban face veils and the construction of minarets, and whether to require Muslim citizens to sign a statement affirming their allegiance to Austrian secular law.⁷⁵ Referendums are nonbinding, but seek

citizen votes on referendum questions and issues. Party members continued advocating for a national ban on face veils in 2011.⁷⁶ In response to the European Court of Justice's ruling in *S.A.S. v France* in 2014, which affirmed France's law prohibiting face veils, the FPÖ announced a plan to submit a bill to parliament proposing a ban.⁷⁷

Shortly after the FPÖ's proposal was announced, a different bill on Islam was submitted to the Austrian Parliament in October 2014. The bill, which passed as the Islam Act of 2015, reformed Austria's 1912 Islam Law.^{78,79} While it provides certain protections for Muslim citizens, the law sparked criticism because it imposes restrictions on Muslim communities, including prohibiting international funding for Muslim NGOs.⁸⁰ The Islam Act did not address the FPÖ's proposed ban on face veils. It should be noted that throughout this period, politicians claimed that the purpose of a face veil ban was to liberate women.⁸¹

[Headscarf]

National specific bans: In December 2020, the Constitutional Court struck down a headscarf ban in school for Muslim girls under the age of 10 as unconstitutional.⁸² Two children and their parents had challenged the law, arguing it was a disproportionate infringement on religious freedom. The government had sought to justify the law by avoiding using the word "Islam," however, the court held that the material accompanying the law made clear that it was aimed specifically at the Islamic headscarf. Laws targeting a specific group violate the principle of equality and the state's obligation to religious neutrality. The court also rejected the government's argument that the law could protect girls from social pressures, noting that the government could draft legislation to better prevent bullying based on gender or religion. Prior to the court ruling, the new government coalition between the ÖVP and the Green party had included an agreement to extend the ban to girls under age 14, up from age 10.^{83, 84}

[Both]

Austria had passed the law in May 2019, shortly before the ÖVP-FPÖ coalition dissolved.⁸⁵ The text of the law was broad, referring to any "ideologically or religiously influenced clothing which is associated with the covering of the head." However, representatives of the ÖVP-FPÖ governing coalition made statements that the aim of the law was to target the Islamic headscarf. A spokesman said the law was "a signal against political Islam." The government also said that head coverings worn by Sikh or Jewish boys would not be affected, nor would medical bandages or protection from rain or snow. Parents whose girls wore a headscarf could face a fine of up to €440, however, there had been few cases of girls wearing headscarves in primary school when the law was passed. The opposition parties were

strongly opposed to the bill and immediately raised questions concerning its legality.^{86,87}

[Headscarf] The intention to draft a law banning Muslim girls from wearing a headscarf in kindergarten and primary school was announced a few months after the center-right ÖVP won the elections in October 2017 and formed a coalition government with the far-right FPÖ. Without providing evidence, then Chancellor Sebastian Kurz implied this was an increasing problem, facing criticism from Muslim organizations.⁸⁸ FPÖ Vice-Chancellor Strache stated that this law aims to prevent “parallel societies” and that it fulfills a promise to voters to combat the threat posed by Muslims to mainstream culture.⁸⁹

Local Bans

There are no local general or specific bans in Austria, nor are there any proposals under review.

Institutional and Private Bans in Practice:

[Headscarf]
[Private Employment] *Private employment:* In 2015, the Upper Austrian Labor and Social Court held that a personnel recruiter (the first defendant) must pay €1,000 in damages resulting from her discriminatory treatment of a job seeker wearing a headscarf (the complainant). In this case, the recruiter suggested to the complainant that she take off her headscarf and send a “proper” picture because it would be easier to find a job. The complainant accepted a settlement of €550 from the second defendant—the company where she had applied for the job.⁹⁰

Several settlements with private employers have been reached over the years. Two complainants who were both denied jobs in a hospital and bakery when they refused to remove their headscarves during working hours received settlements of €4,500 and €2,500 respectively.^{91 92}

[Face Veil]
[Public Employment] *Public employment:* In May 2016, the Austrian Supreme Court delivered a judgment on a case involving a public notary’s assistant who converted to Islam and who wished to wear a face veil at work. Her request was refused by her employer for its incompatibility with the nature of her work, according to the employer, and her employment contract was terminated. The Supreme Court examined several aspects of the case, including a legal assessment of religious discrimination on the basis of the employee’s face veil. Regarding the termination of contract, the court found no direct discrimination based on religion because the dismissal was based on the employer’s order that the employee not wear a niqab, and this order falls

under the exception clause of the Austrian Equality Law.⁹³ Regarding the aspect of discrimination, the court found indirect discrimination based on religion in respect to work conditions. According to the court, the appellant was disadvantaged compared with other colleagues in respect to her contact with clients and her work (as a witness to the writing of wills) because of her decision to wear a face veil. The respondent had previously allowed the appellant to wear a hijab (which does not cover the face) and abaya (a long, robe-like gown), but decided to restrict her time with clients and her role as a witness after she decided to wear a face veil.⁹⁴ The Supreme Court awarded the woman a compensation of 1,200€.⁹⁵

[Headscarf]
[Practice]

Bans in practice: In 2018, the president of the Linz Higher Regional Court issued a directive demanding that a trainee lawyer not appear as a representative of the state and the judiciary while wearing her headscarf.⁹⁶ Consequently, the trainee lawyer was not allowed to sit with the judge and had to follow the proceedings from the auditorium. The trainee submitted a complaint to the Federal Administrative Court in 2019, but her complaint was dismissed because her internship had already ended.⁹⁷

[Face Veil]
[Practice]

In 2008, the Austrian High Court ruled on face veils in Austrian courtrooms.⁹⁸ In this case, Mona S. was convicted in a jury trial of being a member of a terrorist group. During her trial, she refused to remove her face veil and therefore was banned from the hearings for her “inappropriate conduct,” according to the §234 Criminal Procedure Act (StPO). She was allowed to return only when showing her face. The Austrian High Court upheld the ban of Mona S. from the courtroom.⁹⁹

[Headscarf]
[Education]

Education: A court-sponsored mediation following a fashion teacher’s demand that a Muslim student remove her headscarf in class was resolved in October 2003, determining that the student should be allowed to wear a headscarf in class.

A case that also took place in a classroom involved a school that prohibited students from covering their heads. The case was reviewed by the Upper Austrian State School Council and the Ministry of Education, which agreed that Muslim girls and women had the right, according to legal provisions on religious freedom, to wear headscarves.¹⁰⁰

National Legislation

In regard to Austrian legislation on antidiscrimination and protection of religious freedom, the Basic Law on the General Rights of Nationals 1867, the Federal Constitution Law (Bundes-Verfassungsgesetz, abbreviated B-VG), the Austrian Equal Treatment Act, the Non-discrimination Law, and

the Gender Equality Law are core legal documents. The Austrian Equal Treatment Act prohibits unequal treatment between women and men on various grounds, including religion and belief.¹⁰¹

Belgium

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
Yes	No	Yes	Yes	Yes	Yes

Executive Summary

Alongside France, Belgium is at the forefront of restrictions on Muslim women’s religious dress in Europe. National debates about the headscarf kicked off in Belgium in the 1990s and early 2000s following debates in France about schoolgirls wearing headscarves.

A majority of religious dress restrictions were introduced against the backdrop of increasing debates about the place of Muslims in society post-9/11, and are found throughout both public and private schools and places of work, at the regional and city levels, with justifications often citing neutrality, security or hygiene. What sets Belgium apart is its complex federal structure with competences devolved to regional and local levels, and even to (semi-)independent institutions, that leads to a landscape where religious dress bans are adopted rarely by law or in decrees, but mostly as internal dress codes by institutions, and employers. In recent years, these codes have come increasingly under pressure with restrictions being revoked, or their implementation rejected. This, alongside efforts by national policymakers to push for changes to the constitution to turn Belgium—against its own tradition—into a “laïque” state, in order to enact unified national-level bans on religious dress.

As if competing to be the first country to institute a national general ban on face coverings in public spaces, Belgium eventually adopted its law prohibiting face coverings with a few exceptions three months after France in July 2011. This ban was upheld by the European Court of Justice under the principle of “living together.” Many local municipalities had already enacted local restrictions on face veils prior to the national ban. In 2020, the Belgium Constitutional Court found that it would not be a violation of the Constitution to prohibit headscarves in higher education.¹⁰² Although many universities

have clarified that they would not enact such prohibitions, the future of many young women's education remains at risk.

Background

Muslims make up approximately 6 percent of the 11.46 million people in Belgium, constituting the second largest religious group in the nation.¹⁰³ Anti-Muslim hatred and racism is a widespread problem, including recurring Islamophobic incidents that disproportionately target Muslim women.¹⁰⁴

Since the 1980s, the increasingly popular extreme-right party Flemish Interest (Vlaams Belang, formerly Flemish Blok or Vlaams Blok) has been shaping the debate on multiculturalism and national security¹⁰⁵ spouting strongly anti-Islam views as part of a broader anti-immigrant discourse.¹⁰⁶ Anti-Islam sentiments became even more widespread as traditionally centrist and leftist parties came to view Muslims as a threat to secular progressive values.¹⁰⁷ While the far-right and right-wing nationalists have been united in their opposition to Muslim women's religious dress, the headscarf debate has created division across the rest of the political spectrum, leading to cross-party and intraparty conflict.^{108,109} This has led to different policies being implemented across cities and services with regard to the wearing of religious dress.

Religious dress restrictions and the ongoing public debate have created a context that has been termed one of "headscarf persecution."¹¹⁰ In 2018, Laurette Onkelinx of the French-speaking Socialist Party proposed, alongside other members of her party, to amend the Belgian constitution to "establish the secularity of the Belgian State."¹¹¹ While the proposal was not accepted, it would have constituted a fundamental shift and served as a constitutional basis for religious dress restrictions.

There are a few counterexamples of businesses, local governments, and public opinion becoming more accepting of women wearing headscarves (as will be discussed below). Most recently, a gaping shortage of teachers sparked a debate about the need to review religious dress bans for teachers.¹¹² Educators also raised alarm about social care professionals increasingly being refused simply because they wear a headscarf.¹¹³

While there was an outpouring of public support (including from government officials, employers, and the royal family) for Muslim factory worker, Naima Amzil, and her employer, Rik Remmery, who had received death threats between 2004 and 2005 because Remmery refused to dismiss Amzil for wearing a headscarf at work;¹¹⁴ it did not prevent the introduction of religious dress restrictions across a myriad of workplaces, schools, and service

providers. A case that exemplifies the evolution in the public debate over the years took place in June 2021, with the appointment of Ihsane Haouach, a Muslim woman who wears a headscarf, as government commissioner at the Institute of Equality for Women and Men. Georges-Louis Bouchez, leader of the liberal party Reformist Mouvement (Mouvement Réformateur, MR) claimed that her appointment went against “the neutrality of the state,” linking the headscarf to the oppression of women.¹¹⁵ In July 2021, following political attacks on her appointment as well as investigations into her alleged ties to the Muslim Brotherhood, which state security agencies found she did not have, Haouach stepped down after six weeks in her new role, stating that she wanted to “protect herself from cyber harassment” and “incessant personal attacks.”¹¹⁶ Prior to her resignation, Haouach had made comments about the separation of church and state and its relation to a changing demographic in the daily *Le Soir*, which were heavily criticized.¹¹⁷

According to the Interfederal Center for Equal Opportunities (Unia), the vast majority of complaints about religious discrimination in Belgium come from Muslim women who are not allowed to wear a headscarf.¹¹⁸ Of the cases received by the UNIA between 2017 and 2020 on the prohibition of religious signs, 95 percent are related to the Islamic headscarf.¹¹⁹ There have been numerous court cases involving the wearing of headscarves resulting in widely diverging rulings reflecting the controversy that exists around this issue. Similarly, the first cases about body-covering swimsuits commonly known as Burkinis that are mostly worn by Muslim women have led to opposing rulings. This divergence is reflected by mainstream political parties that also tend to be split about the issue, with those in favor of bans regularly taking initiative to regulate the wearing of religious dress. Support for headscarf bans is generally stronger in the French-speaking part of the country.

Belgium is divided into three regions, the majority French-speaking Wallonia, the majority Flemish-speaking Flanders, and the Brussels-Capital Region. Each region has its own government and legislative body.¹²⁰ The French- and Flemish-speaking regions are heavily influenced by debates in France and the Netherlands, respectively. French legislation and media have greatly influenced debates and legislative developments on Islamic clothing through the southern French-speaking region of Belgium.¹²¹ Similarly, the increasing popularity of debates on religious dress in the Netherlands, which has a different approach to visible religious dress, is already apparent as an influence throughout Belgium’s northern Flemish-speaking region.¹²²

Belgium’s federal, regional, and local governments have the authority to legislate on religious dress restrictions. As this chapter will show, restrictions

at the national level are limited to a prohibition on face veils with the vast majority of restrictions having been adopted at the local level. Where such restrictions have been introduced by government bodies, they have been listed as local general bans or local specific bans in this chapter. Where such restrictions have been introduced at the institutional or organizational level, irrespective of whether the institution, organization or body in question is public or private, they have been listed under institutional/private bans/bans in practice.

National Bans

[Face Veil]

National general bans: After near unanimous support in the Federal Parliament, Belgium introduced a ban on face veils in 2011, justifying it on grounds of public security, the liberation of women, and the principle of “living together.”¹²³ The relevant provision was inserted into the existing Criminal Code under article 563*bis*.¹²⁴ The law bans partial and complete face coverings in any place that is accessible to the public. Offenders are subject to “a fine of between €15 and €25,” which can be multiplied by 5.5 making the maximum fine €137.5,¹²⁵ as well as “imprisonment of between one and seven days, or only one of those sanctions.” The law makes exemptions to accommodate employment regulations or administrative ordinances, such as festive events.¹²⁶ The exception for festive events often covers Catholic traditions, such as Carnival, that would otherwise be prohibited.

The law is the result of a legislative proposal by the liberal Reformist Party (Mouvement Réformateur, MR).¹²⁷ MR’s legislative proposal was not the first attempt to prohibit face coverings in Belgium. The first proposal to ban face veils was submitted in January 2004 by a member of the Flemish right-wing party, Vlaams Belang, and was steeped in anti-Islam rhetoric. The same proposal was resubmitted in August 2010 without success. The Christian and liberal parties also introduced several legislative proposals over time.¹²⁸

Although Islamic headwear is not explicitly targeted by the wording of the face veil ban, it is widely known as the “burqa ban,” and political debates on the small number of Muslim women wearing a face veil have intensified since its adoption.¹²⁹

During the COVID-19 pandemic, Belgium, like many other countries, enacted mask mandates. Masks covering the nose and mouth were recommended in public places.¹³⁰ Although the national ban in Belgium does not have a public health exception, people wearing face masks to protect themselves were not subject to the national ban on face veils. There is also

evidence that prior to the pandemic, the law was not enforced against people wearing medical masks.¹³¹

[Face Veil]

Case law: Shortly after the face veil ban entered into force in 2011, it was challenged before the Belgian Constitutional Court as being unconstitutional and contrary to fundamental rights. In 2012, the Court ruled that the ban was constitutional and not in violation of fundamental rights, including the right to freedom of religion, the right to freedom of expression, and the right to private life.¹³² The Court's reasoning was identical to the justification put forward by parliament when adopting the ban, i.e., that the ban is necessary for "living together," "public security," and the "protection of women." The Court made an exception for face coverings in places of worship, stating that such a prohibition would constitute a violation of freedom of religion.¹³³

The European Court of Human Rights ruled on the Belgian face veil ban in July 2017. In two similar judgments, *Dakir v Belgium*¹³⁴ and *Belkacemi and Oussar v Belgium*,¹³⁵ the Court upheld the Grand Chamber's decision on the French face veil ban in *S.A.S v France*, finding that the ban in question breaches neither the right to respect for private life nor the freedom of thought, conscience, and religion under the European Convention. The Court took note of the challenged ban's stated objectives and attributed a wide margin of appreciation to national authorities: The decision to ban face veils in public places is a "choice of society."

[Both]

Proposals: Hendrik Bogaert of the Christian Democratic and Flemish Party (Christen-Democratisch en Vlaams, CD&V) in December 2017 proposed a general ban on conspicuous symbols from all religions that more than five percent of the population adhere to. While the prohibition is phrased generally, it specifically targets Islamic signs, as Jews and Sikhs would not be included under the five percent threshold and Christian symbols are not viewed as conspicuous. Bogaert described Belgian society as being at the "tipping point" of being fragmented by "sub-communities," which rendered intervention through a general ban on conspicuous symbols necessary. The proposal received criticism from CD&V leadership and other parties.¹³⁶

The French- and Flemish-speaking liberals of the Reformist Party and Open Flemish Liberals and Democrats (Open Vlaamse Liberalen en Democraten, Open VLD) submitted a resolution to ban the wearing of conspicuous religious symbols for federal employees in all communities, regions, provinces, cities, and public institutions, and to impose strict neutrality in February 2016.¹³⁷ The proposal did not receive any further consideration after it was discussed in the Senate in 2016.¹³⁸

Open VLD member Patrick Dewael,¹³⁹ a staunch supporter of French *laïcité*, submitted a proposal for a preamble to be included in the Constitution and a resolution to revise several articles that deal with gender equality, the separation of church and state, and the neutrality of government employees.¹⁴⁰ Dewael is a vocal supporter of headscarf bans. He called for a ban on the headscarf in schools as early as 2004, following the French ban.¹⁴¹

[Headscarf]

There have been efforts to institute a blanket ban on the headscarf that would apply to all public servants. The National Flemish Alliance Party (NVA) put forth a proposal aimed at all federal public servants whose work entails direct contact with the public.¹⁴² The Walloon and Flemish liberals of MR and Open VLD, respectively, also developed proposals to ban religious dress for all civil servants in the Walloon and Flemish regions.¹⁴³ None of the proposals were accepted. The lack of a single coherent policy for the entire government administration has made it possible for employees to continue wearing a headscarf, but it also demonstrates the challenges of trying to interpret the constitutional principle of neutrality.

National specific bans: There are currently no national specific bans in place.¹⁴⁴

Local Bans

[Face Veil]

Local general bans: Prior to the introduction of the national ban on face veils in public spaces, the face veil was already prohibited in the majority of municipalities under local regulations.¹⁴⁵ Municipal bans continue to be enforced despite the more recent face veil ban at the national level.¹⁴⁶ Sanctions for violating local bans usually take the form of administrative fines. Fines vary from €125 to €250 across municipalities in Belgium.¹⁴⁷

Case law: In 2009, the Police Court found in favor of a woman challenging a fine imposed on her for wearing a face veil while picking up her children from school. The Court found that the applicant's rights under Article 9 of the European Convention, the right to freedom of thought, conscience, and religion, had been violated. The fine was based on a regulation issued by the Brussels municipality of Etterbeek.¹⁴⁸

In 2006, a woman in Maaseik, a small city in Flanders, challenged a fine before the police court that was imposed on her for wearing a niqab in public. The court upheld the ban. This ruling was significant for other municipalities that sought guidance on the possibility of introducing similar bans.¹⁴⁹

Local specific bans: While public education also falls under local specific bans, where restrictions are implemented at the regional or local level, it was decided to group all restrictions together in public education in order to simplify the discussion. As shown below, the education system in Belgium is very complex and intertwined, making it difficult to clearly distinguish between decisions made at the regional or local level and decisions made at the level of individual schools.

Public employment: Information on local bans in public employment is not widely available. Evidence shows that policies differ from one city to another and that bans tend to be limited to customer service jobs.

[Both]
[Public Employment]

One of the more publicized and controversial bans is the 2007 Antwerp City Council's administrative regulation for front office employees, which the then Mayor of Antwerp, Patrick Janssens of the socialist party, the Socialist Party of Flanders (formerly known as Socialistische Partij Anders, SP.A, and now as Vooruit),¹⁵⁰ introduced in a circular to all employees (*Dienstnota—D2007046*).¹⁵¹ The regulation not only prohibits the wearing of religious symbols, but also the logos of sports teams, unions, political parties, and even HIV awareness pins,¹⁵² among other things, for city council staff in customer service positions.¹⁵³ Employees are allowed to wear religious dress as long as they are not visible to the public. Key members of the socialist party have, in the meantime, changed their stance on religious dress bans in public customer service jobs and have stated that they would reverse the ban on religious dress if the party were still in power in Antwerp.¹⁵⁴

[Headscarf]
[Public Employment]

Various cities in the Flemish region have followed the example of Antwerp. The city of Lokeren adopted a headscarf ban for city council staff in 2007. The first ban was struck down by the provincial governor for being discriminatory, as the language of the ban directly targeted headscarves.¹⁵⁵ However, the ban passed shortly after when the wording was adjusted to include all visible religious symbols.¹⁵⁶ The city of Lier adopted a similar ban for civil servants in 2008.¹⁵⁷ The council of Destelbergen also implemented a ban on religious dress in 2010. This ban was remarkable because the Christian Democrats and liberal Open VLD, who made up the majority at the time, unanimously accepted this proposal from the opposition, the extreme-right Flemish Interest Party (Vlaams Belang).¹⁵⁸

Other Flemish cities have taken a different approach. In February 2008, the Leuven City Council, led by the socialist Mayor Louis Tobback, voted overwhelmingly against a proposal introduced by Vlaams Belang to ban headscarves for municipal employees. Council members argued that only the behavior of municipal employees had to be neutral, not their appearance.¹⁵⁹

In April 2008, Open VLD Mayor Bart Somers of the city of Mechelen confirmed that there would be no ban on the headscarf in his city.¹⁶⁰ Similarly to the arguments presented in Leuven, Mechelen's code of ethics states that neutrality must emanate from the actions and not from the appearance of its personnel, which the Interfederal Center for Equal Opportunities (Unia) has described as an example of "inclusive neutrality."¹⁶¹

On occasion, restrictions on public employees wearing the headscarf are also lifted by administrative decisions. In 2013, the City Council of Ghent ruled to lift the ban on the headscarf that had been in force since 2007. The annulment was the result of a successful campaign by grassroots organizations and activists.¹⁶²

[Both]
[Public Employment]

The capital city of Brussels has provisions banning religious dress for public employees. It is not clear exactly when these were implemented, but they were in place before the ban in Antwerp was introduced.¹⁶³

On April 11, 2014, the Walloon Parliament adopted a resolution to revise the Walloon government's decree establishing the Civil Service Code to prohibit "employees from displaying ostentatious signs and behaviors that express their political, philosophical or religious convictions in the exercise of their duties, unless their services do not require functional contact with the public."¹⁶⁴ The ban applies to all employees of the Walloon government, public interest organizations, and institutions that fall under the public authority of the Walloon region. The resolution also invites public interest organizations and entities that are not subject to the Walloon Civil Service Code to adopt internal regulations including the same prohibition. The resolution was initiated by MR member Florence Reuter.¹⁶⁵

Proposals: In its 2019-2024 governing agreement, the Flemish government has outlined its plans to introduce a neutrality dress code in the Flemish administration, which would prohibit the wearing of signs that express philosophical, religious, political or other convictions by employees of the Flemish government in customer-facing positions. The proposal also guarantees neutrality with regard to appearance in education where the government has competence to do so. Local councils would retain competence to shape neutrality policies as they wish.¹⁶⁶

In September 2021, several councilors of the Flemish and French-speaking liberal parties in Brussels City introduced a motion calling for the neutrality and impartiality of municipal employees and the restriction of ostentatious religious symbols in the exercise of their functions.¹⁶⁷ Similarly, the Auderghem Council reaffirmed the neutrality of public employees in a motion from June 2021.¹⁶⁸ This move to underscore the importance of

“exclusive neutrality” in public employment appears to be a reaction to recent developments in Molenbeek, as outlined below.¹⁶⁹

As of August 2020, the Molenbeek Council is working to change the current work regulations to allow the large segment of Muslim women residents in the community to access public office jobs. The Council has proposed adopting “inclusive neutrality,” which would allow employees to wear religious symbols. The proposed principle would include a broad antidiscrimination clause that would include religious discrimination.¹⁷⁰

Institutional and Private Bans in Practice

Private employment: A number of employees from various sectors and industries have brought complaints challenging restrictions on religious dress in the workplace in Belgium, which have mostly been justified based on the principle of neutrality, security, and hygiene.¹⁷¹

Case law: In October 2020, the Labor Court of Ghent issued a final ruling in *Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV*, finding that there was no discrimination.¹⁷² The Court found that the employer’s policy on religious dress in the workplace did not discriminate against Muslim women more than others and that the company did not need to consider other alternative non-client facing roles for the affected employee. The case had previously been referred to the European Court of Justice (CJEU) by the Court of Cassation. In March 2017, the CJEU delivered its landmark judgment on the case.¹⁷³

The case concerned Samira Achbita, who worked for G4S in Belgium as a receptionist. G4S provided no uniforms at the time. After Samira Achbita started wearing a headscarf, the company claimed to have an informal policy barring clothing that expresses a religious belief. G4S dismissed Achbita, and the next day a written policy came into force.¹⁷⁴ The CJEU found no direct discrimination on the grounds of religion in the restriction on employees wearing religious clothing. The Court stressed that the restriction could amount to indirect discrimination but is justified if there is a legitimate aim. The Court found the company’s wish to present an image of neutrality to customers to be a legitimate aim, as long as it is set out in a clear and consistent policy and only applies to front-office jobs.¹⁷⁵ Additionally, the Court found that the neutrality principle should be limited to interactions that involve direct contact with customers and that is applied in a “consistent and systematic manner.”¹⁷⁶

[Headscarf]

[Private Employment]

Prior to its referral to the CJEU, the Court of Cassation had annulled the finding of the Antwerp Labor Tribunal, which found Achbita's dismissal justified, and ordered the Ghent Tribunal to reopen the case and examine whether G4S's neutrality policy was in accordance with antidiscrimination law.¹⁷⁷

The Brussels Labor Tribunal referred a case, *Ms. L.F. v The S.C.R.L.*, to the CJEU in July 2020, which is currently pending.¹⁷⁸ The applicant seeks a declaration that the defendant, a property management company, infringed upon antidiscrimination rules by failing to conclude an internship agreement on the basis, either directly or indirectly, of religious belief and gender/sex. The property management company had asked the applicant if she would be willing to remove her headscarf at the workplace in line with the company's neutrality policy. When the applicant refused, the company informed her that she would not be able to complete her internship with them. The referring court has raised questions about the distinction between religion and belief as protected grounds as well as the meaning of religious, philosophical and political beliefs as separate protected criteria. In addition, it has questioned whether a neutrality policy constitutes direct discrimination, if the practical application of the policy shows that a female worker who intends to wear a visible sign, e.g., a headscarf, is treated less favorably than another employee. The referring court sets out various scenarios comparing the female worker to another employee, e.g., where the other employee holds no religious beliefs or where the other employee does not have a need to display their religious beliefs publicly.

In 2013, a case was brought to court by Unia in defense of a Muslim shop assistant who worked for HEMA, the Dutch department store chain. The shop assistant's contract was not extended after she was asked to stop wearing her headscarf but refused. Customers had complained about it, and HEMA, which allows shop assistants to wear a headscarf in their stores in the Netherlands, argued that they asked her to take off her headscarf to appear "neutral" to customers in Belgium, where the "culture and customs" are different. The Labor Court of Tongeren ruled in favor of the employee, holding that HEMA's actions constituted discrimination based on religion.¹⁷⁹ However, the reason for this decision was not based on the employee's right to freedom of religion, but rather on HEMA's lack of a clearly stated policy.

In June 2008, the Labor Court of Brussels ruled in favor of Club, a bookstore chain, in a case from 2004 concerning the dismissal of a Muslim employee who wore a headscarf at work. Club's internal policy stated that employees in customer-facing positions are not allowed to wear clothing, signs, or symbols that could harm the "open, accessible, sober, familial and neutral"

image of the company. The Labor Court did not find these guidelines to constitute a form of discrimination nor to violate the freedom of religion of the employee, as Club clearly indicated that it did not consider the employee's religious conviction itself problematic. The dismissal was thus found to be justified.¹⁸⁰

Public employment: While religious dress restrictions in public employment have already been addressed in the above section on local specific bans, this section will focus on restrictions put in place at the institutional or organizational level of public bodies. Public employers are allowed to decide whether or not to restrict religious dress at the workplace. It is not always clear where such restrictions exist, as they are often internal or informal and only become known when challenged in court.¹⁸¹

[Headscarf]

[Public Employment]

Case law: In May 2021, in another case brought by Unia, the Brussels Labor Court found that a woman, Mrs. T, who was rejected as a job applicant for wearing a headscarf, was the victim of discrimination. The woman had applied for a job at the Société des Transports Intercommunaux de Bruxelles (STIB-MIVB), a transportation company, in 2015. During her interview, Mrs. T was informed that, per company policy, employees were not permitted to wear any religious dress, including headscarves. Mrs. T applied again unsuccessfully in 2016. The Court found that the company directly discriminated against Mrs. T on the basis of religion and indirectly discriminated against her on the basis of gender. The Court explained that the company's policy was not neutral due to its disproportionate impact on women, and because Muslim men were allowed to have beards. The Court called on the company to stop the policy and ordered them to pay a €50,000 fine. STIB-MIVB has decided not to appeal the decision.¹⁸²

In 2015, the Brussels Labor Tribunal found discrimination, on the grounds of religion or belief, by Brussels public employment office Actiris. Actiris adopted new rules that did not allow staff members to “show their religious, political or philosophical preferences, either in their manner of dress or in their behavior.” One employee, who risked being fired for wearing a headscarf, took her case to court. The court considered the objective of “neutrality” as claimed by Actiris but found that the rules are not “law” to be used as a restriction that limits the freedom of religion, as stipulated by Article 9 of the ECHR. The employee won the case, with Actiris paying out €6,210.¹⁸³ The Actiris case caused controversy because it called into question the Brussels municipal regulation banning religious dress.

[Both]

The judiciary: The French and German speaking bar associations state in their code of ethics that lawyers should refrain from wearing distinctive religious

[The Judiciary]

signs before the court and that a breach of this principle is an ethical breach subject to disciplinary proceedings.¹⁸⁴

In *Lachiri v Belgium* (No. 3413/09), the European Court of Human Rights found that excluding a woman from the courtroom because she wore a headscarf, is a violation of religious freedom guaranteed by Article 9 of the European Convention of Human Rights.¹⁸⁵ The applicant, Hagar Lachiri, a Muslim Belgian national, had entered the courtroom wearing her headscarf and refused to remove it when the judge asked her to, and was therefore expelled from the courtroom. In December 2021, Article 759 of the Judicial Code, a literal interpretation of which required women to remove their headscarves in court, was amended in order to allow headscarves in court.¹⁸⁶

Education: The Belgian education system is divided into three groups: (1) schools owned by the communities, which include Go! Flemish Community Education (*GO! Onderwijs van de Vlaamse gemeenschap*) and network of the French-speaking Community (*réseau de la Communauté française*) and shall be referred to as “community schools”; (2) subsidized public schools (*officieel gesubsidieerd onderwijs* and *réseau officiel subventionné*), which are run by provinces and municipalities and shall be referred to as “public schools” and (3) subsidized confessional schools (*vrij gesubsidieerd onderwijs* and *réseau libre subventionné*), which are mainly run by organizations affiliated with the Catholic church, and shall be referred to as “confessional schools.” All three groups run primary, secondary, and higher education, including education for adults, and have competence to introduce religious dress restrictions, which has been confirmed by the courts.

[Both]

[Education]

In educational settings, restrictions on religious dress are a widespread practice applied to both students, teachers, and parents.¹⁸⁷ The French-, Flemish-, and German-speaking communities in Belgium all have decrees in place that demand neutrality from teachers in community schools, though restrictions are by no means limited to community schools, as shown below.^{188, 189} As different interpretations of neutrality exist, it falls to the authority of the schooling systems to decide which to enforce. Schools may thus decide to opt for inclusive neutrality, meaning that students, teachers, and other staff must only be neutral in their behavior but may wear religious or philosophical symbols, or exclusive neutrality, meaning that schools partially or completely prohibit the wearing of religious or philosophical symbols based on the neutrality of the state.

The majority of primary and secondary schools, irrespective of the type of schools, do not allow (non-Catholic) religious symbols for students and teachers, apart from teachers of religion or moral ethics classes. In Flanders,

GO!, which administers community schools, introduced a general ban on the wearing of religious signs in primary and secondary schools for all pupils and teachers with the exception of teachers of religious education classes. The Flemish Education Council approved the ban in 2013 and put forward an Administrative Circular of the Board of Flemish Community Schools to this effect. On this basis, several school boards adopted internal regulations prohibiting the wearing of any conspicuous religious, philosophical, or political signs on school premises.

Religious dress restrictions in education have significantly impacted students and teachers. They have also presented a barrier to students seeking internships with companies that do not allow them to wear a headscarf and/or face veil.¹⁹⁰

There have, however, also been positive developments: In January 2021, local officials in French-speaking Wallonia announced that religious symbols, including the headscarf, will be permitted in universities in the region. This impacts five universities, five arts schools and 29 social advancement institutions.¹⁹¹ The general administrator of Wallonia-Brussels Education, which administers public schools in the region, stated that the restriction on religious dress was reversed “in the name of inclusion of the greatest numbers, of emancipation and the fight against inequalities,” though restrictions may remain in place were demanded by “security” or “hygiene.”¹⁹² Hygiene has regularly been used to justify religious dress restrictions, though it is not clear what this refers to.

[Headscarf]
[Education]
[Teachers]

Teachers: Case law: The right of teachers of Islam to wear a headscarf during and outside their religious education classes has been confirmed by the courts on several occasions. The State Council has ruled in favor of teachers in a Flemish community school in 2016,¹⁹³ teachers in a community school in Chaudfontaine in 2015,¹⁹⁴ and teachers in a public school of Grâce-Hollogne in 2013.^{195, 196}

The situation for teachers who teach other subjects is a bit more complicated. A teacher in a Charleroi public (city) school lost her case in the first instance but won on appeal after having been dismissed for wearing a headscarf. On appeal, the court held that she could wear a headscarf, as she did not engage in proselytizing and acted neutrally, ordering her reinstatement. This provoked an immediate response from Charleroi’s City Council, which adopted a rule demanding strict neutrality from teachers and banning religious symbols in city schools.¹⁹⁷ The teacher challenged this rule before the State Council but lost in March 2013. The State Council ruled that “a teacher has the obligation to obey the orders directed at her by the

hierarchical authority, except when they are manifestly illegal.”¹⁹⁸ She brought her case before the State Council several times but finally gave up after a series of losses.¹⁹⁹

In 2010, a teacher in a public (city) school who had been dismissed for wearing a headscarf won before the Court of Appeal in Mons, which held that the French-speaking community school neutrality rule did not apply to her, as she was employed in a public city school. As the city at the time did not have a specific rule demanding neutrality, the court ordered her reinstatement.²⁰⁰

[Headscarf]
[Education]
[Students]

Students: Case law: In May 2020, a lower court struck down a headscarf ban adopted by the provincial council of Brabant-Wallon.²⁰¹ The ban prohibited the wearing of conspicuous religious, political, or philosophical symbols in public schools. The ban had resulted in the expulsion of several students. One of these students brought her case to the lower court of Brabant-Wallon, where the judge ruled in her favor. The judge stated that the principle of secularism did not exist in Belgium like it did in France. The judge concluded that the principle of neutrality was not in fact neutral and that the choice of pursuing a policy of neutrality is a highly political act in itself.²⁰² The decision constitutes a departure from a ruling by the same court a few months prior, in which the court had upheld a religious dress restriction based on neutrality.²⁰³

At the level of restrictions implemented by schools, in June 2020, the Belgium Constitutional Court found that prohibiting religious symbols in higher education did not constitute a violation of religious freedom or the right to education under the Belgian Constitution and European Convention on Human Rights. The decision followed after a Brussels court referred to the Constitutional Court a case of a group of Muslim women who challenged the Francisco Ferrer University College in Brussels for not allowing students to wear headscarves. The Court adopted an exclusive interpretation of neutrality, as outlined above, though it noted that educational institutions may opt to take an inclusive approach instead. While the Court’s decision concerned a public school in Brussels, it has wider implications for all public schools. The ruling sparked controversy. Many universities stated explicitly that they will not enact a ban, as the above-mentioned decision in Wallonia.^{204, 205}

In October 2014, the State Council ruled in favor of two Sikh pupils in Sint-Truiden²⁰⁶ and Borgloon,²⁰⁷ and a Muslim pupil in Dendermonde,²⁰⁸ who had taken legal actions against the GO! ban in community schools in Flanders. The State Council struck down the schools’ religious dress restrictions for

pupils. It held that schools cannot restrict pupils' freedom of religion when there is no evidence of any problems that would justify limiting such a fundamental freedom. It is therefore clear that a general ban as proposed by GO! and approved by the Flemish Education Council, which the State Council does not have the authority to directly annul, is not justified. GO! has refused to implement the decision in all of its schools, claiming the State Council's decision only relates to the three schools involved.²⁰⁹

The precedent set by the State Council has not always been followed by the courts. In February 2017, the Court of Tongeren granted 11 pupils from two schools in Maasmechelen in Limburg the right to wear their religious dress at school, relying on the State Council's decision in 2014.²¹⁰ In response, GO! again refused to revoke its restriction calling for a headscarf ban in all schools, as a result of which pupils are forced to fight each school regulation separately.²¹¹ In December 2019, however, the Antwerp Court of Appeals overturned the Court of Tongeren's decision.²¹² The Court ruled that religious dress restrictions would allow parents to have their children "be educated in a neutral learning environment," implying that a headscarf would disturb the school's neutrality.²¹³

The above-outlined string of cases leading to the State Council's decision in 2014 followed a case from 2009 on the competence of GO! to restrict religious dress in schools. The case involved another Muslim pupil who took legal action against the decision of GO!. The pupil had left a school in Antwerp as a result of religious dress restrictions, when GO! decided to implement a general ban in all schools. The State Council was asked to suspend the ban and decide whether GO! in fact had the authority to implement such a regulation for pupils. The question was referred to the Constitutional Court, which in March 2011 decided that GO! did, in fact, have competence in the matter.²¹⁴ In September 2011, the State Council thus lifted the suspension on GO!'s general ban.^{215, 216} A case was brought to the State Council arguing a violation of religious freedom, but in the course of the legal proceedings—which took three years—the pupil in question graduated, causing her to lose standing in the case.²¹⁷

There is currently a case pending before the European Court of Human Rights, *Mikyas and Others v Belgium*, which regards a prohibition by GO! in Flanders on the wearing of religious dress during school activities. The prohibition had been implemented through internal regulations by two public high schools. The applicants argue that the prohibition violates Articles 8, 9 and 10 of the European Convention on Human Rights and Article 2 of Protocol No. 1, both taken alone and in conjunction with Article 14 of the Convention. The Court of First Instance of Limburg found the prohibition

inapplicable but dismissed the students' claims for compensation. The Court of Appeal of Antwerp overturned the decision at first instance and held that the students' claim was unfounded. A lawyer of the Court of Cassation assessed that the case did not have any chance of appeal.²¹⁸

[Headscarf]

[Education]

[Parents]

Parents: In October 2016, controversy arose in Brussels when the City Council backed the decision of a community school that did not allow parents of pupils to wear headscarves when they volunteered for school activities. According to the Council, parents can wear religious dress when they take part in activities as parents, but when they take up the role of school volunteers they fall under the same obligation of neutrality as teachers.²¹⁹

[Headscarf]

[Goods and Services]

Access to goods and services: At the domestic court level, there have been a number of cases regarding women who were refused access to services for wearing a headscarf. In particular, a few of the recent cases addressed instances when women wearing headscarves were denied access to an ice cream parlor, a restaurant terrace, a bowling alley, a gym, and swimming pools.

In the case against the ice cream parlor, in 2014 the court of first instance found no discrimination for banning women wearing a headscarf, but the court of appeal overruled the decision in 2015. In the case concerning access to the gym, in 2015 the court of appeal also held that the denial of access to the gym did not amount to discrimination, claiming it was justified on grounds of safety. The courts of first instance did, however, find discrimination in the cases concerning the denial of access to the restaurant terrace in 2009, the bowling alley in 2011, and the swimming pool in 2018.

As reported by scholars in the field, the common justifications that were invoked in the cases focus on safety and hygiene. In the case on access to the restaurant terrace in particular, the restriction was justified by "the incompatibility of the wearing of a headscarf with the atmosphere within the establishment." In the case of the swimming pool, the establishment attempted to argue that burkinis (loose body-covering swimsuits that include a headcover) were unhygienic, but the judge ruled that hygiene did not apply in the circumstances. Even though the courts did find discrimination in some instances, the situation still creates a worrying atmosphere for headscarf wearers because their rights are not being protected in all cases.

National Legislation

Belgium's legal framework to combat discrimination in general, and discrimination against Muslim workers wearing Islamic clothing in

particular, is set out at the constitutional and federal legislative level.²²⁰ At the federal level, relevant legislation against discrimination consists of two main laws: the federal law against certain forms of discrimination (or Antidiscrimination Law, 2007) and the federal law against discrimination between women and men (the Gender Law, 2007). At the regional level, both in the Flemish- and the French-speaking communities, similar legislation is in place.

Bulgaria

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
Yes	No	Yes	No	Yes	No

Executive Summary

While Muslims have historically been a part of Bulgarian society, they have been subject to discriminatory treatment which has worsened over the years. A national ban on face veils was enacted in 2016, and schools are permitted to prohibit Muslim students from wearing a headscarf. Prior to the introduction of the national ban, the local government of Pazardzhik in central Bulgaria enacted a general ban against wearing face veils in public. The bans were justified with claims that the face veil demonstrates support for radical Islam or a foreign political agenda, that it does not constitute traditional religious dress for Bulgarian Muslims, and that they counter terrorism and preserve the nation’s secularity. There are various documented incidents of Muslims, particularly Muslim women wearing a headscarf, being harassed and abused. The discrimination and hostility Muslims face in Bulgaria are very serious and can result in violence.²²¹

Background

Muslims make up about 10 percent of the total population according to the 2011 census, while a 2017 survey puts the estimate at about 15 percent of the total population.²²² The mostly indigenous communities consist of ethnic Turks, Pomaks, and Roma-Muslims who have been particularly isolated from mainstream Bulgarian society as a consequence of discriminatory policies and public attitudes.²²³

There are various documented incidents of Muslims being harassed and abused. Such incidents have particularly targeted Muslim women wearing headscarves, and range from threats to spitting, throwing liquid, and using dogs to chase people away.²²⁴ The discrimination and hostilities Muslims are subjected to in Bulgaria are thus of a serious nature and can result in violence.²²⁵ In 2019, the Grand Mufti's Office called on the police to investigate an attack on its office in Sofia, the country's capital, which took place three days after swastikas and other hate symbols were scratched onto a mosque in the central town of Karlovo.²²⁶

Notwithstanding the growing trend of anti-Muslim violence, a 2019 Pew survey found that 69 percent of Bulgarians had a favorable view of Bulgarian Muslims and 21 percent had an unfavorable view.²²⁷ This may be attributed to the presence of indigenous Bulgarian Muslims, commonly known as Pomaks. Pomaks are largely descendants of Bulgarian Christians who converted to Islam during the period of Ottoman rule, while retaining the Bulgarian language as well as certain Orthodox practices.²²⁸

National Bans

[Face Veil]

National general bans: In 2016, the nationalist Patriotic Front coalition put forward a bill, the Wearing Clothing Covering or Hiding the Face Act (Проект на Закон за носенето на облекло прикриващо или скриващо лицето), aimed at banning the wearing of face veils in public.²²⁹ In September 2016, the Bulgarian Parliament adopted the bill but left out several proposed provisions, such as the suspension of social benefits as a punishment for violating the law. A proposal to criminalize the act of forcing people to wear face veils was also not adopted in the Criminal Code.²³⁰

While other legal bans across the EU are implicit in their aim to restrict Muslim women from the practice of wearing veils, Bulgarian law is relatively explicit. The bill identified Islam as its main target and provided reasons for the need to ban Muslim veils in public. Those reasons include claims that the face veil is a demonstration of radical Islam and not a traditional religious dress code for Bulgarian Muslims, that veil wearers represent a political agenda that is supported by outsiders (i.e., Gulf

countries), that banning face covering serves as a mechanism to counter terrorism and preserve the nation's secularity, and that Muslim women are forced to wear face veils.

According to the face veil ban, which is similar to an earlier enacted local ban in central Bulgaria outlined below, any kind of nontransparent or semitransparent clothing that covers the mouth, nose, and eyes of the wearer may not be worn in publicly accessible places within the territory of Bulgaria. The law provides exceptions, including face coverings for health or professional reasons, sports or cultural events, and inside religious buildings, or when provided by the law. The law is enforced by the police with different levels of fines in case of violation. First time violators face a fine of 200 BGN (€100), while a 1,500 BGN (€765) fine can be applied for repeated violations. Fines for public servants in violation are 500 BGN (€250) for the first time, and 2,000 BGN (€1000) for subsequent violations. Since its enactment, there is no data available on how the law has been enforced in practice, if at all.

National specific bans: There are no national specific bans on religious dress.

Case law: There have been no court cases challenging the national general ban.

Local Bans

Local general bans: The local government of Pazardzhik in central Bulgaria became the first town in the country to prohibit the wearing of face veils in public in April 2016. The municipal regulation, which received support from local politicians, was supposedly intended to prevent tensions among communities and boost security.²³¹ According to the regulation, wearing clothing or accessories that hide the face and prevent identification of citizens and public servants in public space is forbidden. The ban applies to all public institutions, urban areas, and administrative, educational, or social services as well as places for public recreation, such as parks, cultural areas, or any places that are publicly accessible including public transportation.

Exceptions are made for face coverings for health and professional requirements, temporary sports and cultural activities, the home, and places of worship.²³² Wearing helmets for safety reasons is also allowed. Fines ranging from 300 BGN (€150) to 1,000 BGN (€500) are charged to those who do not comply.²³³ The regulation has already been enforced. At least three cases have been reported, all taking place around the Roma neighborhood where a small number of women wear face veils. According

[Face Veil]

to a report by the Bulgarian Helsinki Committee, there were incidents where police officers intentionally waited in the Roma neighborhood to impose fines on people wearing face veils, including women sitting in a private car. However, authorities never collected the fines.²³⁴

Local specific ban: There are no local specific bans on religious dress.

Institutional and Private Bans in Practice

Education: While there are no formal bans on religious dress in education, several attempts to introduce such restrictions have been made. In 2006, the Ministry of Education issued a verbal order to the regional inspectorate of education in Smolyan that schools should not allow headscarves to be worn and that those in violation would be subject to financial sanctions. This informal policy had a significant impact, as there are many girls wearing headscarves in the region.²³⁵ In 2009, the government introduced a draft bill to ban conspicuous religious symbols such as Muslim headscarves and large Christian crosses from schools.²³⁶ However, the bill was not approved by the legislature.²³⁷

In practice, there have been several incidents related to schools banning Islamic headscarves. In 2016, a female Muslim student in a school in the region of Blagoevgrad was pressured by the director of her school to stop wearing a headscarf. She was suspended from the school for a period of one week, after which she left to continue her studies at a religious high school.²³⁸ In this case, the Supreme Administrative Court decided that the ban was justified for securing the secularity of the school and that it was not a violation of the right to education, given that the Muslim female student could move to another school that allows the headscarf. The Court did not assess the freedom of religion of the student in question.²³⁹

In 2007, after a headmaster informed three girls that they were not permitted to wear their headscarves in accordance with the above outlined verbal order by the Ministry of Education, the Antidiscrimination Commission clarified that schools without a uniform requirement are not required to implement the policy.²⁴⁰ The Commission, however, dismissed the complaint on the basis that the headmaster did not institute a mandatory school uniform when he could have done so, and hence did not discriminate against the students. This resulted in an “odd set of policies”: if a headmaster did institute a mandatory uniform policy to prohibit girls from wearing their headscarves, the commission would sanction such a policy anyway.²⁴¹

[Headscarf]
[Education]

In 2006, two Muslim female students unsuccessfully lodged a complaint against their school after the headmaster banned them from wearing their headscarf on the basis that it was not part of the uniform. They were told that they would not be allowed to attend school unless they removed their headscarves. The Minister of Education, Daniel Vulchev, responded by arguing that Bulgarian education was secular and, adopting the terminology of the recently passed ban on headscarves in France, claimed that conspicuous religious symbols had no place in public schools.²⁴² A grievance was then filed with the Antidiscrimination Commission, which upheld the school’s ban on the basis of defending secularism and safeguarding women’s rights.²⁴³ This case led to the Ministry of Education’s verbal order, as outlined above.

National Legislation

Bulgaria’s legal protection against discrimination on the basis of religion is set out in the Constitution (1991, amended in 2015) and the Protection against Discrimination Act (2003, amended in 2006). According to the Constitution, there shall be no privileges or restrictions of rights on the grounds of religion²⁴⁴ and “everyone shall have the right to ... develop his own culture in accordance with his ethnic self-identification, which shall be recognized and guaranteed by the law.”²⁴⁵ The constitutional principle is upheld in the Law on Protection against Discrimination, which prohibits any direct or indirect discrimination on grounds of, *inter alia*, religion or belief. In employment in particular, the law prohibits employers from refusing to employ or to employ on less favorable terms a person on the basis of his or her religion or belief.²⁴⁶

Croatia

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	Yes	No

Executive Summary

There are no national or local bans restricting Muslim women’s dress in Croatia. While there is limited data regarding anti-Muslim hate crimes and religious discrimination, there is some evidence that discrimination against

Muslim women occurs. A few politicians have made Islamophobic and anti-immigrant statements, and there have been accusations of mistreatment of asylum seekers at the border. However, the government has not enacted legislation targeting Muslim communities, and on the whole, there has not been a significant uptick in anti-Muslim sentiments in mainstream politics or society over the past decade.

Background

Islam is the second-largest religion in Croatia after Christianity. Croatia's Muslim community constitutes approximately 1.5 percent of the national population and totals approximately 63,000 residents.²⁴⁷ Islam has been officially recognized in Croatia since 1916, when parliament passed a law that introduced equality between Islam and other religions.²⁴⁸

There is limited information about how Islam is perceived and how Muslims are treated but Croatian government bodies have strongly rejected Islamophobic or anti-immigrant statements.²⁴⁹

However, hateful remarks directed at Muslims do occur in Croatia. In April 2019, for example, a group of Muslim tourists were praying in a parking lot in the city of Split. Several individuals reported the situation to police, who determined that the tourists had not violated any rules. News of the incident was published on the internet, and Split City Councilmember Martin Pauk wrote a Facebook post saying that the tourists were “marking their territory” by praying, sending a message that “they have arrived and that there will be more of them.” He likened the tourists’ prayer to the activity of dogs.²⁵⁰ In August 2019, far-right presidential candidate Anto Djapic accused Muslims in Bosnia and Herzegovina of cooperating with Serbs “in the Islamization of Croatian territory.” That same month, the Ministry of Foreign and European affairs suspended a Berlin-based Croatian diplomat after a number of racist and Islamophobic Facebook posts.²⁵¹ Later that year, the Croatian government announced the Law on Preventing Inappropriate Behavior on Social Networks, aimed at combating online hate speech and cyber-bullying.

Croatian Muslim women are said to face discrimination. For example, the *Vienna Review* reported that Muslim women wearing headscarves have faced difficulty renting apartments on account of discrimination from landlords.²⁵² But information on actual cases where Muslim women face injustices is limited.

Hate crimes are not frequently reported in Croatia. In her 2018 annual report, Croatia’s Ombudsperson found that hate crimes are underreported, insufficiently recognized, and inadequately prosecuted.²⁵³ Moreover, while

the government gathers data on hate crimes in general, it does not collect statistics on anti-Muslim hate crimes as a separate category.²⁵⁴

In November 2020, the Office of the EU Ombudsperson said it would launch an inquiry into the possible abuse and torture of asylum seekers by Croatian police conducting border operations.²⁵⁵ Most asylum seekers crossing Croatia's border come from Muslim-majority countries.²⁵⁶

National Bans

There have been no national bans or proposals to restrict face veils or headscarves in Croatia.

Local Bans

There are no local bans or proposals to restrict face veils or headscarves in Croatia.

Institutional and Private Bans in Practice

In 2019, a woman employed at a public institution in Croatia requested to wear a headscarf at work. Her request was denied. In making its decision, the institution's directorship referenced the prevailing rulings of the European Courts. No discrimination case was brought.²⁵⁷

[Headscarf]

[Public Employment]

National Legislation

Croatia's national law prohibits employment and work-related discrimination based on religious affiliation or belief. In particular, the Antidiscrimination Act bars both direct and indirect discrimination, including discrimination which "occurs when an apparently neutral provision, criterion or practice that places or could place a person in a less favorable position" is based on religion, unless the provision, criterion, or practice "can be objectively justified by a legitimate aim and the means to achieve them are appropriate and necessary."²⁵⁸

In 1992, Croatia's Constitution established the Office of the Ombudsperson, to protect human rights and freedoms that are recognized by law. The 2009 Antidiscrimination Act made the Office of the Ombudsperson Croatia's central equality body. As part of its responsibilities, the institution collects and analyzes data on discrimination, and issues recommendations. It reports annually to the Croatian Parliament. The Ombudsperson also has the authority to receive discrimination complaints (including complaints of religious discrimination), conduct mediation, file criminal charges related to

discrimination to relevant state attorney's offices, and intervene in court proceedings on behalf of the injured party.²⁵⁹

Cyprus

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

Cyprus does not have any statutory religious dress restrictions to date, nor are there any reports of restrictions being placed on Muslim women's dress. As in many other countries in Europe, Muslims in Cyprus face Islamophobia.²⁶⁰ In a survey conducted in 2016, the majority of non-Muslim participants responded that they think Islam is a backward and violent religion that is harmful to the cultural values of Cyprus.²⁶¹ The situation in Cyprus is less transparent on the experiences of Turkish Cypriot Muslims.

Background

Muslims have a long historical presence in Cyprus.²⁶² In 2018, the total population of the island was estimated at 1.2 million, of which 89.1 percent is Greek Orthodox Christian and 1.8 percent Muslim.²⁶³ The Muslim population in the areas occupied by the Turkish Cypriot administration is not documented.

Caritas reported that three 10-year-old students in Paphos pushed a Muslim student of the same age off a veranda in 2018, resulting in injuries that required multiple hospital visits for treatment. Caritas further stated that Muslim girls have been discriminated against at school, teased, called names, pressured to eat pork, and excluded for wearing the headscarf.²⁶⁴

National Bans

There are no national restrictions nor proposals to ban the Islamic face veil or headscarf in Cyprus.

Local Bans

There are neither local restrictions nor proposals on banning the Islamic face veil or headscarf in Cyprus.

Institutional and Private Bans in Practice

No data is available.

National Legislation

Religion is one of the protected grounds against discrimination, according to Cypriot laws. The protection is laid out under the Equal Treatment (Racial or Ethnic Origin) Law 59(I)/2004 and the Equal Treatment in Employment and Occupation Law 58(I)/2004. According to Section 4 of Law 58(I)/2004, the protection extends to all public and private sector bodies. The laws prohibit discrimination based on religion, which occurs when “a person is treated less favorably on grounds of religion than another person is, has been or would be treated in a comparable situation.”²⁶⁵

Czech Republic

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	Yes	No

Executive Summary

In the Czech Republic, the debate around head coverings in recent years has focused on the case of a secondary nursing school in Prague that banned headscarves in class. In 2017, a Czech court dismissed a Muslim student’s discrimination claims, but the Czech Supreme Court reversed that decision, finding that the ban had no legitimate aim and therefore violated the student’s rights. Since the beginning of the European refugee crisis in 2015, overt anti-Muslim sentiment has become pervasive in the Czech Republic, with the Czech President equating migrants with terrorists. Mosques have been frequently vandalized and Muslims—particularly Muslim women wearing head or face coverings—routinely face verbal attacks.²⁶⁶ However, this widespread animosity has not translated into public headscarf or face veil bans.

Background

The Czech Republic is home to a Muslim population of no more than 20,000 persons, 0.2 percent of the total population.²⁶⁷ The country’s Muslims are mostly Arabs who came to what was then Czechoslovakia in the 1970s and 1980s to study.²⁶⁸ However, due to the recent migration crisis in Europe, the Muslim community, especially women, have faced increasing anti-Muslim sentiments.²⁶⁹

Discussions on Islamic headscarves and face veils draw significant public attention in the country. In addition, in July 2017, a dispute over banning full-body swimsuits worn by some Muslim women arose in a Czech water park.²⁷⁰

At the political level, Czech President Miloš Zeman, an active anti-refugee advocate, claimed that it was “practically impossible” to integrate the Muslim community²⁷¹ and that Muslims should be deported.²⁷²

National Bans

The Czech Republic has no laws regulating the wearing of Islamic garments, and no proposals on the ban of face veils or headscarves have made it to the official level.²⁷³

Local Bans

There are no local bans or proposals for a ban in the Czech Republic.

Institutional and Private Bans in Practice

[Headscarf]

[Education]

Education: The first incident that stirred controversy over Islamic headwear in the Czech Republic dates back to 2013, when two female Muslim students dropped out of a secondary nursing school in Prague because they were not allowed to wear headscarves. The Czech Ombudswoman Anna Šabatová publicly took the Muslim students' side, for which she faced widespread criticism.²⁷⁴ One of the students, Ayan Jamaal Ahmednuur, took her case to the Prague Court, seeking an apology and financial compensation from the school administration for discriminating against her based on her faith. In January 2017, the Court dismissed her claim on the grounds that Ahmednuur was unable to prove her eligibility to attend the school, but made no comment on the question of her freedom to wear religious clothing.²⁷⁵ Ahmednuur appealed the verdict, and the Prague Regional Court concluded that the school's headscarf ban did not discriminate on the basis of religion.²⁷⁶ The Court found that Ahmednuur did not have a right to wear a headscarf on the premises of a public school, which must maintain a neutral environment.²⁷⁷ The following year, Czech President Miloš Zeman gave the national award of merit to the school's headmistress, whom he called "a brave woman fighting an intolerant ideology."²⁷⁸

The Czech Supreme Court reversed the Regional Court's decision, holding that the school discriminated against Ahmednuur, and that the headscarf ban was not justified by a legitimate aim.²⁷⁹ Although "wearing hijab is an alien element in the Czech society," the Court noted, "it does not constitute a breach of social norms or morality." Citing the antidiscrimination provisions of the Education Code, the Court reasoned that visible symbols of Islam should be tolerated, particularly in the field of education which is responsible for "lead[ing] students towards the respect of rights of others and religious tolerance."²⁸⁰ The case was sent back to the District Court to implement the Supreme Court's decision.²⁸¹ However, Ahmednuur withdrew her complaint before a final verdict was reached, fearing hate-motivated

attacks.²⁸² According to her lawyer, Ahmednuur had faced threats and had difficulty finding work and housing as a result of the lawsuit.^{283, 284}

[Face Veil]
[Education]

In April 2016, a grammar school in Teplice, a spa town with a large Muslim tourist clientele, received letters from dozens of local residents demanding that a young female student, who practices Islam and wears a face veil, be expelled from the school, fearing that the young girl was disseminating Islamist propaganda.²⁸⁵ The director of the grammar school refused to expel the student.

[Both]

Also in Teplice, there was a move by residents to forbid the wearing of the face veil and other Muslim head coverings.²⁸⁶ The matter was eventually dropped by the City Council—even though the proposal had the approval of a majority—raising speculation that the ban was abandoned because it would not sit well with the Muslim tourists who drive much of the local economy.²⁸⁷

National Legislation

National legislative protection against discrimination on various grounds, including religion, is provided in the Antidiscrimination Act (No. 198/2009 Coll). Even though the act fully implements EU legislation (directives and primary laws) and provides judicial protection against discrimination, it is not widely used due to its limitations. According to the act, the victim has to prove that they faced different and/or discriminatory practices. The defendant has to prove that discrimination did not happen. The Ahmednuur case discussed above is one of the rare occasions where the Antidiscrimination Act was applied.

Denmark

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
Yes	Yes	No	No	Yes	No

Executive Summary

Discrimination against people categorized as being of “non-Western” background, made up predominantly of Danes with origins in Muslim majority countries, has intensified markedly in recent years. Restrictive measures in housing, education, and criminal justice are negatively impacting the lives of the Muslim population. Denmark introduced a national ban on headscarves for judges in 2009. In 2018, the Danish Parliament passed a national ban on face coverings. In addition, there are numerous private institutional restrictions regulating dress. Local and private restrictions on Muslim women’s dress have survived legal challenges and remain in place despite objections. The current restrictions have led to threats against Muslim women in public and have also restricted their employment and educational opportunities.

Background

As of 2020, there are an estimated 280,000 to 310,000 Muslims in Denmark, making up approximately 5 percent of the population.²⁸⁸ Seventy-one percent of Muslims in Denmark are estimated to be Danish citizens.²⁸⁹ As of February 2018, the five largest ethnic groups among Muslims in Denmark were: Turks (18.8 percent), Syrians (11.8 percent), Iraqis (8.9 percent), Pakistanis (7.8 percent), and Somalis (6.8 percent). There has been a large increase in the number of Syrian Muslims in Denmark over the past few years (11.8 percent compared to 4.8 percent in 2015).

In a 2019 survey of approximately 5900 Danes, 28 percent either agreed or partly agreed that Muslim immigrants should be deported.²⁹⁰ Relatedly, a 2020 report co-authored by SOS Racisme Danmark found that 43 percent of young people with minority backgrounds experienced discrimination during the past year.²⁹¹ A 2019 study found that wearing a headscarf had a negative impact on a candidate’s chance of finding a job: minority women job seekers who wore headscarves were required to write 60 percent more applications for employment before receiving an interview compared to non-minority job seekers.

Denmark has seen a strong rise in anti-Muslim sentiments since the early 2000s. Although spearheaded by the right-wing Danish People's Party, traditionally centrist and left-wing parties have supported anti-Muslim rhetoric as well. The international controversy around cartoons of the prophet Mohammed, published by the Danish newspaper *Jyllands-Posten* in 2005, was a significant turning point in the debate about Muslims.²⁹² The affair took place against the backdrop of discussions about whether Muslims can be considered Danish and thus be accorded the same basic rights to practice their faith and to have equal access to different social spheres.²⁹³

One example of the rise in anti-Muslim sentiment is the backlash targeting a young Danish Muslim woman of Palestinian origin, Asmaa Abdol-Hamid, who was elected to a local city council in 2005. She wore a headscarf and greeted men by putting her hand on her heart instead of shaking their hands.²⁹⁴ In 2007, following the controversy created around her candidacy for the Red-Green Alliance, she lost her bid for a seat in the Danish Parliament despite her progressive stance on women's and LGBTQI rights. She would have been the first Muslim woman in Danish Parliament. The Danish People's Party has led various campaigns against Muslim women's religious dress. In the case of Abdol-Hamid, they compared her headscarf with the Nazi swastika.²⁹⁵

Anti-Muslim sentiments have become more institutionalized in recent years. In March 2018, the Danish government introduced the "Ghetto Package," a bundle of over twenty different legislative proposals affecting numerous spheres of life as diverse as childcare, housing, criminal justice, and education. Nearly all of these proposals have become law. The stated aim of the "Ghetto Package" is to "eradicate" by 2030 areas defined as "ghettos" under the law. The determining factor in identifying so-called "ghettos" is whether the majority of an area's residents are from a "non-Western" background.²⁹⁶ The "Ghetto Package" requires that Danish not-for-profit housing known as "common family housing" be reduced to a maximum of 40 percent in "tough ghettos" by 2030.²⁹⁷ This has led to the threat of evictions across Denmark. The "Ghetto Package" enjoys wide political support, including by the Social Democrats leading Denmark's current minority government. Additions to the "Ghetto Package" were recently backed by a cross-party voting agreement, with the aim of reducing those of "non-Western" background to a maximum of 30 percent in any housing estate within the next 10 years.²⁹⁸

The introduction of the "Ghetto Package" highlights the racial discrimination against persons of "non-Western" background, a category used by the Ministry of the Interior and Housing, which includes immigrants

and descendants from all countries other than those defined as Western, a group of countries that lack geographical coherence but have majority white/Christian populations.²⁹⁹ The use of the term is inextricably linked to race, color, descent, and national or ethnic origin. Several UN Special Rapporteurs have expressed their concern that the “Ghetto Package” disproportionately affects majority “non-Western” communities, including those that are predominantly Muslim.³⁰⁰

The “Ghetto Package” forms part of a broader series of measures that have disproportionately targeted Muslim communities. For example, following their electoral win in 2019, the Social Democrats carried out an audit of 17 independent schools in Denmark, 7 of which were Muslim schools (or 41 percent). The country’s 25 Muslim schools (4.5 percent of Denmark’s 558 independent schools) were significantly overrepresented in the audit. Again, the “non-Western” background category played a role in the selection of schools to be audited, highlighting the use of the category to target Muslim citizens. Several legislative and policy developments in recent years further target Muslim and/or “non-Western” citizens. These include regulations requiring handshakes during citizenship ceremonies, the revocation of dual citizenship, and a paradigm-shift in immigration and asylum procedures focused on repatriation rather than settlement, including Denmark’s recent decision to return Syrian refugees to the Damascus region.^{301 302}

The government continues to introduce other policies and laws related to “non-Western” background: in October 2021 it stopped student enrolment in six high schools based on a June 10, 2021, political agreement to temporarily close admission to high schools that have a large number of “non-Western” students, in order to ensure that those the government considers to be “Danish” students do not become a “minority.”³⁰³

Hate crimes against the Muslim population have increased following the passage of the 2018 “burqa ban.” Multiple women have reported being verbally or physically assaulted in public for wearing headscarves and face veils.³⁰⁴ It should be noted that before the passage of the “burqa ban,” few women in Denmark even wore face veils. According to a study commissioned by the Danish government in 2009,³⁰⁵ estimates of women who wear the face veil ranged between 100 and 200 (at most 0.2 percent of Muslim women); approximately half of these women were identified as Danes who converted to Islam.^{306, 307}

National Bans

[Face Veil]

National general bans: In May 2018, the Danish government passed a law banning “any garment that hides the face in public.” The law, which went into effect in August 2018, makes it illegal for Muslim women to wear a face veil. Violating the ban results in a fine of 1,000 kroner (€134). Exceptions are allowed for “recognizable purposes,” such as cold weather or festivities, leaving it to the police to judge when the law is violated.^{308 309} During the drafting process of the bill, legislators specified that the permitted exceptions would include Christian religious festivals, such as Shrove Tuesday.³¹⁰

The Conservatives political party first proposed a ban on face veils, coined the “burqa ban,” in public spaces in 2009. The party presented the proposal as an attempt to “liberate” Muslim women who they believed were oppressed. The government initially did not move forward with the proposal due to the limited use of face veils in Danish society, as well as concerns about the constitutionality of the proposal.³¹¹ In 2018, however, the revived proposal received support from a broad coalition of left- and right-leaning parties. Proponents argued that the ban would prevent the suppression of women’s rights, and that wearing a face veil was not “compatible with the values” of Danish society.^{312, 313} During the first year the ban was in effect, 23 people were fined for violating the law.³¹⁴

Following the passage of the ban, several Muslim women reported that they were verbally or physically assaulted in public for wearing face veils. One woman was verbally assaulted by several male shoppers in late 2018. She attempted to press charges against the assailants for committing a hate crime, but the state attorney argued she was not threatened according to Danish criminal law and therefore could not press charges. The woman’s attorney feared the case set a precedent for vigilantism against women wearing face veils.³¹⁵

[Headscarf]
[The Judiciary]

National specific bans: In July 2009, the Danish Parliament passed the Headscarf Act, a ban on judges wearing headscarves and similar religious or political symbols, including crucifixes, Jewish yarmulkes, and turbans, in courtrooms. A number of lawyers have questioned the legality of the law and threatened to sue, but the law remains in place.³¹⁶ To date no cases have been brought involving this law.³¹⁷

[Headscarf]

Proposals: There have been efforts to extend the ban to more public places or institutions in Denmark, including, for example, a proposal to ban headscarves in driver’s license photographs,³¹⁸ but none of them have been

successful. In 2016, the Danish People's Party proposed extending the law to Danish public schools and hospitals. In 2019, parliament rejected a proposal to ban public servants from wearing religious symbols.³¹⁹

Local Bans

There are no bans or proposals for a ban at the local level in Denmark.

Institutional and Private Bans in Practice

Private employment: The right of Muslim women to wear headscarves has been threatened in private employment over the last decade.³²⁰

[Headscarf]
[Private Employment]

In 2005, the Danish Supreme Court ruled in favor of Dansk Supermarked (the largest retail chain in Denmark) by stating that it was not illegal to prohibit employees from wearing religious headscarves during working hours.³²¹ The Court held that the termination of the employee was not a violation of Danish Antidiscrimination Law because the supermarket had adopted a universal dress code for all employees.³²² In 2013, however, Dansk Supermarked voluntarily removed its rule banning the wearing of religious headscarves.³²³ The decision by Dansk Supermarked was the result of a boycott against Netto, another supermarket in Denmark, for prohibiting its Muslim employees from wearing a headscarf.

In 2000, a trainee was fired from the Danish department store Magasin for wearing a headscarf at work. The store claimed that the headscarf did not comply with their employee clothing rules. The case was taken to court, and the Crown Court ruled that Magasin's justification had no legal foundation and therefore constituted indirect discrimination.³²⁴

[Face Veil]
[Public Employment]

Public employment: In 2006, before Denmark's face veil ban was introduced, a woman applied for authorization to work as a daytime nanny at a Copenhagen municipal institution. Her application was rejected because she wore a dress that covered her face and hands. The reason put forward by the municipal body was that wearing such dress inhibited the woman's contact and interaction with the children. In a similar case in the municipality of Odense, a woman wearing a face veil did not have her application rejected, but had to agree not to wear her face veil at work.³²⁵

[Face Veil]
[Public Education]

Public Education: Before the 2018 face veil ban was passed in Denmark, a number of Danish adult education programs, the Danish Voksenuddannelsescentre (VUC), had already prohibited women from wearing face veils in class.³²⁶ In 2016, a VUC in a Copenhagen suburb made the news after it banned six Muslim women from class on the grounds that

covering one's face hampers the quality of teaching in the classroom and limits the "free exchange of ideas." The ban was criticized by the VUC student council, but the Danish Ministry of Education stated that the education centers were within their rights to ban any veiling clothing item, as there is no central framework in Denmark for regulating staff or student attire.³²⁷

[Face Veil]

[Practice]

Bans in practice: In 2007, the municipality of Århus decided that two women wearing face veils would not be entitled to receive a jobseeker's allowance after losing their jobs, because both women had refused to replace their face veil with the required work attire.³²⁸ This decision received support from a number of other Danish municipalities, which argued that women who cover their faces are unable to receive cash benefits because they are effectively not available for work.

National Legislation

The Danish Constitution protects all persons' full enjoyment of civil and political rights regardless of creed or descent. In addition, a number of EU laws have been incorporated into Danish legislation to prevent discrimination. The Danish Act on Nondiscrimination (1996) prohibits direct and indirect employment discrimination on the grounds of religion or faith.³²⁹ In addition, the Act on the Prohibition of Discrimination due to Race (1971) criminalizes discrimination on the basis of race, skin color, national or ethnic origin, belief, and sexual orientation. It applies to the provision of goods or services, as well as access to public places and events. The Act on Ethnic Equal Treatment prohibits harassment and protects against discrimination as it relates to social protections including healthcare, education, social benefits, and housing. Furthermore, the Act on the Board of Equal Treatment (2008) deals with discrimination complaints on the basis of race, ethnicity and religion, as well as other forms of discrimination.

In 2003, the Danish Institute for Human Rights (DIHR) was appointed as the National Equality Body on race and ethnicity.³³⁰ Within Denmark, the DIHR has the authority to assist victims of discrimination, as well as to monitor legislative developments, conduct surveys, issue reports, and make recommendations regarding discrimination. The DIHR reports annually to the Danish Parliament and can bring certain complaints before the Board on Equal Treatment. The DIHR has issued reports that include criticism of the face veil ban, as well as other laws which marginalize Muslim communities, but without apparent effect.³³¹

Estonia

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

Despite having a small Muslim population, right-wing Estonian officials have created controversy around Islamic dress, proposing bans on headscarves and face veils. Although no proposal has been passed to date, the rhetoric used to justify such proposals clearly reflects Islamophobia and xenophobia. Even with legislation guaranteeing the rights of minorities against discrimination, Estonian politics contains strong examples of outright anti-Muslim sentiments.

Background

There is little data available on the Estonian Muslim population. The only relevant data comes from the National Census of 2011, which reported 1,508 Muslims, 0.13 percent of the total population.³³² Indigenous Tatar Muslims have played a key role in the community's establishment in the country, although today the majority of Estonia's Muslim community represent more than 50 nationalities and includes Estonian converts.³³³ The numbers of women wearing a headscarf or face veil appear to be low in Estonia.³³⁴

The Muslim community in Estonia receives very little media coverage.³³⁵ It has been reported that Muslims in Estonia do not face discrimination in employment based on their religion but rather due to a lack of language skills and their citizenship status, like other minority groups.³³⁶ Studies in 2012 suggested that Islamophobia was not a serious or widespread issue in Estonia. Although, in 2016, security concerns were raised by Estonian authorities about the increase in "Muslim radicalization."³³⁷

There are no media reports on incidents or legal cases related to discrimination against Muslim women who wear religious dress.

National Bans

There are no rules restricting Islamic headwear in public or any other space or region.

[Face Veil]

Proposals: In 2017 the Conservative People's Party of Estonia (EKRE), an ethno-nationalist right-wing political party, withdrew a burqa and niqab ban proposal they had submitted to Estonia's parliament.³³⁸ The proposal for the ban cited national security concerns and Estonian traditions and values as a justification for the ban. The bill, however, was withdrawn because members of the Estonian Parliament felt it was not right to restrict the proposal to those of "Arab culture"—instead the bill should be revised to ban face coverings in general.³³⁹ The Minister of Justice Urmas Reinsalu was set to reintroduce a revised proposal a month after the original was withdrawn by the EKRE, however there has been no news of a revised proposal.

[Both]

In 2015, in response to a rise in Muslim immigrants coming to Estonia, a proposal to ban the burqa was put forward. The Estonian Social Security Minister Margus Tsahkna of the conservative Pro Patria and Res Publica Union Party introduced the proposal.³⁴⁰ Shortly after, the Estonian Justice Ministry formalized the proposal and submitted a bill banning women from wearing a hijab and niqab in public places, especially in state, educational, and medical institutions.³⁴¹ The ban was justified by security concerns—that is, face covering was said to be unsafe for the public. However, the bill was not supported by the Ministry of Foreign Affairs. The public, including Estonia's Muslims, also criticized it. Reasons for the opposition were not based on religious freedom or Muslim women's rights but mainly on the fact that legalizing the ban would be costly and unnecessary since there had been no reports of women wearing burqas or face veils in the whole country.³⁴² The proposal is no longer under consideration.

Local Bans

There are no local bans or proposals for a local ban in Estonia.

Institutional and Private Bans in Practice

No bans under this category were reported.

National Legislation

Estonia's legislative principles on antidiscrimination based on religion and belief are stipulated in the Constitution of the Republic of Estonia (1992, amended 2011).³⁴³ The Equal Treatment Act (2009) further implements the constitutional principle, especially in the field of employment. According to the act, it is against the law to discriminate against a person based on his or her religion and belief through the establishment of conditions for access to

employment, entering into employment contracts, or access to vocational training.³⁴⁴ The law provides strong protection against discrimination based on religion in the fields of employment and vocational education and training. Claims of discrimination are handled by the Equal Treatment and Gender Equality Commissioner's Office or by courts. However, as already mentioned, there have been very few discrimination claims based on religion, and none of them concerned Muslims.

Finland

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	Yes	No

Executive Summary

Muslims in Finland face discrimination and prejudice, as well as physical and verbal attacks, because of their racial, ethnic, and religious backgrounds. The situation became particularly hostile with the rise to power of the radical right Finns Party and was further exacerbated by the 2015 refugee crisis. Negative stereotypes and inaccurate depictions of Muslims pervade the media and permeate public discourse.

Background

There are an estimated 150,000 Muslims residing in Finland, making up 2.7 percent of the total population.³⁴⁵ Even though Islam's history in Finland dates back to the early 19th century, when Tatar Muslims settled in the country that was then part of the Russian empire, it went relatively unnoticed for a long time. Public debates about Islam and the presence of Muslims only emerged relatively late, targeting primarily Muslims who came to the country in the 1980s and 1990s as refugees from the Middle East, Somalia, the Balkans, Turkey, North Africa, the Indian subcontinent and Southeast Asia.³⁴⁶

Attitudes towards Islam more broadly have been surveyed since 1989 and are reported to be consistently negative though stable over the years, despite the increasing presence of Muslim refugees and hardening political context.³⁴⁷ Stereotypes and prejudice against Muslims are prevalent in Finnish national media, including TV shows and public posters. There is also a rise in hate speech and hate crimes targeting Muslims and their places

of worship. The main focus of recent public debates is radical Islamism, often linked to refugees.³⁴⁸ The country saw a sharp rise in anti-Muslim hate speech and hate crimes in 2015 following an increase in the number of refugees applying for asylum in Finland.³⁴⁹

The Finns Party rose to power in 2011 and has propagated much of the recent anti-Muslim rhetoric, with members being convicted of anti-Muslim hate speech on different occasions. Like other right-wing parties in Europe, the party takes a hard anti-immigration and anti-Islam stance evoking a “return” to a more homogenous Finland.³⁵⁰

Even though Islamic clothing is rarely the center of debate, when it is discussed, it is often related to whether Muslim women are able to integrate into Finnish society. In February 2019, the Finns Party Vice President Riikka Purra stated: “We want to prohibit the use of clothing that degrades women like the burqa, niqab veils (sic) as well as veils used by little girls.”³⁵¹

National Bans

Despite the rise in anti-Muslim sentiments and attempts to restrict Islamic clothing by the Finns Party, which seems to play a key role in promoting Islamic clothing restrictions, Finland does not have any legal bans.

[Face Veil]

Proposals: In October 2016, Finns Party MP Vesa-Matti Saarakkala submitted a legal proposal aimed at amending the Finnish Criminal Code to prohibit the wearing of face veils in public places; it included fines for noncompliance. This proposal failed.³⁵²

Previously, in 2013, the Finns Party developed a proposal to legally ban the face veil. The bill was submitted to the Finnish Parliament by Saarakkala and it aimed at banning veils that completely cover the face in public, including imposing fines on offenders. Before submitting this bill, Saaraakkala filed a written question to the Minister of Justice on this issue, seeking criminal legislation against wearing disguises or masks. The minister’s reply rejected such legislation, referring to the constitutional freedom to dress according to one’s own wishes.

Local Bans

Finland does not have any local bans or any proposals for such bans.

Institutional and Private Bans in Practice

[Full-Body Swimsuits]
[Goods and Services]

Access to goods and services: In April 2019, the Nondiscrimination Ombudsperson suggested that all swimming pools in Finland should allow visitors to wear full-body swimsuits and stated that all public pools should build separate showers so that no one is discriminated against.³⁵³

[Both]
[Employment]

Employment: The discourse on discrimination against Muslim employees took a positive turn when the Regional State Administrative Agencies, which monitor employment discrimination in Finland, established that a restriction of clothing associated with religion is illegal according to the Non-discrimination Act (Yhdenvertaisuuslaki 1325/2014). A debate on employees in the education sector who wear the face veil was concluded by reference to the fact that employees are free to choose their outfits. Restrictions relating to work uniforms in Finland can only be justified by hygiene and labor safety.³⁵⁴

[Headscarf]
[Employment]

There have, however, been several cases where Muslim women wearing Islamic clothing were discriminated against in the workplace in Finland. In 2013, there was a case concerning an employee who had her contract terminated by her employer for wearing a headscarf. The case was first taken to the ombudsperson and then to court, where her supervisors were ordered to pay fines. The court decided that the headscarf was not a justifiable reason to annul a contract, as it does not hinder the performance of an employee in packing items or as a salesperson.³⁵⁵

In 2011, a saleswoman was dismissed for wearing a headscarf to work at a Helsinki Guess clothing store. The brand's managers, who claimed that the dismissal was based on the headscarf being ill suited to the company's brand, were fined by Helsinki's District Court for job discrimination in 2014.³⁵⁶

[Headscarf]
[Education]

Education: There was an incident in education that took place in 2014 when a Muslim woman was denied admission to the Finnish police training school for wearing a headscarf.³⁵⁷

[Headscarf]
[Practice]

Bans in practice: A positive decision on headscarves was delivered by the ombudsperson's office in 2017. Female asylum seekers had been forced to remove their headscarves during the registration of their asylum applications, according to a rule issued by the police force. The rule was found to contradict the general rule on what is acceptable in photos for ID cards and passports in Finland. The ombudsperson stressed that there was no

clear reason why headscarves must be removed to register for asylum and called on the police force to reconsider the rule.

National Legislation

Antidiscrimination legislation in Finland is set out in two main sources: The Constitution³⁵⁸ and the Nondiscrimination Act. In both, religion is explicitly a protected right, meaning any unequal treatment is against the law. The Nondiscrimination Act prohibits both direct and indirect discrimination. According to the law, “Discrimination is indirect if an apparently neutral rule, criterion or practice puts a person at a disadvantage compared with others on the grounds of personal characteristics, unless the rule, criterion or practice has a legitimate aim and the means for achieving the aim are appropriate and necessary.”³⁵⁹ In the field of employment, the Employment Contracts Act provides a legal basis to protect employees from being treated less favorably based on their religion and religious manifestation. However, the law still leaves a wide margin for what can be “justified” and thus not constitute discrimination. Accordingly, “an employer must treat all employees equally, unless deviating from this is justified in view of the duties and position of the employees.”³⁶⁰

France

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
Yes	Yes	No	No	Yes	Yes

Executive Summary

France’s 1905 law on the separation of church and state provides the legal and philosophical basis for French *laïcité*—or state secularism. It establishes state neutrality and institutionalizes the freedom of conscience and belief. *Laïcité* was explicitly included in France’s Constitution in 1946 and 1958—originally to stop any kind of interference between the state and organized religion, to guarantee the protection of individual freedom of conscience and belief, and to allow very few limitations to protect public order.³⁶¹ Faced with political and demographic changes, France adopted a much stricter interpretation of *laïcité*, particularly after 9/11, invoking it to justify bans on religious manifestation and to introduce a range of limitations on the freedom of religious minorities, particularly Muslim women.

In 2004, France passed a law banning “conspicuous religious symbols” for public school pupils, thereby expanding the application of *laïcité* from public employees to public service users. The impact was felt mostly by Muslim girls, hundreds of whom left school as a result.³⁶² The European Court of Human Rights found the law was not in violation of the European Convention on Human Rights.³⁶³ In 2011, France was the first country to introduce a national general ban on face coverings in public spaces, a move that was controversially given the European Court of Human Rights’ stamp of approval in *S.A.S. v France* in 2014. In April 2016, France amended its 1983 law on the rights and obligations of public employees that served to justify a ban on religious dress although it did not clearly stipulate this. The amendment clarifies that public employees, in their performance of duties, are bound by the obligation of neutrality and the principle of *laïcité*. Through its August 2016 Labor Law amendment, France permitted private employers to adopt a “stance of neutrality” to justify a ban on religious dress in the workplace. As a result, it has become very difficult for educated Muslim women who wear a headscarf to find employment, pushing them into self-employment.³⁶⁴ This was confirmed as justified by the European Court of Justice in its 2017 joint ruling in the French case *Bouagnaoui v Micropole SA* and the Belgian case *Achbita v G4S Secure Solutions* and, more recently, in the joined cases *IX v WABE eV* and *MH Müller Handels GmbH v MJ*. In August 2021, France introduced a new law, commonly referred to as the Separatism Act, which includes further restrictions on religious dress at the national level. France does not have bans at the local level, although some municipalities have established additional bans on Muslim women’s dress that were subsequently struck down.

Background

Of the 27 EU member states, France has the largest Muslim community. Although there are no exact recent statistics available, it is estimated that approximately 6 million³⁶⁵ Muslims (nearly 10 percent of the population) live in France.³⁶⁶

Anti-Islam sentiment is deeply imbedded in French society. It is tied to the country’s colonial history and is reflected in France’s resistance to Muslim women’s veils.³⁶⁷ Islamophobia, in its current form, took shape mostly in the 1980s, when France’s ethnic minorities started demanding equal economic, social, and political rights, culminating in the 1983 March for Equality and Against Racism. Nicknamed the March of the Arabs (“la Marche des Beurs”), it was preceded by various minority worker strikes, a surge in racist attacks and murders, as well as police brutality against

minorities. The far-right party, Front National (FN),³⁶⁸ also made a political breakthrough for the first time, reshaping the debate from one about a lack of equality into one about minorities' unwillingness to integrate.

Influenced by the popularity of FN, the government, led by Prime Minister Jacques Chirac, launched a national debate about identity and integration. The following years were characterized by social tensions, leading to multiple uprisings as well as a revival of the debate over the Muslim veil starting with the affaire in Creil.³⁶⁹ International events (such as the Gulf War, the Salman Rushdie affair, and later 9/11³⁷⁰), made it easier to delegitimize the demands for equality and basic rights by citizens of minority background (many of whom are Muslim). The “Muslim problem” came to replace the “immigrant problem.”³⁷¹ Islamophobic discourse and measures increased and grew more popular.

A key turning point leading to state-sanctioned discrimination of Muslims occurred from 2002 to 2004, when the debate on identity and integration shifted to one about the Muslim headscarf under President Chirac. This resulted in a legal ban on religious signs for public school students. The ban cleared the path for more state-sanctioned restrictions on headscarves, face veils and other clothing worn by Muslim women, including in private employment and public space.

In 2015, France faced its deadliest terrorist attack claimed by ISIS on the Paris nightclub Bataclan and in a Paris suburb on November 13, prompting President Hollande to declare a State of Emergency. Prior to these attacks, public debate had already intensified and violence against Muslims had significantly increased following the terrorist attack perpetrated by Al-Qaeda affiliates earlier that year (January 7) on the satirical weekly *Charlie Hebdo*.³⁷² Yet, it was not until the Paris attacks that the conflation of Muslims with terrorism truly underpinned the government's response. The French Parliament approved exceptional measures to counter violent extremism that led to thousands of abusive and discriminatory raids and house arrests disproportionately targeting Muslims.³⁷³ French Muslims faced increased verbal abuse and physical assaults, the overwhelming majority of documented victims being women.³⁷⁴ President Hollande's statement in January 2015 hailing France as “an implacable opponent of racism, of anti-Semitism, of Islamophobia³⁷⁵” was overshadowed by his extension of the State of Emergency and proposal of measures such as citizenship stripping and drastic increases in police and border patrol officers in November 2015.³⁷⁶ While the State of Emergency technically ended on November 1, 2017, President Macron had already permanently inscribed the exceptional powers into law by then. Such measures were aimed at “[s]trengthening

homeland security and the fight against terrorism,”³⁷⁷ curtailing fundamental rights and freedoms and creating suspicion around Muslim places of worship and ordinary Muslim practices in an effort to prevent terrorism.³⁷⁸

Following President Macron’s call for a “society of vigilance” to fight against the “Hydra” of Islamist militancy³⁷⁹ in October 2019, former minister of interior Christophe Castaner called on the French people to report “weak signals of radicalization.” These included “having a beard; an exaggerated practice of religion especially during Ramadan; ostentatious prayer; not kissing the opposite gender; and not wanting to work with women.”³⁸⁰ Everyday Muslim practices were identified as potential signs of terrorist activities, with Muslim communities being presented by the government and media outlets as implicitly responsible for terrorist attacks.³⁸¹ Castaner’s successor as minister of interior, Gérald Darmanin, went even further by launching a crackdown on Muslim human rights defenders and civil society organizations seeking to fight against discrimination and empower Muslims, particularly women, in France. As such, Darmanin labelled the Collective Against Islamophobia in France (CCIF), an organization providing legal support to Muslims in discrimination—including many religious dress ban cases—an “Islamist office against the republic” and “an enemy of the Republic.”^{382, 383} Darmanin issued CCIF with a dissolution notice, which the Council of State, France’s top administrative court, approved in September 2021.³⁸⁴ Prior to this, the hostile environment created by the Minister of Interior’s office had already led to the voluntary self-dissolution of the CCIF.³⁸⁵ Darmanin also requested that the European Commission withdraw its funding from a French organization working with Muslim women, Alliance Citoyenne, based on unfounded allegations, which the European Commission refused to do.³⁸⁶ Most recently, Darmanin approved the dissolution of another organization, Coordination contre le Racisme et l’Islamophobie (CRI).³⁸⁷ These are only several examples of organizations targeted by the government. Many other groups have also reported receiving dissolution orders and attacks.³⁸⁸

In August 2021, France adopted the “Law of 24 August 2021 reinforcing respect for the principles of the Republic,” commonly known as the Separatism Law, which sets out stark measures that target France’s Muslim population. What sets this act apart is its explicit qualification of Muslim practices as “separatist” and their prohibition as precursors of violence, as well as Macron’s aim—despite French secularism—to “free from foreign influence” an Islam he claims “is in crisis all over the world.”³⁸⁹ The act was proposed in response to continued violence, including the attack on Paris Police Headquarters in November 2019, gaining further momentum after the

murder of teacher Samuel Paty in October 2020.³⁹⁰ It is worth noting that the act was first referred to as the “anti-separatism” bill, a term Macron has used to refer to radical Islamists withdrawing from mainstream society, and later renamed as the Act “to strengthen respect for republican principles and to combat separatism,” which clearly speaks to its primary objective.^{391, 392}

The act includes measures that demand neutrality in organizations that collaborate with public services, allows the government to exert more control over charities and nongovernmental organizations, and requires authorization for home schooling.

The above-mentioned developments have been reinforced by a marked shift to the right in France’s political discourse. With political attacks on Muslims being mainstreamed by the political majority, they have at times even gone beyond the rhetoric traditionally associated with the far right.³⁹³ This is most evident in the controversy around what has been labeled “Islamism-leftism” (“Islamism-gauchisme”), a catch-all phrase used to pejoratively describe left-wing, anti-racist activism, accusing it of justifying Islamism and even terrorism.³⁹⁴ “Islamism-leftism” has been described as “wreaking havoc”³⁹⁵ in French academia by Minister of Education Jean-Michel Blanquer, who also stated the headscarf is “not desirable in society.”³⁹⁶ Minister of Higher Education Frédérique Vidal launched an inquiry into the “totality of research underway” in France, with a focus on post-colonialism and “Islamism-leftism” from the National Center for Scientific Research (CNRS). While the CNRS complied with the ministry’s request to conduct the research, it strongly condemned attacks on academic freedom, particularly “attempts to delegitimize various fields of research, such as post-colonial studies, intersectional studies or research on the term ‘race’”, stating that “Islamism-leftism” is a “political catchphrase” and “not a scientific reality.”³⁹⁷

What also sets France apart in Europe is the regular recurrence of national controversies, or rather spectacles, surrounding Muslim women who wear a headscarf in public domains where they supposedly should not be wearing such attire,³⁹⁸ drawing more and more attention from international observers.³⁹⁹ Most recently, in 2020, a French parliamentarian from Macron’s La République en Marche (LREM) party walked out of a parliamentary inquiry because of the presence of a student union leader wearing a headscarf. A similar debate occurred in 2018 when a national student leader appeared on television with her headscarf.⁴⁰⁰ A young Muslim influencer posting on social media about cooking on a budget was met by racist comments from a *Le Figaro* journalist linking her to 9/11, provoking a public outcry and widespread condemnation.⁴⁰¹ In 2019, a mother wearing a headscarf accompanying a group of students to the meeting of a regional

council was attacked by an elected member of FN.⁴⁰² These are but a few examples from a long list of incidents.

The above outlined developments in the national debate on religious dress, somewhat surprisingly, do not appear to be always in line with public opinion: although 23 percent of non-Muslims living in France believe individuals should have no restrictions placed on their choice to wear religious clothing and an additional 51 percent think there should be no restrictions involved so long as the clothing does not cover the face, this supermajority seems to have little effect on the law regarding religious covering as it pertains to public schools.⁴⁰³

National Bans

National general bans:

[Face Veil]

With full support from President Nicolas Sarkozy,⁴⁰⁴ France was the first country to legalize a ban on Islamic face veils in any “public space” when, in April 2011, the act On the Prohibition of Concealing the Face in Public Space (Loi 2010-1192 du 11 Octobre 2010 Interdisant la Dissimulation du Visage dans l’Espace Public)⁴⁰⁵ entered into force. Article 1 of the act stipulates that “no person may conceal their face in public.” “Public space” is defined in Article 2(1) of the act as “public roads and places open to the public or of government service.”⁴⁰⁶ It required unprecedented efforts to define the legal contours of this novel concept of “public space.”⁴⁰⁷ Exceptions apply, as defined in Article 2(2) of the act, when the concealment of the face is required or permitted by law, when it is justified by health or professional reasons, or when it is part of a sporting activity or an artistic or traditional event.⁴⁰⁸ The exception for festivities and traditional events has been interpreted to exempt many Catholic traditions that require covering the face, such as costumes worn during Carnival and the annual Sanch Procession in Perpignan.⁴⁰⁹

In light of the COVID-19 pandemic and resultant mask mandates in public spaces in France, such as on public transportation, the push by activists to repeal the 2011 face covering ban has been made with increased furor.⁴¹⁰ Although the masks fall under the medical exception written into the statute, the double standard has led to renewed scrutiny of the underlying rationales for the face veil ban itself.⁴¹¹ Satvinder Juss—the applicant’s attorney in *S.A.S. v France*—and others in the legal community have signaled a desire to bring new challenges, on the basis of the COVID-19 mask mandate.⁴¹²

According to estimates,⁴¹³ between 350 and 2,000 women in France wore full veils in 2010. Although it remains difficult to know their exact numbers,

it has always been a small minority of Muslim women who wear the face veil. This raises a question of the legitimacy of enacting a law that only targets a limited number of people but affects many French Muslims who view this law and accompanying debates as another attack on Islam. While the law makes no reference to Muslim dress, it is commonly referred to as the law on the burqa or full veil.⁴¹⁴ This is highlighted by the parliamentary commission's task to consider a potential ban that specifically prohibits the full veil (*voile intégral*), instead of a ban that prohibits all face coverings in public spaces.⁴¹⁵ The diverging rationales given by the French High Courts for upholding the national ban on face coverings further highlight the controversial nature of such a general ban: The Council of State judged that a ban such as this would not have indisputable legal grounds and could amount to a violation of the Constitution and the European Convention on Human Rights.⁴¹⁶ The Constitutional Council, on the other hand, concluded the ban was in accordance with the Constitution and was therefore justified.⁴¹⁷

The penalty for violating the above-mentioned provisions, including wearing a face veil, is a fine of €150. Another sanction, which can be either separate or in addition to the fine, is a requirement to take part in citizenship classes.⁴¹⁸ Forcing a woman to cover her face is punished more severely, with the possibility of a fine of up to €30,000.⁴¹⁹ During the period from April 2011 until March 2016, there were 1,726 official checks, resulting in 1,644 fines and 82 warnings.⁴²⁰

[Headscarf]

Proposals: A draft of the recently adopted Separatism Act included a provision to prohibit minors from wearing headscarves in public spaces following additions made to the draft bill by the senate in its first reading in March 2021. The addition was not included in the final act.⁴²¹

[Face Veil]

Case law: In *S.A.S. v France* (No. 43835/11), the ECtHR ruled that the national ban on face veils in public spaces did not violate the ECHR. A Muslim woman had complained that the national ban prevented her from wearing a face veil, which interfered with her religious faith. The Court held that the national ban had a legitimate aim and did not infringe upon a Muslim woman's right to private life (Article 8) or freedom of religion (Article 9). With regard to the prohibition of discrimination (Article 14), which was read together with Articles 8 and 9, though the Court recognized the negative impact of the ban on individuals wearing Islamic clothing, it held that the ban was reasonably justified. Accordingly, no violation of Article 14 was found. In its reasoning, the ECtHR rejected the French government's argument that a threat to public safety justified the ban, as there was no evidence of a general threat to justify such a ban and a woman

wearing a face veil could always be asked to identify herself when needed. The Court also rejected equality between men and women as a potential justification for the ban, as the practice of wearing a face veil was defended by women themselves, including the applicant. As a result, the ECtHR disqualified almost every argument commonly used to justify religious dress restrictions. Instead, the Court used the idea of “living together” (“vivre ensemble”) as a legitimate aim of the ban, justifying that it does not violate the ECHR. This rationale has come under attack during the COVID-19 pandemic, which required everyone to wear face masks. Even though *S.A.S. v France* challenged French law, it was significant beyond French borders, as its effect resonated with other countries in Europe, such as Belgium and Austria, which subsequently imposed or proposed similar bans within their territories.

In 2018, the United Nations Human Rights Committee found in *Yaker v France*, in which the applicant had been subjected to criminal fines for wearing a face veil, and its companion decision *Hebbadj v France* that the concept of “living together” is “very vague and abstract.”^{422, 423} The Committee stated that “[t]he right to interact with any person in a public space and the right not to be disturbed by the fact that someone is wearing the full-face veil are not protected by the Covenant.”⁴²⁴ The Committee further held that, because the French ban disproportionately affects Muslim women who choose to wear the face veil and creates a distinction between those women and others who may legally cover their faces in public, it is not necessary and proportionate to a legitimate interest. The ban thus constitutes a form of “intersectional discrimination based on gender and religion” and violates Article 26 of the Covenant.⁴²⁵ The Committee concluded that there was a violation under Articles 18 and 26 of the Covenant and that France has an obligation to provide an effective remedy and report to the Committee within 180 days.⁴²⁶

National specific bans:

[Both]
[Public Employment]

Public employment: In 2016, France amended Article 25 of its 1983 law (Loi 83-634) on the rights and obligations of public employees. According to Article 25, as amended, public employees are bound to perform their duties with dignity, impartiality, integrity, and probity as well as neutrality and *laïcité*. Public employees must thus refrain from expressing their religious views in the performance of their duties. This applies to employees of all public institutions—including government administrations of all levels, public education, the judicial system, law enforcement, public hospitals, and all other public services. While Article 25 was only amended to include a specific reference to neutrality and *laïcité* in 2016, it has long been accepted

that public employees are not permitted to wear religious symbols at the workplace. While there was no legal basis for this in the strict sense, it appears to have been based on rulings by the Constitutional Council (86-217 of December 18, 1986, and 96-380 of July 23, 1996) on neutrality being a fundamental principle of public service. In the area of education, additionally, the Council of State held that manifesting one's own religious beliefs is a breach of the "duty of strict neutrality that is required of every employee working in a public service" (91-406 of December 8, 1996). In addition, the Council of State set out in its Opinion of May 3, 2020 (217017), in response to the dismissal of a secondary school study supervisor who wore a headscarf, the principles of secularism and neutrality that apply to all public services, stating that "it follows from the constitutional and legislative texts that the principle of freedom of conscience and that of the secular nature of the State and the neutrality of public services apply to all those services".

The recently adopted Separatism Act modified Article 25 to include that public employees shall be trained in the principle of *laïcité*. In addition, the new law sets out in Article 1 that the observance of *laïcité* extends from public sector employees to all private contractors of public service.

[Headscarf]
[Public Employment]

Case law: In 2015, the ECtHR held in *Ebrahimian v France* (No. 64846/11) that the national ban in public employment was not in violation of the ECHR.⁴²⁷ The plaintiff had contested her employer's decision not to renew her work contract at a public hospital, because she would not agree to remove her headscarf at the workplace. The Court ruled in favor of the hospital's decision and found no violation of Article 8 of the ECHR. The Court weighed the right to wear a veil as a manifestation of religion against the requirement of neutrality imposed on public officials and decided that it was necessary to uphold the state's secularity and protect others from religious influence or partiality.⁴²⁸

Public Education:

[Both]
[Public Education]
[Pupils]

Pupils: In 2004, a national ban on Muslim headscarves, face veils, and other "ostentatious" religious symbols (i.e., large but not small crosses, the headscarf, the turban, and the kippah) at state primary and secondary schools was adopted. The ban, known as the Law Regulating, in Application of the Principle of Secularism, the Wearing of Signs or Clothing Expressing Religious Affiliation in Public Schools and Colleges (Loi encadrant, en application du principe de laïcité, le port de signes ou de tenues manifestant une appartenance religieuse dans les écoles, collèges et lycées publics) Act of March 15, 2004, amended the original legal definition of secularism to

restrict students' fundamental right to manifest one's religion. The new ban was controversial—it received significant political and public support but also sparked public debate and mass protests. The ban was supported by the Stasi Commission, which had been tasked by President Chirac with examining the application of *laïcité* to different sectors in France. The commission consulted different stakeholders both inside and outside France before it came out with its recommendation to adopt a ban in schools of “ostentatious” religious symbols.⁴²⁹ However, one opponent stood out: sociologist and *laïcité* expert Jean Baubérot, the sole member of the Stasi Commission who did not support the ban. Baubérot mainly saw in it a fear of Islam and stressed that *laïcité* is a matter of behavior, not of dress.⁴³⁰

The series of events leading up to the introduction of the ban started with the expulsion of three Muslim girls in Creil who refused to remove their headscarves in class in October 1989.^{431, 432} In September 1994, the Minister of Education François Bayrou published a circular allowing pupils to wear “discreet” religious signs that express a personal conviction while at the same time allowing schools to ban “ostentatious” signs that are intrinsically “proselytizing” and “discriminatory.”⁴³³ It was understood that this circular referred to the Muslim headscarf. There was legal action taken against it, but the Council of State rejected a claim to annul it (No. 162718).

In the first two years following the introduction of the ban, its application resulted in dozens of expulsions as well as at least 96 students voluntarily choosing to leave school. These numbers do not capture Muslim children who have felt negatively impacted by the law's effects: at least 806 children reported to have suffered as a result of the 2004 law, even without consequently feeling the need to leave school. Sikh boys, who traditionally wear turbans over uncut hair, have also been negatively impacted by the law: a survey of 42 Sikh students in the Bobigny region of Paris found that over half felt humiliated and singled out after it went into effect.⁴³⁴

Case law: On December 5, 2007, the French Council of State rejected several claims of Sikh and Muslim pupils who were expelled for wearing religious dress, which went against the ban on religious dress in French public schools (No. 285395, No. 295671, No. 285396, No. 285394). More recently, the Paris Administrative Court of Appeal held that religious dress also includes the wearing of a headband and a long skirt. Although not part of traditional Islamic dress, according to the court, this type of clothing is “ostentatious” and needed to be banned. The case involved a Muslim pupil and her family, who sued her school authorities for first segregating her from her class and then expelling her. The reason given by the school was that the

student wore a five-centimeters-wide, black headband and a long skirt to school, which the school's authorities considered "religious" dress.⁴³⁵

Legal action against the headscarf ban in public education has been taken to the European Court of Human Rights in several instances: *Dogru v France* (No. 31645/04); *Kervanci v France* (No. 27058/05); *Aktas v France* (No. 43563/08); *Bayrak v France* (No. 14308/08); *Gamaleddyn v France* (No. 18527/08); *Ghazal v France* (No. 29134/08). The plaintiffs challenged the ban on their wearing of headscarves at schools on the basis that it violated their freedom of religion, based on Article 9 of the European Convention on Human Rights. Even though the judgments vary slightly in each case, in general, the ECtHR confirmed the ban's conformity with the Convention and found no violation of Article 9.

Prior to the 2004 law, the first related court case that received extensive national press coverage took place in 1989, when three Muslim girls were expelled from a public school in Creil for refusing to remove their headscarves. The Council of State stated that wearing the headscarf was not by itself incompatible with the principle of secularism, which in fact guarantees pupils' freedom of conscience. This principle does not, however, entail the freedom to adopt symbols that "by their very nature or by the context in which they are worn individually or collectively, or by their ostentatious or protesting nature, would constitute an act of pressure, provocation, proselytization or propaganda."⁴³⁶ The Council of State stressed that this freedom can be restricted on a case-by-case basis, but did not provide any guidance on how schools should decide what religious symbols may be considered "ostentatious" or "protesting." Instead, the Court determined that lower courts should oversee the decisions on a case-by-case basis.⁴³⁷

Numerous legal cases arose from 1989 onwards until the late 1990s following the expulsion of pupils for wearing headscarves and the adoption of rules banning religious symbols in general. Lower courts came out with diverging opinions, with some classifying the headscarf as "a sign of obedience to a foreign and extremist religion," "proselytizing," or "ostentatious," and thus potentially disruptive; others disqualified a general ban as an infringement of the right to freedom of belief with no evidence provided to justify it.⁴³⁸ Based on its previous advice, the Council of State from 1992 to 1997 overturned many decisions to expel Muslim girls from school because they wore a headscarf, especially general bans where there was no evidence of any kind of disturbance, pressure, or proselytization, and thus no justification.⁴³⁹ It also confirmed decisions to expel pupils refusing to remove their headscarf when there were specific grounds to justify it—such

as, for the proper functioning of a physical education class⁴⁴⁰ or because pupils disturbed order in the school by taking part in protests.⁴⁴¹ Given the sensitivity the issue of the Muslim headscarf had acquired, cases involving university students also came before the Council of State. Here, too, the Council overturned decisions to refuse students entry merely on the basis that they wore a headscarf.⁴⁴²

[Both]
[Public Education]
[Parents]

Mothers accompanying pupils: In 2012, the education minister issued a memo recommending that the “neutrality of public service” should also be upheld during school trips. The memo left it to schools to decide whether mothers accompanying groups of pupils on such trips would be allowed to wear headscarves or not.⁴⁴³ In September 2013, the Council of State, following an intervention by the “Defender of Rights”, a constitutional independent authority with competence on non-discrimination and the promotion of equality (“Défenseur des droits”), issued an opinion stating that parents accompanying school trips are “users” rather than “agents” or “collaborators” of public service and thus not subject to the requirement of religious neutrality. However, linked to the proper functioning of public education, the Ministry of Education may recommend that parents accompanying school trips refrain from showing their religious affiliations or beliefs.⁴⁴⁴

Proposals: Several attempts have been made to introduce legislation placing religious dress restrictions on mothers accompanying school trips, which would disproportionately impact Muslim women who choose to wear the headscarf. Legislation proposed in May 2019 would, in part, ban mothers from wearing religious symbols in such instances.⁴⁴⁵ The bill passed in the Upper House of Parliament but was eventually blocked via an alteration by parliamentary commission.⁴⁴⁶ While the education minister has opposed the ban on parents wearing head coverings while accompanying school outings,⁴⁴⁷ he wants to prevent mothers wearing headscarves to assist during school outings “as much as possible.”⁴⁴⁸ The restrictions on mothers recently found their way into the new “Separatism Bill.” Against the government’s recommendations, the senate voted to add several measures on religious dress restrictions in its first reading of the bill in March 2021, which include provisions prohibiting women accompanying school trips from wearing headscarves. The new law also imposes restrictions on homeschooling. This effectively removes an alternative for Muslim women and girls who chose to opt out of formal education because of religious dress restrictions, and worship practices in public higher education institutions.⁴⁴⁹

Case law: On June 9, 2015, the Administrative Court of Nice decided that mothers who wish to accompany their children on school outings could not

be refused the opportunity to do so because they wear headscarves (No. 1305386). The Court held that mothers, just like students, should be regarded as users of public education. Restrictions on the freedom to express their religious beliefs could thus only result from specific legislative bans on this matter, considerations linked to public order or the proper functioning of the public education system.⁴⁵⁰

Sports:

[Headscarf]
[Sports]

Proposals: The Senate has made several attempts to restrict religious dress in sports. In January 2022, the Senate voted in favor of amending a proposed law to ban “conspicuous religious symbols,” including the headscarf, in sports competitions organized by sports federations and associated organizations. The Senate added the amendment, first proposed by the right-wing group Les Républicains and opposed by the French government, to the “Bill aimed at democratizing sport, improving the governance of sports federations and securing the conditions for professional sport.”^{451, 452} It justified the proposed amendment with upholding neutrality as a requirement on the field of play and protecting the safety of athletes wearing religious dress.⁴⁵³ In December 2021, senators from Les Républicains had already tabled the “Bill to ensure respect for the principles of secularism in sports,” which includes the same wording as the above-described amendment on conspicuous religious signs and adds that the rules for the collective use of public swimming pools and baths shall guarantee the respect of the principles of neutrality of public services and secularism.⁴⁵⁴ In April 2021, the Senate had tried to include amendments on restrictions on religious dress in sports in the Separatism Act, which were rejected by the Assembly.⁴⁵⁵

Local Bans

[Full-Body Swimsuits]
[Goods and Services]

France does not have separate legal bans on traditional Islamic clothing at the local level. Although not necessarily part of traditional Islamic clothing, full-body swimsuits worn by Muslim women, also known as “burkinis,” were briefly banned by several cities in France, including Nice, Villeneuve-Loubet, Cannes, Frejus, and Roquebrune.⁴⁵⁶ In Grenoble, civil society organisations have launched a campaign to challenge the local ban on full-body swimsuits.⁴⁵⁷ A large number of public and private swimming pools have also introduced restrictions on full-body swimsuits.⁴⁵⁸

Case law: In August 2016, the Council of State, overruled the ban on full-body swimsuits in Villeneuve-Loubet due to its violation of fundamental freedoms of worship, movement and personal freedom. The Council of State stressed that there had been no evidence of any risks to public order that

have resulted from the way people had dressed on the beaches of Villeneuve-Loubet. The ban was therefore lifted, but again sparked heated debate over the clothing of Muslim women in France.⁴⁵⁹ As such, the Ministry of the Interior has stated that public authorities may take appropriate action to restrict the wearing of full-body swimsuits, where these cause “disturbances,” provided that they carefully weigh the the need to maintain public order against constitutionally guaranteed freedoms, including the freedom of religion.⁴⁶⁰

Institutional and Private Bans in Practice

[Both]

[Private Employment]

Private employment: In August 2016, the French government adopted a new amendment to the French Labor Code allowing private employers to include the “principle of neutrality” in their internal regulations in order to restrict employees from manifesting their beliefs, including the wearing of headscarves or face veils.⁴⁶¹ Article L. 1321-2-1 of the labor code states that this restriction must be justified by the required protection of other fundamental rights and freedoms or the proper functioning of the enterprise, and must be proportionate to this aim. While private employers already had institutional bans in place prior to this amendment, it provided a legal framework to justify such bans.

The amendment was introduced after several failed attempts to expand the requirement of strict neutrality, which is already applied only to public services, to the private sector. In 2003, the Stasi Commission had already included in its recommendations a clear call to extend restrictions on religious practices to private companies through changes to the labor code.⁴⁶² This was reiterated by the High Council on Integration (Haut Conseil à l’intégration) amidst the controversial *Baby Loup* case in September 2011.⁴⁶³ Several legislative proposals had previously been submitted to demand neutrality in childcare services or any private service working with minors, but all drew strong opposition and were never adopted as law.⁴⁶⁴

The amendment has led to increased pressure on businesses to take a stance against religious dress. In 2019, French retailer, Decathlon, reversed its decision to sell sports headscarves in its stores in France after public backlash.⁴⁶⁵ Following a letter by the mayor of Mandelieu-la-Napoule asking the retail clothing store chain H&M to prohibit employees from wearing headscarves at work, the retailer responded that its policy is to allow employees to wear and dress as they wish within the limits of the law and that, by wearing a headscarf, employees are not breaking any rules.⁴⁶⁶

[Headscarf]

[Private Employment]

Case law: On April 14, 2021, the Court of Cassation ruled for the first time on the right of a shop employee to wear a headscarf (No. 479). The Court held that it was discriminatory to dismiss the employee in question for wearing a headscarf, as the employer—the shop Camaïeu—did not have a general neutrality policy in place and failed to show that the dress restrictions imposed on the employee were justified by the nature of the tasks performed by her and proportionate to the aim pursued. Relying on the CJEU’s ruling in *Asma Bougnaoui and Association de défense des droits de l’homme (ADDH) v Micropole SA*, outlined below, the Court argued that concern over the business’s image and the wishes of its customers would not be sufficient to meet these requirements.⁴⁶⁷

On March 14, 2017, the CJEU ruled that an employer’s willingness to take into account the wishes of a customer who did not want to work with a woman wearing a headscarf does not constitute a “genuine and determining occupational requirement”⁴⁶⁸ that would justify the employer’s restrictions on religious dress in *Asma Bougnaoui and Association de défense des droits de l’homme (ADDH) v Micropole SA*, Case C-188/15. The applicant, Asma Bougnaoui, a design engineer, had been ordered by her employer to remove her headscarf at work following a complaint by a customer. In a parallel judgment delivered alongside it, C-157/15 (*Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v G4S Secure Solutions NV*), the CJEU found that restrictions on religious dress imposed by the employer at the work place are justified if the employer has a policy of neutrality.⁴⁶⁹ Based on these rulings, employers may not dismiss employees because their headscarves upset a customer, but they may do so if they have decided to pursue a policy of neutrality.⁴⁷⁰ This is in line with the labor law outlined above.⁴⁷¹

In 2014, the Court of Cassation had first ruled that, while neutrality and secularity do not apply beyond the public sector, reasonable restrictions may be applied to an employee’s freedom of religion, if those restrictions are proportionate and justified by the nature of the job. The restrictions in question had been put in place on its employees by a daycare center, Baby Loup, as part of its policy on secularity and neutrality. According to the Court, in a daycare center, where all employees have contact with small children, it is important to adhere to the general obligation of religious neutrality for the children’s freedom of conscience. Baby Loup’s restrictions on the freedom to manifest one’s religion under its policy on secularity and neutrality was found to be precise, justified by the nature of the work, and proportionate to the aim.⁴⁷² Baby Loup’s dismissal of Fatima Afif, a social worker at the daycare center, in 2008 for wearing a headscarf in violation of

the daycare center's policy was found to be lawful. The Court of Cassation's ruling followed legal proceedings over several years, starting in 2010 with a referral to France's equality body (HALDE), which found the dismissal unlawful. The case was then brought before the Labor Court (Prud' Hommes) in 2010 and later to the Court of Appeals of Versailles in 2011. Both courts confirmed the decision of the equality body. In 2013, the Court of Appeals of Paris found that the restriction was justified based on the secular nature of the job.

In 2018, the UN Human Rights Committee disagreed with the Court of Cassation's ruling.⁴⁷³ The Committee found Baby Loup's internal policy to be discriminatory and in violation of the applicant's freedom of religion and discrimination based on her gender and religion. The restriction on religious dress and its enforcement thus constitutes a form of intersectional discrimination. According to the committee, the restriction was not objectively justified, as no evidence was provided to show what specific harm would be averted by prohibiting the employees to wear a headscarf at the daycare center. The committee found that the employee's dismissal without severance was not a proportionate measure. In addition, the committee stated that Baby Loup's internal policy might lead to "stigmatization of a religious community." The committee called on France to provide Fatima Afif with adequate compensation for the harm suffered, including her loss of employment, and to reimburse her legal costs.

[Headscarf]

[The Judiciary]

The judiciary: Several bar associations in France, including those in Paris, Bordeaux, and Lille, have introduced restrictions on lawyers wearing symbols manifesting religious, community, philosophical or political affiliation when acting in their professional capacity.⁴⁷⁴ The Lille Bar Association introduced the restriction following an incident with a Muslim law student, who had been told that she could not participate in her swearing in ceremony wearing a headscarf. The student lawyer filed an appeal against the regulation, which was rejected by the Douai Court of Appeal in July 2020. The appeal was declared inadmissible, as only decisions by the bar association that are likely to prejudice the professional interests of a lawyer, which the student lawyer was not yet considered to be, may be referred to the Court of Appeal under Article 19 of Law 71-1130. The Court of Cassation rejected the student lawyer's request to refer to the Constitutional Council the question whether Article 19 provides effective judicial remedies, as student lawyers are excluded from it. The court has not yet ruled on the question of the validity of the bar association's neutrality clause.

A number of bar associations have relied on different justifications to support the restrictions on religious dress, often pointing to the independence

of the profession and the equality amongst all lawyers. The Conference of the Presidents of the Bar (Conférence des Bâtonniers)) has argued that lawyers act on behalf of their clients and that the wearing of a gown “is a sign of erasing what is personal to them to the benefit of the client.”⁴⁷⁵ When acting on behalf of their client, it is argued, lawyers should thus not use their gown as “a billboard for political, philosophical or religious affiliations” and wear “only the gown and nothing but the gown.”⁴⁷⁶

It should be noted that the apparent incompatibility of manifestations of religious beliefs with the lawyer’s oath has only become a mainstream argument since the beginning of the 21st century. Its application has mainly focused on Muslim female lawyers wearing a headscarf. As shown by the developments in Lille, the restrictions have also been applied to students taking the “petit serment,” a swearing in ceremony for student lawyers ahead of the practical year of their legal education, with further reported instances in Nancy and Montpellier of students being asked to remove their headscarf in order to participate in the ceremony.⁴⁷⁷ In 2015, a teacher at the Paris Bar School (Ecole de Formation du Barreau de Paris) demanded that a student lawyer remove her headscarf during a class on ethics and, following the student’s refusal, the teacher began to undress stating that his own religion was “naturism.”⁴⁷⁸ There has also been debate around the use of the “toque,” a traditional hat French lawyers used to wear until the 1970s. A Muslim lawyer in Bobigny was told to leave the courtroom in 2016 for wearing the “toque” after having been told to remove her headscarf.⁴⁷⁹ Concerns arose that the “toque” might become a sign of religious affiliation. The Barristers Association (Conférence des Bâtonniers) adopted a resolution in 2016 that the “toque” had become obsolete.⁴⁸⁰

[Headscarf]

[Not-for-profit
Organizations]

Not-for-profit organizations: The French Football Federation, the non-profit organization governing football in France, bans women from wearing headscarves in official club matches and international games, which is contrary to the rules of football’s international governing body, FIFA, which lifted its ban on headscarves in 2014.⁴⁸¹

[Public Services]

Public services: In November 2019, there was public outcry in response to a Catholic nun being told she could not wear religious attire as a resident in a state-run retirement home. The Observatory of Secularism later stated that the retirement home had incorrectly interpreted *laïcité* and that religious neutrality restrictions only applied to state employees and public servants on the job, not the general public. Bans are thus only put in place when they are “objectively disturbing public order.”⁴⁸²

National Legislation

In France, national legal protections against discrimination and religious freedom are provided by both the Constitution and statute law. In particular, the right to religious freedom is protected by the French Constitution 1958, which states that the country is a secular republic and the state “shall ensure the equality of all citizens before the law,” regardless of religion, and it will respect all beliefs.⁴⁸³ The French Labor Code (Code du Travail) provides the next layer of legal protection, in which the principle of nondiscrimination is a core aspect.⁴⁸⁴ The law prohibits punishing or dismissing employees, excluding job seekers from the recruitment process, or imposing direct or indirect discriminatory measures on the grounds of, *inter alia*, their gender and religious belief.⁴⁸⁵ However, in 2016 the law was amended to include Article L1321-2-1,⁴⁸⁶ a provision that allows private enterprises to adopt the principle of “neutrality” in their internal regulations, restricting the manifestation of beliefs by employees.

Germany

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	Yes	No	Yes	Yes	No

Executive Summary

Over the past 20 years, against a backdrop of increasing Islamophobia, religious dress bans targeting Muslim women have developed through a series of local and national laws. At the federal level, while there are no laws restricting Islamic dress for the general public, there are restrictions for civil service professions.⁴⁸⁷ At the local level, German states have the autonomy to regulate religious dress. Several have passed laws restricting religious dress for Muslim women in public schools and the judiciary. Federal courts have issued rulings that limit some of these laws, particularly in relation to blanket bans on teachers wearing headscarves. However, the treatment by courts of laws targeting Muslim women varies. For example, legislative restrictions placed on trainee lawyers wearing headscarves still apply. With strong constitutional protections of the right to freedom of belief and against discrimination, German courts have pushed back against private employers adopting religious dress bans that disproportionately affect Muslim women with headscarves. The CJEU recently ruled on two preliminary references

from German courts on religious dress restrictions in private employment, allowing German courts to rely on more favorable national provisions in their assessment of the appropriateness of a difference of treatment indirectly based on religion or belief. Thus, the situation in Germany for Muslim women remains uncertain and many continue to face discrimination, but the courts tend to uphold strict protections as well.

Background

Germany's Muslim community makes up approximately 5 percent of the population.⁴⁸⁸ In 2019, Pew Research reported that "44 percent of Germans see a fundamental contradiction between Islam and German culture and values[.]"⁴⁸⁹ In addition, a 2015 study found that 57 percent of Germans "view Islam as a threat."⁴⁹⁰ Against this backdrop, Muslim women who wear religious dress in Germany face a wide range of discriminatory treatments in various fields. A study by the Institute for the Study of Labor (IZA, 2016) found that women in Germany who wear headscarves are more likely to face discrimination when applying for a job.⁴⁹¹ A report by the national antidiscrimination body confirms this finding, and outlines contributions from civil society about good practices, including the adoption of institutional guidelines and awareness raising campaigns, in addressing discrimination against Muslim women.⁴⁹²

The first proposal for a headscarf ban came from Die Republikaner (REP), a right-wing conservative party in Baden-Württemberg, in 1998.⁴⁹³ When the question of teachers being allowed to wear headscarves in public schools first came before the Federal Constitutional Court in 2003, the public debates around it demonstrated that bans on religious dress had widespread support among various public figures, politicians, judges and citizens. Baden-Württemberg's education minister at the time called the headscarf a symbol of political Islam and cultural demarcation that stands for the oppression of women.⁴⁹⁴ Political and legal debates about headscarf and face veil bans have increased ever since and enjoy relatively wide coverage by both international and national media.⁴⁹⁵ The push for bans has become stronger with the support of the far-right Alternative für Deutschland (AfD) that wants to introduce bans on face veils and headscarves in public spaces, which it argues, just like Islam, do not "belong in Germany."⁴⁹⁶

Muslim women are increasingly becoming targets of Islamophobic attacks. Research shows that verbal and physical incidents against Muslim women have become more violent. Physical abuses include cases where women had their headscarves pulled down or were beaten up.⁴⁹⁷ In 2009, Marwa el-

Sherbini, a Muslim woman who wears the headscarf, was the victim of hate speech. When she took her assailant to court, he stabbed and murdered her in the court room during his appeal hearing. The murder received international attention and El-Sherbini became known as the first “hijab martyr.”⁴⁹⁸ Discrimination against Muslim women in general and those who wear religious dress in particular, happens in both the public and private sectors, especially in the field of education and employment.⁴⁹⁹ Since 2003, eight federal states have adopted various bans on religious dress, though these have largely been amended to exempt Muslim teachers in recent years. Such bans have reportedly promoted misperceptions and prejudices of employers toward veiled Muslim women, resulting in increased discrimination in the workforce. Employers also tend to avoid recruiting women wearing the headscarf claiming potential economic damages, though they often fail to provide concrete evidence of such damages.⁵⁰⁰

The legal landscape in Germany is actively changing. The information below represents the current state of affairs, but recent decisions and attention on the issue suggest that additional changes could be coming soon as municipalities adapt to federal court rulings. The CJEU’s recent ruling in two preliminary references will also guide future case law in private employment.

National Bans

At the federal level, Germany has no laws that ban Islamic headscarves or face veils among the general public.

[Face Veil]

National specific bans: Since June 2017, a national law prohibits civil servants, judges, and soldiers from covering their faces at work except for health and safety reasons.⁵⁰¹ Specifically, it prohibits the wearing of face coverings while performing official duties. It also prohibits off-duty soldiers from wearing face coverings when inside government facilities or military quarters.⁵⁰² Germany’s ruling coalition justified the ban with reference to the neutrality required of state functionaries, which religious and ideological face coverings contradict. In addition, it argued that face coverings would impair the trusting communication between civil servants and citizens and thus negatively impact people’s confidence in the civil service and, by extension, the state.⁵⁰³

[Both]

In June 2021, Germany’s parliament adopted new legislation regulating the dress and appearance of civil servants.⁵⁰⁴ The law permits state authorities to ban certain items of clothing (including Muslim head coverings, Jewish yarmulke, and Sikh turbans), symbols, jewelry, and tattoos, as well as certain

hair and beard styles, if they interfere with “the duty of respectful and trustworthy behavior.”⁵⁰⁵ In practice, the law is expected to particularly affect Muslim women who wear the headscarf.⁵⁰⁶

Local Bans

The 16 German states (or *Bundesländer*) enjoy full autonomy in the regulation of religious symbols within their territory. In other words, the authority to introduce legislation on religious symbols does not rest with the national government but with the individual state. Local bans have primarily targeted schools and courthouses.

[Both]

Local specific bans: Since 2005, Berlin’s Neutrality Act (“Gesetz zu Artikel 29 der Verfassung von Berlin”) has prohibited civil servants and public employees, including teachers, from wearing religious dress and symbols. While the legislation does not specifically mention Islamic headscarves or face veils, Muslim women have been disproportionately affected by it.

Three states (Bavaria, Rhineland Palatine, and Lower Saxony) have state laws banning students from wearing face veils in schools.⁵⁰⁷ In addition, it has been reported that Baden-Württemberg has adopted a similar law, although the law has not yet been officially published.⁵⁰⁸ Lower Saxony’s law is vague but prohibits clothing that would “significantly hamper communication.”⁵⁰⁹

[Headscarf]

Case law: A ruling by Germany’s highest court, the Federal Constitutional Court, from March 2015 is currently the leading judgment on religious dress restrictions for teachers in state schools. The Court held that general headscarf bans could not be justified unless it can be proven that the headscarf poses a concrete threat to a school’s peace or to the state’s duty of neutrality.⁵¹⁰ Accordingly, a blanket ban on headscarves and other visible religious symbols for teachers at state schools violates freedom of religion and, being disproportionate, is incompatible with the constitution. The case was brought by two teachers in North-Rhine Westphalia who had received a written warning and were dismissed respectively for wearing headscarves in application of the state’s Education Act. The Court held that North-Rhine Westphalia’s Education Act had to be interpreted restrictively. The Court also declared void a clause in the Education Act that exempted manifestations “of Christian and Western education and cultural values or traditions” from the prohibition of expressing religious beliefs by outer appearance.⁵¹¹

Prior to the ruling of the Federal Constitutional Court in 2015, several states had in place legislation banning religious symbols in public schools, often

with exemptions for Catholic and Jewish symbols. This included Baden-Württemberg, Bavaria, Berlin, Bremen, Hesse, Lower Saxony, North Rhine-Westphalia, and Saarland. The states had been prompted to adopt such legislation following a ruling by the Federal Constitutional Court in 2003. In that case, Fereshta Ludin, a secondary school teacher who was born in Afghanistan and became a German citizen in 1995, was denied a position in the Baden-Württemberg's public school system because she intended to wear a headscarf in class.⁵¹² The Stuttgart School Authority explained that the headscarf was a political symbol that could not be reconciled with the requirement of neutrality on the part of the state.⁵¹³ On appeal, the Federal Constitutional Court found that there was "no sufficient statutory basis" in Baden-Württemberg's current law for a ban on teachers wearing a headscarf.⁵¹⁴ The Court failed to provide legal grounds and guidance on when a ban is legally sufficient and invited states' legislatures to redefine the "admissible degree of religious references" allowed at schools. This led to several states enacting legislation varying in ground and scope, as outlined above. Following the ruling of the Federal Constitutional Court in 2015, however, seven out of the eight states that adopted legislation to this effect made amendments to allow Muslim teachers to wear headscarves. Berlin remains the only state to have declined to repeal or amend its "Neutrality Act" from 2005.

Berlin's "Neutrality Act" has recently come under increased pressure in the courts. In February 2017, Berlin's Labor Court ruled in favor of a Muslim woman rejected from a teaching job in an elementary school for wearing a headscarf in violation of Berlin's "Neutrality Act." The Court referred to the Federal Constitutional Court's 2015 decision, including the proportionality requirement of headscarf restrictions, to test whether or not a teacher wearing a headscarf posed a danger to a school's peace. The state claimed to have offered the teacher a compromise by allowing her to wear a wig, which was assumed to be more "ideologically neutral."⁵¹⁵ The teacher received €8,680 in compensation. After the teacher was awarded compensation, the state of Berlin appealed the decision. In August 2020, the Federal Labor Court sided with the regional court, holding that the ban was discriminatory. Like the Berlin Labor Court, the Federal Labor Court also cited the 2015 Federal Constitutional Court decision, holding that freedom of religion could not be restricted due to "abstract danger."^{516, 517} The Berlin "Neutrality Act" thus has to be interpreted in conformity with the constitution.

The 2020 Labor Court ruling did not invalidate the Berlin "Neutrality Act." Unless the Act is repealed or amended, women may thus have to continue to go to court to assert their rights. The continued risk is shown by a decision of

the Berlin Labor Court in May 2018, which notably preceded the recent ruling of the Federal Labor Court, but shows the different judicial outcomes at regional levels. The Berlin Labor Court ruled that the decision of the state of Berlin to transfer a teacher wearing a headscarf to a secondary school, against her wishes to teach at a primary school, was in accordance with the Berlin “Neutrality Act.”⁵¹⁸ The Court found that the “Neutrality Act,” which prohibits teachers with headscarves being allocated to primary schools, did not violate constitutional provisions.⁵¹⁹

While there has been an increased political push to change Berlin’s “Neutrality Act” following the ruling of the Federal Labor Court in 2020, many Berlin elected officials still strongly support the ban.⁵²⁰ Despite the continued existence of the “Neutrality Act,” advocates saw the Federal Labor Court’s ruling as a “huge win” since it declared a general ban on headscarves discriminatory and it is expected that the state of Berlin will abide by the Court’s decision.⁵²¹ The Coalition Against Professional Ban (Bündnis #GegenBerufsverbot) is pushing the state to inform employers about the decision through a large-scale public information campaign.

[Headscarf]
[The Judiciary]

The judiciary: There is a continuing controversy over the right to wear headscarves in court, particularly the right of legal trainees to wear headscarves. The case law on this topic does not follow the same path as the case law concerning the right to wear headscarves in schools.

Several states have enacted laws banning religious dress for court officials. Baden-Württemberg, Bavaria, Hesse and, most recently, North Rhine-Westphalia, have headscarf bans in the judiciary that apply to judges, prosecutors, and legal trainees.⁵²² Lower Saxony has similarly banned individuals performing judicial or prosecutorial duties from wearing items of clothing expressing a religious conviction.⁵²³ Three other federal states—Brandenburg, Rheinland-Pfalz, and Schleswig-Holstein—discussed a ban but were unable to obtain parliamentary approvals.⁵²⁴ The bans followed calls from judges to show “neutrality” and prevent the risk of religious dress undermining confidence in the legal system.⁵²⁵

Case law: In February 2020, the Federal Constitutional Court ruled that a ban prohibiting trainee lawyers from wearing headscarves in court in the state of Hesse was constitutional on the basis of religious neutrality. The case concerned a legal trainee who wears a headscarf. She was instructed that when wearing a headscarf, she would be barred from performing any tasks in the course of which she might be perceived as a representative of the justice system. The court ruled in favor of the state, holding that while there were conflicting legal interests, none sufficiently outweighed the other and

thus the legislature's decision to establish a law on "neutral conduct" for legal trainees was constitutional.⁵²⁶

After the decision of the Federal Constitutional Court, the heads of the Joint Legal Examination Office of Berlin and Brandenburg and the Court of Appeal of Berlin decided to permit trainee lawyers to wear the headscarf as of August 2020. The instructor must sit next to the trainee lawyers and it must be clear that the instructor is responsible for the sovereign tasks—apparent by the fact that the instructor wears a robe and the trainee lawyer does not.⁵²⁷ Notably, Berlin's actions appear to have been a response to the 2020 Labor Court ruling regarding headscarves in schools, and not to the Federal Constitutional Court ruling on the legal trainee in Hesse.

Another case involving a legal trainee was decided by the Federal Administrative Court in December 2020. The case originated in 2014, when the state of Bavaria forbade a legal trainee from wearing a headscarf while undertaking "official activities with external impact," such as observing the public prosecutor's session or questioning witnesses.⁵²⁸ In 2018, years after the complainant's traineeship had concluded, the state of Bavaria enacted two statutory provisions that, taken together, banned religious symbols for legal trainees, judges, and other judicial officers.⁵²⁹ Notwithstanding the Federal Constitutional Court's recent decision upholding such statutes, the Federal Administrative Court held that there had been insufficient statutory and constitutional basis for the ban at the time of the complainant's legal traineeship, and granted declaratory relief in her favor.⁵³⁰

It was in reaction to this decision by the Federal Administrative Court that the national parliament enacted the "Law Regulating the Appearance of Civil Servants," which authorized state governments to ban certain items of clothing, jewelry, religious symbols, and hair and beard styles worn by civil servants while undertaking official activities.⁵³¹

Institutional and Private Bans in Practice

[Headscarf]

[Public Employment]

Public employment: A Muslim woman who was hired to work in a childcare facility by the social welfare service (Arbeiterwohlfahrt, AWO) in South Hesse, was told not to come in after two days of work because she wears a headscarf.⁵³² A lawyer for AWO confirmed that women wearing headscarves were allowed to work in other positions but not in childcare.⁵³³ Despite the woman being qualified and there being a need for childcare workers, AWO could not employ her with a headscarf.⁵³⁴ The case was settled before the Frankfurt Labor Court. The plaintiff received €500 from

[Headscarf]

[Private Employment]

AWO, though AWO stated that the compensation was not an acknowledgement of discrimination based on religion.⁵³⁵

Private employment: Generally, German high courts have been protective of the right to freedom of religion in private employment settings, setting quite high standards against the discrimination of Muslim women who wear a headscarf.

The CJEU recently ruled on two preliminary references, *IX v Wabe e.V.* and *MH Müller Handels GmbH v MJ*, pertaining to private employers instructing their employees, a special needs assistant and a sales assistant, to remove headscarves in line with company policies on neutrality.⁵³⁶ The CJEU upheld the decision in *Achbita v G4S Secure Solutions*, stating that internal rules banning all signs of belief do not constitute direct discrimination when uniformly applied to all employees, though the Court stipulated that employers would need to show a genuine need for such a rule. The wishes of customers or the avoidance of social conflicts between employees may serve to satisfy such a need. More specifically, the employer would need to show that it would suffer adverse consequences without a policy of neutrality in relation to its freedom to conduct business. Contrary to the opinion issued by Advocate General Athanasios Rantos, the Court ruled that prohibiting only large, conspicuous symbols of belief may constitute direct discrimination. Lastly, the Court held that more favorable national provisions protecting freedom of religion may be taken into account, such as Article 4(1) of the German Basic Law, requiring limitations to the freedom of religion and conscience to be justified by demonstrating specific, rather than general risks, in the assessment of the appropriateness of a difference of treatment indirectly based on religion or belief.

A Muslim woman who had been working as a salesperson in a department store since 1989 was fired when she expressed her intent to start wearing a headscarf for religious reasons to her employer. In July 2003, the Federal Constitutional Court ruled that this constituted wrongful termination of employment whereby the fundamental right to freedom of belief was violated, and refused to overturn a previous ruling of a state court that reached a similar conclusion. Although it acknowledged that both the rights of the employee and employer have weight, the employer had not shown how the practicing of the right to religious freedom by the employee led to operational problems or economic losses to the employer.⁵³⁷

A woman in Berlin went to court when she was refused a traineeship as an assistant at a dental practice because she wore a headscarf. In October 2012, the Berlin Labor Court judged this was religious discrimination as the

woman's headscarf was an expression of her beliefs and thus protected by her right to religious freedom. The judge rejected the claim that the headscarf posed a hygiene risk to patients because there was no higher chance to transmit bacteria through a scarf than through human hair (a position the German Society for Hospital Hygiene later confirmed in 2015).⁵³⁸ The dental practice also claimed it had the right to "religious neutrality," but the judge rejected this as it was not a religious institution.⁵³⁹

Despite the fact that it had become more common for women to wear headscarves in dental and other health practices, in October 2016 a dentist in Stuttgart refused a Muslim woman a job stating they do not hire women who wear headscarves. He went on to have said, "We do not employ women who wear headscarves and do not understand how applicants envision this tolerance," a statement for which he later apologized. The dentist then claimed he refused the woman for reasons of hygiene. The woman sued the dentist for damages.⁵⁴⁰

[Headscarf]
[Practice]

Bans in practice: There have been instances of Muslim women wearing headscarves being denied entry to the courtroom, which have not been subject to court rulings. In 2017, a district court judge in Brandenburg refused to allow a Syrian woman to appear in court with a headscarf during divorce proceedings against her husband for which her presence in court is mandatory. In a letter to the woman's lawyer, the judge claimed religious attire is prohibited in court and that she could face sanctions if she does not comply.⁵⁴¹ The judge was subsequently declared biased, as there is no such law, and the woman was allowed to wear a headscarf.⁵⁴² The ECtHR has since held in *Lachiri v Belgium* that the exclusion of a woman, who was a civil party to the case, from the courtroom on grounds that she wore a headscarf constitutes a breach of religious freedom protected by Article 9 of the Convention.

In September 2013, a Berlin court judge refused to allow a Muslim woman lawyer to appear in court wearing a headscarf, but was met with resistance from the Berlin Bar Association that threatened to take the matter to the Constitutional Court. The president of the bar association stated that lawyers exercise a private profession and, unlike state prosecutors or judges, are not required to abide by the same neutrality laws that forbid the wearing of religious dress or symbols.⁵⁴³

National Legislation

Equality and religious freedom are core principles of German legislation, both in constitutional and statutory law. The German Constitution (

Grundgesetz für die Bundesrepublik Deutschland, 1949) provides solid grounds for these principles in Article 3, “equality before the law”; Article 4, “freedom of faith and conscience”; Article 12, “freedom of profession”; and Article 33, “access to public offices regardless of religion, denomination or conviction.” The articles explicitly prohibit discrimination based on, *inter alia*, gender and religious belief and/or faith. Article 4 further stresses the protections against discrimination on the grounds of faith and religion by providing that the right “shall be inviolable,” and especially, “the undisturbed practice of religion shall be guaranteed.” Furthermore, the constitution prohibits discrimination based on “religious affinity” in relation to access to public offices, and the enjoyment of both civil and political rights are independent of religious affiliation.⁵⁴⁴ In addition, the General Equal Treatment Act (2006) plays an important role in German antidiscrimination legislation, which forbids discrimination based on various grounds, including gender and religion in the field of employment.⁵⁴⁵ The General Equal Treatment Act transposed the Race Equality Directive 2000/43/EC into domestic law, though the European Commission has raised concerns about the act’s conformity with European Union law.⁵⁴⁶ The act has been criticized for its insufficient protection against discrimination in public institutions.⁵⁴⁷

Greece

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

While the topic of Muslim women’s head coverings entered the public conversation after France enacted a headscarf ban in 2004, no national face veil or headscarf ban has been proposed yet. There have been anecdotal reports of Islamophobic harassment and attacks directed at women in Muslim dress, as well as headscarf bans in practice. Greece’s discourse around Islam and Muslims in recent years has focused primarily on two issues: Muslim sacred sites—specifically the Mosque of Athens and a Muslim cemetery—and the arrival of refugees in Greece.⁵⁴⁸ Islamophobia in Greece is most visible in right-wing politics, media, and among some Christian Church figures.

Background

Muslims make up approximately 2 percent of the country's total population.⁵⁴⁹ Though the Muslim population is heterogenous, scholars have identified two distinct communities: the ethnically Turkish Muslim minority that has long lived in and around Thrace, and immigrants that arrived since the collapse of Communism in neighboring Albania in 1991.⁵⁵⁰

Public anti-Islam discourse that emerged after 9/11 has been exacerbated by the recent refugee crisis in Europe, and features narratives about terrorism, violence, and the "clash of civilizations."⁵⁵¹ It is uniquely intertwined with anti-Turkish sentiment, with Turkey seen as the pathway by which many Muslim migrants reach Greece and a threat in its own right as a Muslim country.⁵⁵²

The Islamic head covering was not an issue until 2004 when France banned headscarves at public schools and institutions.⁵⁵³ The debate has intensified in the past few years. However, the discourse has not reached the official forums of policymakers, lawmakers, or judges.⁵⁵⁴

There have been indications that Muslim women in Greece, especially those who wear Islamic clothing, face attacks and harassment in their daily lives.⁵⁵⁵ Additionally, there was a string of violent attacks against refugees in Athens and on the island of Lesbos in 2018.⁵⁵⁶ However, such incidents are difficult to verify as Islamophobic attacks because official reports record racist and xenophobic attacks without identifying possible religious motivations. Greece also lacks an observatory authority charged with reporting Islamophobic incidents.⁵⁵⁷ There are no reports of legal cases on the issue.

Issues of great concern to Greek Muslims were the absence in Athens of official prayer spaces, leaving them to meet in warehouses or basements to pray, and a lack of Muslim burial grounds.⁵⁵⁸ In 2006, parliament approved the construction of a state-run Mosque of Athens, which would accommodate 350 worshippers out of the city's 200,000-person Muslim community.⁵⁵⁹ The project was delayed by protests and legal challenges from nationalist groups, but the mosque was finally completed and opened in 2020.⁵⁶⁰ There is still no Muslim cemetery in Athens, so the city's Muslims transport their dead to Thrace in northern Greece for burial.

National Bans

Greece has no national bans on headscarves or face veils. There are no proposals being considered.

Local Bans

There are no local bans or proposals for a ban at the local level in Greece.

Institutional and Private Bans in Practice

[Headscarf]

Reports by women detained at the Petrou Ralli migrant detention center suggest that the facility enforces a headscarf ban, despite the lack of an official policy banning head coverings. Observers who visited the facility in 2019 quoted one detained woman: “When we came here, they forbade us to wear our headscarves and told us: ‘Out of here you can be Muslim. Here, NO! Here you are Christians.’”⁵⁶¹ The observers described this as “a characteristic testimony.”⁵⁶²

A letter written by women from six different countries detained at Petrou Ralli, describing inhumane conditions and abuse at the facility, referred to “Alla from Syria, whose headscarf is pulled from her head.”⁵⁶³

National Legislation

Greece’s national legislation providing protection against discrimination on the grounds of religion is regulated by the Greek Constitution. The constitution states that “all persons living within the Greek territory shall enjoy full protection of their life, honor and liberty irrespective of nationality, race or language and of religious or political beliefs.”⁵⁶⁴ Article 13 further confirms that the enjoyment of civil rights and liberties is independent of one’s religion. The constitution also stresses that the same protected grounds apply to the private sector. Article 25 provides that private employers must respect the constitutional rights of their employees, including the right to equality, regardless of religious beliefs. National legislation that implements the constitutional principles has been enacted in recent years. In 2014, an antiracism law was passed (4285/2014, FEK A 191) that introduced penalties for those who expressed views and ideas that could lead to acts against minority groups, including religious ones. In addition, Law 4356/2015 was passed in 2015, which regulates the establishment of a committee, called the National Board against Racism and

Intolerance. One of the board's missions is to monitor the implementation of existing antiracism laws.⁵⁶⁵

Hungary

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

Islamophobia in Hungary is closely tied with the country’s discourse around immigration, which has shifted dramatically to the right in recent years. The Fidesz-KNDP right-wing nationalist party, which has dominated the Hungarian Parliament since 2010, has kept its anti-immigrant stance at the top of the political agenda, and public opinion is increasingly and overwhelmingly anti-immigrant and anti-Muslim.⁵⁶⁶ Nevertheless, the Hungarian Parliament has neither enacted nor proposed any legislation restricting Muslim women’s dress. The only such restriction at the local level—a municipal ban put in place in 2016—was struck down by Hungary’s Constitutional Court.

Background

Islam has been a recognized religion in Hungary since 1916. A 2017 Pew Research Center survey estimates the number of Muslims in Hungary at 40,000 or about 0.4 percent of the total population.⁵⁶⁷

The EU’s refugee crisis transformed the public discourse about Muslims in 2015.⁵⁶⁸ As a result, Muslims in Hungary are increasingly experiencing discrimination in their daily and professional lives.⁵⁶⁹ Muslim women who wear headscarves or veils, in particular, reported frequent verbal and physical attacks.⁵⁷⁰ While hate crimes against Muslims in the country have increased,⁵⁷¹ no incidents of discrimination against Muslim women who wear religious clothing have been reported.

Wearing headscarves or face veils in public is not an issue of public debate. The only relevant topic that dominates public debate is about the migration of Muslims, and this has sparked stronger anti-Islam feelings within the country.⁵⁷² A highlight of this discourse was the remark made by Prime Minister Viktor Orbán, who referred to the constitution (known as Basic Law) when he declared that “Islamization is constitutionally banned in Hungary.”⁵⁷³ This remark was mostly directed at the increase of migrants coming to Hungary and does not constitute a ban on Islam or the wearing of Islamic clothing in the country. On another occasion, Orbán referred to

immigrants as “Muslim invaders,” and said that “the Hungarian people . . . don’t want any migration.”⁵⁷⁴ Reports suggest that many migrants have passed through Hungary on their way to other European countries, but that very few have remained in Hungary.⁵⁷⁵

National Bans

At the national level, Hungary has no legal bans or proposals for a ban on Islamic clothing.

Local Bans

At the municipal level, there are no legal bans on Islamic dress.

[Face Veil]

There was a short-lived decree that banned the wearing of all forms of face veils, including burqas and full-body swimsuits issued in Assothalom, a town of 4,000 people. The ban was put forward by Mayor László Toroczka and was declared official in November 2016. Punishment for violation was a fine of 150,000 forint (or US\$686).⁵⁷⁶ However, in April 2017, Hungary’s Constitutional Court struck down the ban as unconstitutional stating that the local government cannot adopt legislation that restricts basic rights.⁵⁷⁷

Institutional and Private Bans in Practice

There were no bans reported under this category.

National Legislation

National legislation that provides protection against discrimination in Hungary is set out in two main laws: The Constitution of Hungary⁵⁷⁸ and Act CXXV of 2003 (amended 2006) on Equal Treatment and the Promotion of Equal Opportunities (the Equal Treatment Act). Both declare the prohibition of discrimination on the basis of, *inter alia*, sex and religion. The Equal Treatment Act goes further to prohibit different forms of discrimination, including direct and indirect negative discrimination, harassment, unlawful segregation, retribution, and any orders on committing such acts of discrimination.⁵⁷⁹

Ireland

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	Yes	No

Executive Summary

Amid a rise in Islamophobia in Ireland, Muslim women have been assaulted in public for wearing head coverings. While official statistics only record a small number of Islamophobic hate crimes, Muslim groups have pointed to problems of underreporting and inaccuracies in the reporting of such cases. In 2018, schools recognized under the Education Act were prohibited from using an applicant's religion in deciding whether to admit them. However, it is not clear whether this would prohibit schools from banning Muslim students who wear head coverings. A 2010 guideline from the Roman Catholic Church permits Roman Catholic secondary schools to prohibit Muslim students from wearing face coverings at school. In relation to employment discrimination, there has only been one reported case of a Muslim woman challenging an employer's head covering policy. She lost her claim—in which she alleged harassment by her employer for prohibiting her from covering her head—on procedural grounds.

Background

As of 2016, there were about 63,400 Muslims in Ireland, who make up approximately 1.3 percent of the population. The community is believed to have grown by 14,200 members over the five years from 2011 to 2016.⁵⁸⁰ Muslims are known to experience hostility and discrimination in Ireland.⁵⁸¹ Although underreported, anti-Muslim incidents occur across multiple settings, ranging from classrooms to workplaces, from public transport to shops and restaurants.⁵⁸²

In 2019, the Irish government published official data on hate crimes via a submission to the Organization for Security and Co-operation in Europe (OSCE) for Democratic Institutions and Human Rights,⁵⁸³ indicating that Islamophobia is a problem. However, Islamic organizations have highlighted that many cases are not included in the official reports, which has led to efforts by the Irish police to improve reporting and recording of hate crimes.

According to a media survey, while Muslims consider Ireland to be more accommodating to their religion than other European countries, they still

experience Islamophobic discrimination and hostility.⁵⁸⁴ In particular, Muslim women were more than twice as likely to face discrimination and hostility compared to Muslim men. Further, Muslim women in Islamic clothing were found to experience violence and stigmatization more frequently than women not wearing religious dress.⁵⁸⁵ In May 2019, a woman's headscarf was torn off her head as she was attacked while shopping in a supermarket in Limerick.⁵⁸⁶ In December 2015, media widely reported on a patient in Tallaght-Dublin refusing to get medical treatment from a Muslim consultant wearing a headscarf, highlighting the negative attitudes toward those who wear headscarves.⁵⁸⁷

Public debate on headscarf bans pervades political discourse in Ireland and is driven by the anti-Muslim rhetoric of political actors. In May 2019, Joe O'Callaghan, a former lord mayor of Cork, called for a ban on Islamic face coverings during the run-up for local elections. He stated that face coverings were "a joke in this day and age" and believed it to be a "question of security and integration." In August 2019, Gemma O'Doherty, a leading public figure and far-right activist who ran unsuccessfully in both the European election and national parliamentary by-elections, proclaimed that headscarves "should be burned."⁵⁸⁸

The public debate on religious dress traces back to June 2008, when Ruairi Quinn, a politician from the Labour Party, made a public announcement that Muslim girls should not be allowed to wear headscarves in public schools. He commented that wearing headscarves is an unacceptable form of religious manifestation, which does not conform to the norms of Irish culture. The statement stirred controversies and debates nationwide.⁵⁸⁹ The debate over restrictions on Islamic headwear continues to dominate academic and political forums and has attracted much media attention in Ireland. In 2014, a Muslim university professor Dr. Ali Selim called on Catholic schools to allow their Muslim pupils to wear headscarves and to tailor the uniform to accommodate the needs of Muslim students, claiming that "wearing the headscarf is a divine obligation for Muslim girls."⁵⁹⁰ Selim's views were, however, rejected by the Islamic Foundation of Ireland and the Islamic Cultural Centre of Ireland—the official body for Islamic education in Ireland, which stated that Catholic school managements have "made wonderful efforts to make their schools as inclusive as possible without losing their own ethos." In August 2019, a senior lecturer at University College Cork, Dr. Amanullah De Sondy, reported on social media that he had received personal threats on his office phone after he had spoken against Islamophobia and the need to speak out against all forms of hate.⁵⁹¹

In response to the CJEU decisions that it is not necessarily discriminatory for private employers to prohibit religious clothing, 100 Muslim women congregated in Dublin to protest the European Court's ruling, claiming that the decision would estrange Muslim women even more by allowing employers to ban headscarves—an integral part of a Muslim woman's identity—in the workplace.⁵⁹²

National Bans

Currently, there are no legal bans or official proposals to ban the headscarf or face veil in Ireland.⁵⁹³

Local Bans

No legal bans at the local level have been implemented or proposed in Ireland.⁵⁹⁴

Institutional and Private Bans in Practice

[Face Veil]
[Education]

Education: In 2010, an official guideline was circulated to 450 Roman Catholic secondary schools in Ireland permitting them to prohibit Muslims from wearing face veils at school. The restriction was worded in a way that respects all religions but indicates that it is “unsatisfactory for a teacher not to be able to see and engage properly with a pupil whose face was covered.” The guideline exempted religious symbols or garments that do not cover the face (i.e., the headscarf) from the restriction.⁵⁹⁵ The guideline reportedly caused many Catholic schools to ban the face veil. The exact number and names of those schools remain unclear. It is important to note that the guideline does not constitute a legal ban on the face veil in Ireland, but rather grants individual schools autonomy to decide the dress code within their administration.⁵⁹⁶

[Headscarf]
[Private Employment]

Private employment: In 2016, the Workplace Relations Commission issued an adjudication decision on a Muslim woman's claim against her employer for harassment when she was allegedly asked to remove her religious headscarf three times. However, as the claim was filed more than six months after the event, it was dismissed on the basis that the complainant had failed to advance compelling reasons for the delay in making her complaint.⁵⁹⁷

[Headscarf]
[Public Employment]

Public employment: In 2019, the Irish police service An Garda Síochána modified its uniform policy to allow service members of different faith backgrounds to wear religious clothing, including the headscarf for Muslim women.⁵⁹⁸

National Legislation

Legal protection from discrimination against Muslim students was established under the Education (Admission to Schools) Act 2018 which amends the Education Act 1998 and prohibits schools from using a student's religion as a basis for admission. Schools that provide religious instruction or education are not allowed to prioritize students based on their religious belief apart from students of that religion who are looking for admission to a school that provides religious instruction or education consistent with, or similar to, their religious beliefs. However, a school that aims to promote certain religious values can refuse to admit a student not of that religious denomination insofar as it can prove that the refusal is essential to maintain the ethos of the school.

In employment, in accordance with various EU directives,⁵⁹⁹ national legal protection from discrimination on the grounds of religious belief is set out in two main sources: the Irish Constitution⁶⁰⁰ and the Employment Equality Acts of 1998–2015.⁶⁰¹ According to these laws, it is illegal to discriminate against employees based on their religion, which includes “religious belief, background, outlook or none.”⁶⁰²

Italy

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	Yes	Yes	No

Executive Summary

In recent years, right-wing political parties such as The League or Brothers of Italy have created a hostile and vilifying discourse around Muslims and enhanced anti-Muslim sentiments by linking Islam with terrorism and fanaticism in their political statements.⁶⁰³ These remarks have resulted in anti-Muslim marches and in racial assaults and hate crimes, which have been directed disproportionately at Muslim women. Nevertheless, no national ban on Muslim women wearing face veils is currently in place, although some regions and towns have enacted their own bans, one of which has recently been upheld by the Milan Court of Appeal.

Background

According to a 2019 study conducted by research center IDOS that specializes in migration and asylum, roughly 1.7 million Muslims are living in Italy⁶⁰⁴, accounting for 3 percent of the population. Different reports by academics and NGOs⁶⁰⁵, newspaper articles,⁶⁰⁶ and polls⁶⁰⁷ report widespread anti-Muslim prejudice in Italy. A 2017 Pew research study showed that 35 percent of Italians affirm that Muslim women should not be allowed to wear religious clothing.⁶⁰⁸ A study conducted by Amnesty International in 2020 reported that 67 percent of hate speech found in Italy on Twitter, Facebook, or other social network posts were Islamophobic.⁶⁰⁹ Muslims are also the subject of stigmatizing and racist remarks,⁶¹⁰ particularly in public statements and policy proposals of mainstream right-wing political parties such as The League (formerly the Northern League).⁶¹¹

Despite being underreported, instances of discrimination against Muslims are numerous.⁶¹² Muslim women in Italy are particularly likely to be targets of Islamophobia, with a study finding that 70 percent report having been victimized.⁶¹³ Those who wear Islamic headscarves are more likely to be subjected to discrimination and stigmatization.⁶¹⁴ Immigrant women from Muslim-majority countries display the lowest level of employment compared to other groups of immigrants.⁶¹⁵ Muslim women who wear any form of religious clothing in the workplace find it difficult to find a job that

involves contact with customers. Some Muslim employees compromise by taking off their headscarf in the workplace.⁶¹⁶

National Bans

The question of the face veil and the headscarf did not feature prominently in national political debate until a bill to ban the face veil was tabled in parliament in 2011, though the bill never passed.⁶¹⁷

[Face Veil]

Italian legislation does not ban religious clothing in public places. However, Article 5 of the Law on the Provisions for the Protection of Public Order, No. 152 of 22 May 1975 (Law 152/1975) has often been misinterpreted as a national ban on face veils. The provision, which was published during a period of frequently violent political and social turmoil in Italy called the Years of Lead (Anni di Piombo) in the 1970s,⁶¹⁸ prohibits the use of helmets or clothes “which aim to prevent the identification of the person without just cause, in a public place or in a place open to the public.”

In 2008, the Council of State ruled on the scope of Article 5 in a case that involved an ordinance issued by the mayor of Azzano Decimo, which identified the face veil as prohibited clothing under the 152/1975 law. The Court invalidated the ordinance and ruled that Article 5 excluded religious garments because “they do not aim at preventing the identification of the person, but are rather part of the tradition of some peoples and cultures.” It determined that a person may, however, be asked to remove their face veil upon request by public authorities for security reasons to allow personal identification. Despite the ruling, mayors of several towns, including Novara, Treviso, and Drezzo, continued to issue misleading ordinances, which were eventually invalidated for contradicting Council of State precedent.⁶¹⁹

After the ruling on the ordinance issued by the mayor of Azzano Decimo, Souad Sbai and Manlio Contento, members of parliament from the People of Freedom Party, proposed amendments to Article 5 of the law 152/175 to explicitly ban the face veil. Their bill also suggested imposing a fine on those who violate it. The bill was approved by the Constitutional Affairs Committee in 2011, but not by parliament.⁶²⁰

In January 2017, the regional councilor of Veneto, Alberto Villanova, announced that his regional government would like to submit a bill imposing a prohibition on wearing the face veil throughout Italy. His reason was that “the burqa is a symbol of submission and oppression.”⁶²¹ The statement has not materialized in an actual bill.

In addition, there were several attempts to reintroduce the restriction on face veils put forward by the Ministry of Interior through two circular letters in 1995 and 2000, as well as a charter of citizenship values and integration in 2007. The common ground among the documents is that religious clothing is allowed as long as it does not cover the wearer's face. The documents are not legally binding.⁶²²

Local Bans

[Face Veil]

Local specific bans: The first legislative ban at the municipal level came into force in December 2015, when the regional government of Lombardy passed a law that prohibits the use of face coverings that could conceal the wearer's identity in public buildings, including government offices and hospitals.⁶²³ Following Lombardy was the Veneto Region, which approved a similar law in June 2017.⁶²⁴

It has been reported that several towns in Italy have imposed fines on women wearing face veils, despite having no laws regulating the matter. In 2010, a woman was fined for visiting a post office while wearing a full-length face veil in the town of Novara. The fine was imposed under a municipal ordinance introduced by Novara's Northern League mayor.⁶²⁵ In November 2016, another Muslim woman was fined for refusing to remove her face veil in a town hall in Pordenone.⁶²⁶

Case law: In 2016, several associations challenged the ban on face coverings in Lombardy, including its implementation through signs outside public buildings and hospitals showing images of people wearing helmets, balaclavas, and face veils and declaring that it was forbidden to enter with any such head covering for security reasons. In April 2017, the Court of Milan dismissed the appeal. The judge ruled that forbidding Muslim women to wear veils in hospitals and public offices, is a "disadvantage for people adhering to a given religion," but that the prohibition is not discriminatory because it is "objectively justified by a legitimate aim, reasonable and proportionate with respect to the value of public security."⁶²⁷ In October 2019, the Court of Appeal of Milan upheld the ban, reasoning that "the 'disadvantage' imposed on women who wear the veil for religious motives was proportionate and reasonable, due to its being limited in time and location and justified on the grounds of public safety."⁶²⁸

Institutional and Private Bans in Practice

[Headscarf]

[Employment]

Women have reportedly faced discrimination in employment as a result of wearing a headscarf, particularly in the healthcare sector. The Association of

Doctors of Foreign Origin in Italy (Associazione medici di origine straniera in Italia) has reported increased racial discrimination against healthcare professionals in recent years. There have been several instances, primarily in Veneto, Trentino-Alto Adige, Lombardia, and Campania, of patients requesting to be treated by “Italian healthcare professionals” and complaining about employees wearing headscarves.⁶²⁹ This has led to women who wear headscarves either not being hired or being dismissed, prompting many of them to leave Italy and pursue a medical career elsewhere.⁶³⁰ While it appears that employers did not justify such decisions with explicit references to religious dress restrictions, these developments have at times amounted to a prohibition on the headscarf for healthcare professionals in practice.⁶³¹

In 2018, a Muslim legal trainee was asked to leave a hearing of the Administrative Court in Bologna after refusing the judge’s request to remove her headscarf. After the legal trainee left the courtroom, the judge explained that it was a question of respect for Italian culture and tradition. The judge’s decision prompted the president of the Regional Administrative Court of Emilia Romagna to assure the legal trainee that she would be able to participate in all future hearings wearing a headscarf to manifest her religious faith. The Association of Young Lawyers (Associazione italiana giovani avvocati) also expressed their support and solidarity with the legal trainee. On the other hand, Matteo Salvini, a political far-right leader and former deputy prime minister of Italy, expressed his support for the judge. Gelezio Bignami of former Prime Minister Berlusconi’s party Forza Italia argued that Article 129 of the Code of Civil Procedure states that court hearings must be attended “bareheaded,” though the Article’s application to religious dress has been disputed.⁶³²

National Legislation

In Italy, antidiscrimination is established as a major constitutional principle, according to which “[a]ll citizens have equal dignity and are equal in the eyes of the law, without distinction of sex, race, language, relation, political opinions, personal, and social conditions.”⁶³³ This principle applies to employment, among other areas. Articles 8, 19, and 21 of the constitution further guarantee freedom of religion. In the field of employment, Article 2104 of the Italian Civil Code states that the employee is bound by the directives and other provisions given by the employer for the execution of the work and must fulfill the due diligence and interest of the enterprise. At the same time, the employee’s rights and the absolute prohibition of religious discrimination must be respected. Article 4 of Law 604/66

(Individual Redundancy Rules) explicitly states that dismissals “determined to be based on political or religious belief ... [are] null, regardless of the motivation adopted.” Italian law also allows head coverings in official photographs as long as facial features are visible, according to a Ministry of the Interior circular regarding residence permits, dated July 24, 2000.

Latvia

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

Though Muslims are a very small minority in Latvia, the government considered introducing a ban on the face veil after the country was slated to take in a few hundred refugees from Muslim-majority countries. According to public polls, the ban was supported by a majority of Latvians. However, the legislative proposal was shelved after it faced objections in the legislature.

Background

Muslims in Latvia make up only about 0.4 percent of the total population.⁶³⁴ Among the estimated 1,000 practicing Muslims, it was reported that only three women wear face veils.⁶³⁵ In Latvia, the Muslim community faces Islamophobia, which has been aggravated by several prominent individuals.⁶³⁶

Although there are no explicitly discriminatory laws, there have been reports of public discrimination and vocal prejudice against Muslims.⁶³⁷ However, there is no report of specific incidents or legal cases on discrimination against Muslim women or Muslim women wearing Islamic clothing.

[Face Veil]

National Bans

To date, Latvia has no national bans.

Proposals: At the national level, there have been two noticeable attempts to ban the wearing of Islamic face veils in public in Latvia. The first attempt was undertaken by members of parliament from the Union of Latvian Regions, an alliance of centrist parties. The union submitted a draft law called “On Regulation of Covering a Person’s Face in Public Places” to the parliament of Latvia, justified by concerns over Muslim refugees and the idea that a face veil poses a security threat.⁶³⁸ While the Latvian president supported the ban for national security concerns,⁶³⁹ the majority of parliament rejected it on September 24, 2015.⁶⁴⁰

The second initiative to legalize a ban on face veils was a bill proposed by the Latvian Justice Ministry in January 2016.⁶⁴¹ While there were only three women who wore face veils in the entire country, the bill was framed as preventing prospective immigrants from Muslim countries from coming to Latvia and preserving Latvian values.⁶⁴² Results from a public poll organized by a private research company, commissioned by a morning news program, Latvia’s TNT TV, showed that the bill was supported by a majority of Latvian respondents (77 percent).⁶⁴³ The bill was expected to come into effect in 2017. On June 25, 2017,⁶⁴⁴ it was reported in the media that the Ministry of Justice was planning to move the process forward with no specific date provided.⁶⁴⁵ On March 18, 2018, it was reported that the proposed legislation had not moved forward and was abandoned as a legislative priority due to objections from the Ministry of Foreign Affairs and the Parliamentary Commission for Human Rights and Public Affairs.⁶⁴⁶ According to the Ministry of Foreign Affairs, the draft law is not justified due to the small number of Muslims in the country, compared to countries like France and Belgium, where there are large numbers of Muslims.

Local Bans

No local bans have been implemented or proposed in Latvia.

Institutional and Private Bans in Practice

No bans under this category have been reported.

National Legislation

Latvia’s legislative principles on antidiscrimination based on religion and belief are stipulated in the Constitution of Latvia. According to article 116 of the constitution, although the freedom of religion and belief is provided, it can also be limited in order to “protect the rights of other individuals, the democratic system of our state, security, morality and welfare of [Latvian] society.”⁶⁴⁷ The possibility of limiting the freedom to express one's religious beliefs is specifically addressed in this paragraph.

Lithuania

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive summary:

Although there is a very small population of Muslims who have historically been a part of Lithuanian society, attitudes towards Muslims in Lithuania are generally negative. In 2015, a legislative ban on face veils was proposed by some politicians after the country was expected to receive a few hundred refugees from Muslim-majority countries. The proposal was opposed by other politicians and the Muslim community, and was rejected by the then prime minister on the basis of the country’s commitment to human rights and religious freedom.

Background

The latest available data shows that there were about 2,727 Muslim residents in Lithuania, which is about 0.09 percent of the total population.⁶⁴⁸ Public attitudes toward Muslims differ. Tatar Muslims who have lived in Lithuania for centuries are viewed more favorably, in contrast to recent Muslim immigrants.⁶⁴⁹ Notably, most Tatar women do not wear the headscarf, except during prayers, and most Muslim women who wear the headscarf are recent immigrants.⁶⁵⁰ A 2019 Pew research survey found that only 26 percent of Lithuanians had a favorable view of Muslims in their country while 56 percent had an unfavorable view.⁶⁵¹

There are relatively few reported cases of discrimination against Muslims.⁶⁵² However, public opinion surveys and interviews suggest possible

underreporting, due to a lack of registration and effective investigation of complaints.⁶⁵³ In the field of employment, it was reported that Islamic clothing was one of the causes of discrimination against Muslims.⁶⁵⁴

National Bans

There are no legal bans on Islamic clothing adopted in Lithuania to date.

[Face Veil]

Proposals: In August 2015, top politicians in Lithuania raised a discussion about a possible burqa ban after the country agreed to accept several hundred refugees, mostly from Syria and Eritrea.⁶⁵⁵ It was the first ban to be proposed by the chairman of the Parliamentary National Security and Defense Committee, who expressed a need to prohibit the covering of the face as a preventive measure to ensure national security while accepting refugees from Muslim countries.⁶⁵⁶ This proposal was quickly dismissed by other officials.⁶⁵⁷ The representative of the Islam Culture and Education Centre stressed that the “initiative of the ban of burqas in public spaces” was unnecessary. Prime Minister Algirdas Butkevicius explained that the integration of refugees is more important than the burqa ban and that the government’s decision to reject the proposed ban is based on Lithuania's international commitments in the field of human rights and religious freedom.⁶⁵⁸

Local Bans

There are no legal bans or proposals for bans locally in Lithuania.

Institutional and Private Bans in Practice

No bans under this category were reported.

National Legislation

National legislation against discrimination on the grounds of religion, especially in the field of employment, is laid down in the Labor Code (effective since July 1, 2017), which prohibits discrimination in the field of employment on various grounds, including on the grounds of religion or belief. Article 26 of the Labor Code explicitly requires equal treatment for all employees, regardless of their religion, in various stages of an employment process, from recruitment to dismissal.⁶⁵⁹ Discrimination on the grounds of religion is also prohibited under the Law on Equal Treatment.⁶⁶⁰

Luxembourg

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	Yes	Yes	No	Yes	No

Executive Summary

In 2018, Luxembourg enacted the “Face Concealment Bill,” which bans face coverings in specific public spaces, including schools, public transportation, hospitals, court houses, and public administration buildings. The legislature relied on the rationale of “communication, interaction, and living together,” which resembles the European Court of Human Rights’ justification of France’s face veil ban in *S.A.S. v France*. Local bans, some of which had even broader prohibitions, existed prior to the national ban. Additionally, there are institutional restrictions in Luxembourg, including a ban by the National Bar Association, which prohibits lawyers from wearing head coverings.

Background

Muslims are a small minority in Luxembourg.⁶⁶¹ Recent data from Muslim community groups estimate that between 18,000 and 20,000 Muslims live in Luxembourg, making up approximately 1-2 percent of the population.⁶⁶² Islam was not legally recognized in the country until 2015, when the Luxembourg Parliament signed an agreement with the Muslim community, which gave Islam equal status with other religions.⁶⁶³

The country is generally identified as peaceful and tolerant.⁶⁶⁴ However, in 2018, the Islamophobia Observatory in Luxembourg conducted a poll of 340 Muslim men and women, reporting that 60 percent believed Islamophobia was present in the country. Twenty - one percent of respondents reported experiencing anti-Muslim incidents in 2018.⁶⁶⁵ In addition, 38 percent of female respondents who wore a headscarf or face veil reported experiencing anti-Muslim discrimination. It has been estimated that fewer than 20 women in Luxembourg wear face veils.⁶⁶⁶

Political pressure to enact legal restrictions on Muslim women’s dress dates back to 2016. In April 2016, Nicolas Schmit, labor minister of the Luxembourg Socialist Labor Party (LSAP), announced on Twitter that “[t]he burqa is incompatible with our values. It degrades the dignity and equality of opportunities for woman [sic].”⁶⁶⁷

National Bans

[Face Veil]

National specific bans: In 2018, Luxembourg's parliament adopted a "Face Concealment Bill," also referred to as the "Burqa Law," which prohibits the concealment of faces in schools, public transport, public hospitals, homes for underage people, retirement homes, court houses, and public administration buildings.⁶⁶⁸ The law was added to the Criminal Code and carries a maximum fine of €250 for noncompliance.^{669, 670, 671} The law does not apply to parks or public streets, and exempts face coverings for medical or professional reasons, and for "sports, festivals or artistic or traditional events where it is customary to hide all or part of the face."⁶⁷² This exemption implicitly allows for face coverings associated with Christian events.⁶⁷³

Proposals: In September 2020, a citizen submitted an application for public petition, seeking modification of the 2018 law to prohibit face coverings in all public outdoor spaces.⁶⁷⁴ Luxembourg's Chamber of Deputies accepted the petition for publication on its website and eventually sent the petition to the minister of justice, requesting a position statement. The petition claimed that the face veil is not a compulsory practice within Islam, but rather a mark of "resistance" against the "West," representing a proselytism of "radical Islam" that is contrary to European values. In the minister of justice's February 2021 position statement, she responded that expanding the existing prohibition on face veils was unlikely to further the goal of "living together." The minister also stated that the proposal could generate tension and stigmatize the Muslim community. The petition never received the 4,500 signatures required to progress to a public debate.⁶⁷⁵

Local Bans

[Face Veil]

Local general bans: By 2017, prior to the adoption of Luxembourg's national ban on face coverings, 47 of Luxembourg's 102 local municipalities had already enacted local bans on face veils in public.⁶⁷⁶ Some of the local laws have broader prohibitions than the current national ban, for example by banning concealment of faces in all streets, squares, and public places except through authorization by the mayor or during Carnival.⁶⁷⁷

Institutional and Private Bans in Practice:

[Headscarf]

[The Judiciary]

In September 2017, Luxembourg's Bar Association implemented a regulation prohibiting lawyers from wearing head coverings. The rule requires that lawyers be "bareheaded and properly dressed in all circumstances[,] and prohibits "any decoration or sign indicating a

religious, community, philosophical or political affiliation.”⁶⁷⁸ On September 24, 2017, François Prum, president of the Luxembourg Bar Association, asked a woman to remove her headscarf in order to participate in her swearing-in ceremony.⁶⁷⁹ She refused and, as a result, was not sworn into the practice of law. Prum stated that “respect for the independence of the judiciary” was “at stake.”⁶⁸⁰ The woman considered pursuing a legal claim. However, approximately two months later, she decided to complete her swearing-in ceremony without a headscarf.⁶⁸¹

National Legislation

In Luxembourg, the Law Implementing the Principle of Equal Treatment (Egalite de Traitement; 2006, amended in 2016) prohibits all forms of discrimination based on religion.⁶⁸² The general principle of equality is protected by the Constitution of Luxembourg, especially under article 111.⁶⁸³

Malta

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

Malta has no restrictions on religious dress to date. There are increasing reports of Islamophobia in the country, targeting primarily undocumented migrants.

Background

Based on data from 2017, Muslims in Malta constitute approximately 6 to 7 percent of the national population.⁶⁸⁴

Muslim women wearing face veils have reported incidents of discrimination in which employers have not allowed the face veil to be worn at workplaces⁶⁸⁵ and in which schools have prohibited women wearing the headscarf from accessing school facilities.⁶⁸⁶

A 2017 study conducted by the University of Malta reported that Muslim migrants without legal resident status were the most common targets of online hate speech found in news portal comments.⁶⁸⁷

[Face Veil]

National Ban

Malta has no law that prohibits the wearing of headscarves or face veils nationwide.

Although Malta's Criminal Code forbids people from "wearing masks or disguising themselves" in public spaces "except at the time and in the manner allowed by the law" a police circular issued by the attorney general in February 2013 insisted that "there is no provision within Maltese law that prohibits the wearing of the burqa" and ordered the police force to not enforce the ban on face veils in public.⁶⁸⁸

Proposals: Even though Muslim women wearing Islamic head coverings have long been discriminated against, the discussion on banning face coverings did not become prominent until 2015, when a ban was proposed by Equality Minister Helena Dalli. The minister made her remark on a television program in October 2015. Her intention was to "reverse" the above-mentioned police circular from February 2013, making it enforceable to prohibit the wearing of the face veil in public.⁶⁸⁹ The proposal sparked public debate on the topic but was not enforced.

Local Ban

Malta has no law that prohibits the wearing of headscarves or face veils locally.

Institutional and Private Bans in Practice

No data on bans under this category was reported.

National Legislation

Legal protection against religious discrimination in Malta is provided by the constitution. Chapter 456 of the Equality for Men and Women Act covers equality in employment and protects people from discrimination based on religion, among other factors. Similarly, the Employment and Industrial Relations Act ensures that employees are not discriminated against based on their religion, among other factors.

Netherlands

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	Yes	No	No	Yes	No

Executive Summary

Dutch Muslims face discrimination and Islamophobia in many different areas, including through persistent anti-Muslim political rhetoric driven by the radical right.⁶⁹⁰ In 2019, the Act Partially Prohibiting Face-Covering Clothing went into effect and banned face coverings in various public spaces. The act has only been implemented to a limited degree by government authorities. Institutional and private bans have been repeatedly challenged before national courts as well as the Netherlands Institute for Human Rights. There have been repeated calls for the police to allow integrating the headscarf into the police uniform, and for religious dress to be accommodated in the judiciary since early 2000.⁶⁹¹ Case law of the Netherlands Institute for Human Rights (preceded by the Commission for Equal Treatment) also reflects numerous attempts by individuals, businesses, and institutions to ban religious dress worn by Muslim women and limit their access to public and private employment and education and services in Dutch society as early as 1994. The institute has consistently and successfully pushed back against these attempts and has worked on educating the public about equality law and advancing alternative solutions.

Background

Dutch Muslims make up 5.1 percent of the overall national population of 17.33 million.⁶⁹² Wearing a headscarf is common among Muslim women in the Netherlands. While it is not known how many women wear a face veil, it is estimated that there are between 200 and 400.⁶⁹³

Muslim ethnic minorities were mostly viewed as “guest workers” and “immigrants” in the 1960s and 1970s. Their identity was reduced to their religion, with their behavior being understood mainly through that lens, from the 1980s onwards. This was both in light of increased migration under family reunification schemes at times of economic downturn, but also international events like the Iranian Revolution and the Rushdie affair that changed the discourse about Muslims in Europe.⁶⁹⁴ Frits Bolkesteijn, leader of the liberal-conservative governmental party People’s Party for Freedom and Democracy (VVD) from 1990 to 1998, launched a debate about the

integration of immigrants from Morocco and Turkey, hailing the universal superiority of the principles of separation of church and state, freedom of expression and non-discrimination, which he feared were at risk of being compromised by Islamic practices.⁶⁹⁵ Debates about Muslims increased sharply after 9/11 and the murder of film maker Theo Van Gogh.

Key figures of mainstream political parties and opinion makers have played a significant role in the demonization of Muslims.⁶⁹⁶ In the run up to the 2017 Dutch general election, the right-wing populist politician Geert Wilders of the Freedom Party PVV (Partij Voor de Vrijheid) declared Islamization to be “the biggest problem in this country” and an “existential threat” to “our identity, our freedom. Who we are. Everything.”⁶⁹⁷

Political and public debates on both the face veil and headscarf have been pushed mostly by Wilders who has consistently called for different bans, whereas center-right and leftist parties have in the past years more generally discussed the so-called failure of multiculturalism.⁶⁹⁸ In 2009, for example, Wilders advocated for a special tax on headscarves, which he disparagingly called “kopvoddentax,” or “head rag tax.”⁶⁹⁹ The proposal was to introduce special permits to wear headscarves costing €1,000 per permit.⁷⁰⁰ Wilders justified this “tax” as follows: First, headscarves and long dresses, among other things, pollute the cityscape, and therefore the wearers must pay. Second, a headscarf is the symbol of a lack of freedom and the oppression of women; hence, the tax can support women’s shelters.⁷⁰¹

A report from the University of Amsterdam documented that Muslims face discrimination in different areas of life and are also subjected to violent attacks.⁷⁰² According to a report published by the Dutch government on the experiences of Dutch citizens with discrimination, 32 percent of Muslims perceived unequal treatment and up to 45 percent perceived negative attitudes, placing Muslims among the highest group on the scale of perceived discrimination followed only by Turkish and Moroccan individuals.⁷⁰³ As in many other countries in the EU, Muslim women are subject to discrimination, especially those whose faith is visible through their dress.⁷⁰⁴

The Netherlands Institute for Human Rights (College voor de Rechten van de Mens), previously the Commission for Equal Treatment, deals with the majority of discrimination complaints as the country’s national equality body.⁷⁰⁵ The institute handles complaints under the General Equal Treatment Act. While the institute’s decisions are not legally binding, it has stated that its decisions nevertheless have a positive effect leading to defendants taking action, e.g., by apologizing or changing the

organization's policy, in about 80 percent of cases.⁷⁰⁶ The institute adopted its first decision on religious dress in 1994, which coincided with the adoption of the Dutch Equal Treatment Act. The landscape in the Netherlands today looks markedly different from that of neighboring countries, which is in part attributable to the institute's significant engagement with questions on religious dress restrictions in education, employment, and public services.

The institute's decisions are publicly available, though only the names of the organizations in question are disclosed. Throughout this chapter, the institute's rulings are outlined separately to the case law in each subsection. Given the limited scope of this report, only a selection of rulings by the institute is included to give insight into the important role it has played in protecting Muslim women from discrimination.

National Bans

[Face Veil]

National specific ban: On June 26, 2018, the Dutch government approved a legislative proposal for a partial ban that prohibits the wearing of clothing that covers the entire face or leaves only the eyes uncovered.⁷⁰⁷ Face veils are prohibited in public transport, education, healthcare, and public government buildings. The "Act Partially Prohibiting Face-Covering Clothing," also known as the "burqa ban," was adopted despite there never having been complaints or problems around women who wear face veils, and despite the Council of State refusing to endorse the proposal because of its disproportionality and infringement on the right to freedom of religion.⁷⁰⁸ This is the first legal ban on religious dress applied nationally in the Netherlands.⁷⁰⁹ The ban does not apply in constituent countries and overseas territories of the Netherlands, namely Bonaire, St. Eustatius, and Saba, or in Aruba, Curaçao, and St. Maarten.⁷¹⁰

The act came into force in August 2019. It prohibits the wearing of clothing that completely or partially conceals the face in spaces where people are expected to communicate with each other. Thus, prior to the COVID-19 pandemic, face-covering clothing was⁷¹¹ banned on public transportation and in educational, governmental, and nursing care institutions, but was permitted in public spaces where communication was not expected.⁷¹² The law saw very minimal enforcement from law enforcement in the year following implementation, with only four warnings and no fines given.⁷¹³

The law did not further better communication and security in accordance with its stated intention. Instead, the law resulted in increased physical and verbal abuse against Muslims, especially Muslim women.⁷¹⁴ Thirty reports

of discriminatory abuse were made in August of 2019 alone.⁷¹⁵ This number is significant given the relatively small number of Muslim women who wear a face veil and the risk of underreporting, as the ban applies to police stations where women would normally report abuse.⁷¹⁶

Before the law went into force, in July 2019, the daily newspaper *Algemeen Dagblad* created controversy publishing an article entitled “Four Questions Answered about the Burka Ban.” The newspaper informed its readers that citizens are entitled to carry out a “citizen’s arrest” if they find that the ban on face coverings is not implemented in places where it applies and they are “disturbed” by a woman wearing a face covering. The article neglects to explain that the ban does not apply everywhere, but goes into how a citizen’s arrest works, stating that it is permitted to throw the “offender” to the ground. The article’s publication led to several social media posts about “burqa hunts.” The reaction from politicians was limited. While the article has since been amended to remove references to citizen’s arrests, it is summarised in the report “Zwartboek – Boerkaverbod.”⁷¹⁷

The United Nations Special Rapporteur for contemporary forms of racism, racial discrimination, xenophobia and related intolerance observed that the act, while facially neutral, targets Muslim women and represents Islamophobia.⁷¹⁸ The ban cannot be justified within the greater framework of human rights protection under the ICCPR and CEDAW, and appears to directly counter the obligations concerning women’s rights set by the ICCPR and CEDAW.⁷¹⁹

In response to COVID-19, face masks became mandatory on December 1, 2020, “in all public buildings and covered spaces, in education, public transport and contact professions.”⁷²⁰ Whether a person’s purpose for wearing a face covering is religion or public health appears to determine their legality.⁷²¹ An artist protested the “burqa ban” in light of the face mask requirement by creating a “legal burqa” made of surgical masks and dressed the Statue of Themis with it.⁷²²

The introduction of the face veil ban follows a long history of political debates on the subject. In 2005, Geert Wilders, leader of the far-right Freedom Party (PVV), first filed a motion to introduce a ban on face veils in public spaces. The proposal received support from a majority of parliamentarians from the right-wing, liberal, and Christian democratic parties. Then Minister of Integration Rita Verdonck from the liberal VVD appointed a commission of experts to consider the legal aspects of the ban. They rejected the proposal for violating the right to freedom of religion.⁷²³ In 2007, Wilders submitted another proposal to criminalize the wearing of

face veils; however, this was not supported by the coalition consisting of the Labor party (Partij van de Arbeid, PvdA) and two Christian democratic parties (ChristenUnie, and Christen-Democratisch Appèl or CDA).⁷²⁴ In 2008, a proposal for a general ban on all types of face coverings was submitted by a member of the VVD, arguing that this would not violate the right to freedom of religion. Although the Council of State gave a negative assessment of this proposal, in 2012 the second chamber of parliament voted in favor of the ban. In 2015, the new coalition government, consisting of the Labor Party and the VVD, however, decided not to further this proposal, replacing it with a proposal for a partial ban.⁷²⁵ This resulted in the current partial ban, which is still considered a victory for the PVV and Wilders.⁷²⁶

The Council of State of the Netherlands issued opinions on all of the above-mentioned proposals finding that, without further justification, they were not in line with the right to freedom of religion under the European Convention on Human Rights and that the necessity and usefulness of such bans was not given. In November 2011, the council issued its opinion on the general ban, finding that the government had not shown why covering the face was contrary to social order, nor had it shown why specific regulations already in place were not sufficient. Regarding the argument of gender equality, the council held that it was not for the government to take away a woman's choice of clothing for religious purposes. Finally, the council held that a subjective feeling of security—or lack thereof—was not a sufficient basis to support a blanket ban with the aim of maintaining social or public order.⁷²⁷ The council issued a negative opinion regarding the partial ban as well. The council was especially clear that it was not convinced of the desirability and necessity of such a specific ban, and hence saw no justification for a restriction of the freedom of religion.⁷²⁸

Local Bans

No headscarf or face veil bans have been enacted at the municipal level in the Netherlands.

Institutional and Private Bans in Practice

Restrictions on headscarves and face veils in work and educational settings are widespread. In the labor market, discrimination occurs mainly during the recruitment process. This results in candidates who wear a headscarf or face veil being denied opportunities, as evidenced in the case law presented throughout this chapter. Employers, even though they may not have

discriminatory views themselves, may feel pressure to display a “neutral” image to customers. Accordingly, headscarf and veil wearers who work or seek jobs with frequent customer contact are more vulnerable to discrimination. Restrictions are also rationalized by referring to “ineffective communication” or “unprofessionalism” assumed to be associated with head and face coverings. In the Netherlands, this type of discrimination occurs in both the private and public sectors.⁷²⁹

[Headscarf]

[Private Employment]

Private employment: In 2018, international perfume chain store Douglas stated that it would change its policy with regard to religious dress after pushback on social media and threats to boycott its shops in the Netherlands, when one of its local stores decided to move a Muslim woman employee who wears a headscarf from the shopfront to the stockroom where she would no longer be visible to customers. The company’s head office in Germany justified the policy with its aim to achieve “neutrality” but decided after public pressure to allow Muslim women employees to wear a headscarf.⁷³⁰

In 2017, a McDonald’s franchise in Oosterhout told a Muslim woman who wears a headscarf she could work for them if she took off her headscarf. When the woman questioned the policy, which was different from that of other franchises in the area that allowed Muslim women to work with a headscarf, the owner said he had a neutrality policy and that different franchises can have different policies. He also referred to the decision of the European Court of Justice in *Achbita* to justify his policy. McDonald’s stood by its policy and the woman found a job in a supermarket that provided a headscarf with the company logo.⁷³¹

Case law by the Netherlands Institute for Human Rights: The institute has made findings of direct discrimination in cases where employers reject Muslim applicants specifically for wearing a headscarf if this is implied by the kinds of questions or comments made about the wearing of a headscarf during a job interview or where internal policies explicitly prohibit religious dress for no legitimate reason.⁷³² The institute has taken a similar approach to employment agencies applying discriminatory requests from employers when selecting potential employees.⁷³³

On indirect discrimination, the institute has rejected various justifications put forward by employees for differential treatment as failing to be objective or sufficiently substantiated, including portraying a neutral image, being representative, avoiding offense to customers, and preventing economic disadvantage.⁷³⁴ Employers arguing that they wish to “appease” customers have been held to act discriminatorily, as this could lead to

persons that do not conform with the “dominant group” in terms of their appearance being deprived of employment opportunities.⁷³⁵ Similarly, acting on the assumption or anticipation of prejudice of potential customers is in itself discriminatory.⁷³⁶ Where the aims of a prohibition on religious dress might be legitimate, e.g., on safety grounds, the prohibition itself might not be appropriate or necessary, particularly where the employer fails to sufficiently consider alternative solutions or the justification relied upon by the employer is not weighed against the potential detriment to the employee.⁷³⁷

The institute has also made findings of multiple and intersectional discrimination. When a medical student wanting to work as a cleaner in a hospital, for example, was asked to remove her headscarf based on the cleaning company’s dress restrictions, the institute held that, as mainly—though not exclusively—Muslim women would be affected by the restrictions, there was indirect discrimination based on religion and sex.⁷³⁸

[Headscarf]

[Public Employment]

Public employment: On August 11, 2011, the Ministry of Justice and Security, the Police Central Organizations, and the Chief Constables’ Council adopted the Lifestyle Neutrality Code of Conduct, which sets out guidelines for the desired appearance of the Dutch police force.⁷³⁹ The Code of Conduct stipulates that police officers, in their interaction with the public, should adopt an “authority-emitting, neutral and safe attitude” and that the competent authority may impose requirements regarding the external features of the police officer.⁷⁴⁰ Accordingly, police officers should refrain from visible expressions of beliefs, religion, political opinion, sexual orientation, movement, association or other forms of lifestyle, which is detrimental to the image of authority, neutrality and security of the police function. The Code of Conduct was amended and re-adopted in 2021 to include visible tattoos.⁷⁴¹

The question of police officers wearing a headscarf was most recently raised by the Amsterdam police chief, Pieter-Jaap Aalbersberg, in May 2017.⁷⁴² Aalbersberg suggested allowing police officers to wear a headscarf in order to make it possible for women of minority backgrounds to join the force. This proposal, if implemented, would go against the Code of Conduct.⁷⁴³ The Amsterdam police force withdrew its proposal, stating that, unfortunately, at the moment there was not enough political support to challenge the Code of Conduct.⁷⁴⁴ Aalbersberg is still looking to build support for his proposal within the Amsterdam police force.⁷⁴⁵

Case law by the Netherlands Institute for Human Rights: The institute has ruled on a wide range of public employment matters. In 2007, the institute found

that the Immigration and Naturalisation Service failed to show that the wearing of a headscarf by a new member of staff would lead to organizational problems, as the applicant in question would have been the first person wearing a headscarf in the unit.⁷⁴⁶ In addition, the service did not plausibly show why the alternatives offered by the applicant—to remove her headscarf when necessary if only women are present in the room or to find a suitable colleague to replace her—would be insufficient, particularly as a woman wearing a headscarf in a different unit had only been asked to remove her headscarf on rare occasions.

When a service assistant who had been asked to remove her headscarf at work left her employment after a week due to psychological problems related to removing her headscarf, the institute found that the employer had adopted a discriminatory attitude towards the employee, which constituted direct discrimination.⁷⁴⁷

[Headscarf]
[Teachers]

Teacher/Traineeships in schools: Where a school refuses a traineeship applicant on the basis of her headscarf, it makes a direct distinction on the basis of religion. As the school in question is not a confessional school, it is not permitted to make such a distinction. This would only be permitted if the school were to amend its articles of association to fit into a defined category of institutions that are allowed to make such distinctions under Article 5(2) of the General Equal Treatment Act, and become a school of “neutral” confession.⁷⁴⁸ The institute came to a similar conclusion when a primary school refused a traineeship application from a woman wearing a headscarf and asked the Teacher Education for Primary Schools Programme to refrain from referring applicants wearing headscarves to it, arguing that “evangelizing” would not be compatible with its “neutrality” as a school.⁷⁴⁹ The institute held that the neutral character of the school did not permit it to act contrary to the General Equal Treatment Act. The institute, on another occasion, held that a municipality may not refuse applicants who do not comply with a job requirement that teachers should encourage students to dress neutrally in order to increase their chances on the job market, though students may be informed about the potential effects of religious clothing on their applications.⁷⁵⁰

A confessional school, on the other hand, is allowed to make a distinction on the basis of religion when considering applications for internships in line with Article 5(2) of the General Equal Treatment Act,⁷⁵¹ though this has to be applied uniformly.⁷⁵² The institute has noted, however, that where a primary school discourages the wearing of headscarves, this will create a feeling of being unwelcome for affected pupils, staff, and trainees.⁷⁵³

[Headscarf]
[The Judiciary]

The judiciary: The institute held that the District Court of Rotterdam had indirectly discriminated against an applicant for the position of external court clerk, which does not form part of the judiciary itself, when asking her to remove her headscarf while the Court is in session. It weighed the Court's interest of guaranteeing the independence and impartiality of the judiciary against the applicant's interest to access the position of court clerk, finding that the Court had failed to show that allowing the applicant to wear a headscarf would damage its interests.⁷⁵⁴ In a previous ruling, the institute had questioned whether the independence and impartiality of the judiciary in a multicultural society could only be expressed through a dress code restricting religious dress for court registrars.⁷⁵⁵

[Headscarf]
[Police]

Police: When applying its Code of Conduct on Lifestyle Neutrality, the police must demonstrate that restrictions on religious dress are necessary to maintain the neutrality and objectivity of its force. Where a policewoman operates the emergency phone line and is not visible to citizens, the police are unlawfully making a distinction against the woman on the grounds of religion if she is not allowed to wear a headscarf with her uniform.⁷⁵⁶

[Face Veil]
[Education]

Education: Certain schools and universities include a prohibition on the wearing of face veils in their internal regulations (i.e., the University of Leiden and the ROC Midden Nederland).⁷⁵⁷

In 2003, a school famously did not allow three students to wear face veils.⁷⁵⁸ The school stated that the face veil would hinder communication and make the verification of identity impossible. The Equal Treatment Commission decided in favor of the school, allowing the ban. Subsequently it advised the Ministry of Education on clothing regulations for educational institutions, arguing in favor of bans on face coverings such as the niqab or burqa, when there is a legitimate and significant aim.⁷⁵⁹

[Headscarf]
[Education]

Case law by the Netherlands Institute for Human Rights: On education, the institute has consistently held that schools are not permitted to make distinctions on the basis of religion by prohibiting headscarves where this is not objectively justified. Justifications brought forward by schools that a sports headscarf is unsafe have been rejected.⁷⁶⁰ Similarly, the institute has rejected a hairdressing school's claim that a prohibition on headgear guarantees the quality of a hairdresser's education, stating that since the absence of a student's hair due to baldness would not affect the quality of their education it is unclear why the wearing of a headscarf would.⁷⁶¹

[Face Veil]
[Education]

In relation to a prohibition on face veils at a vocational institution for adult education, the institute has argued that a distinction on the basis of religion is appropriate and necessary where it is justified by the need for mutual

communication and identification of the student to comply with the school's legal duties.⁷⁶² In another ruling,⁷⁶³ the Institute had previously found that a prohibition on face veils by a healthcare training provider was not objectively justified, as it held that the objective to optimize teaching and preparation for professional practice did not meet a real need. However, the institute noted that its findings might differ depending on the educational context.

[Both]
[Education]

Where a school fails to consistently implement a prohibition on wearing head coverings, the institute made a finding of direct discrimination.⁷⁶⁴ In another ruling,⁷⁶⁵ the institute held that the school, being a Catholic institution, had failed to tie the prohibition on headscarves to its status as a confessional school. If, however, a confessional school states in its statute that clothing that is not associated with the Catholic faith is not permitted inside the school, in line with the school's objective as a Catholic school, the institute has found there to be no conflict with the law.⁷⁶⁶

[Headscarf]
[Goods and Services]

Access to goods and services—Case law by the Netherlands Institute of Human Rights: Where a gym prohibits headscarves as part of a general, neutrally worded dress code that does not permit head coverings to be worn in the gym, the institute held that the gym failed to plausibly show that the wearing of a headscarf impedes the approachability of a person or the instruction on neck and shoulder exercises.⁷⁶⁷ The institute has come to the same conclusion where a gym prohibited headscarves on safety grounds⁷⁶⁸ or to reduce “tension and unrest” at the gym.⁷⁶⁹ Similarly, the institute held that a karate school failed to show why the prohibition of a sports headscarf would be objectively justified on the grounds of safety, hygiene or mutual respect.⁷⁷⁰ In another ruling⁷⁷¹, the institute emphasized that measures taken by gyms should prevent persons, irrespective of their religious beliefs, from being excluded, not lead to further discrimination.

[Full-Body Swimsuits]
[Goods and Services]

On the question of full-body swimsuits, the Institute has ruled that a prohibition on such swimsuits is not necessary, as there are other means available to maintain the safety and “good atmosphere” at the pool. In addition, such a prohibition is not proportionate, as it limits the general accessibility to the pool.⁷⁷²

[Headscarf]
[Goods and Services]

A restaurant requiring all patrons to remove their head coverings made a distinction on the basis of religion, as its objective to attract a “more stylish and older audience” through its new admission policy is not legitimate and the means employed are neither suitable nor necessary. The institute held that the restaurant could instead easily specify that, e.g., sports clothing,

would not be appropriate, so that well-dressed individuals with or without headscarves would be welcome.

Where a service provider directly refers to religious beliefs in relation to wearing a headscarf in their general terms and conditions, this constitutes direct discrimination, unless there are statutory exceptions, e.g., for confessional schools.⁷⁷³ This also applies where a landlord makes a distinction against a potential tenant on the basis of their religion and race.⁷⁷⁴

National Legislation

In the Netherlands, the main legal protection against discrimination in the workplace can be found in the General Equal Treatment Act (Algemene wet gelijke behandeling, Awgb). This is accompanied by the Equal Treatment of Disabled and Chronically Ill People Act, the Equal Treatment in Employment (Age Discrimination) Act, and the Equal Treatment (Men and Women) Act.

Poland

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

Although there are very few Muslims living in Poland, and virtually no Muslims immigrating to Poland, Islamophobia has become an increasing problem in the country. It has been intensified by the right-wing populist Law and Justice Party (Prawo i Sprawiedliwość, PiS) that uses Islamophobic rhetoric to drive an anti-refugee agenda.⁷⁷⁵ However, Poland has no bans on religious dress or Islamic head coverings.

Background

According to the most recent survey, there are about 10,000 Muslims in Poland, which is less than 0.03 percent of the population.⁷⁷⁶ Tatar Muslims, who have been an established community for centuries, secured the official recognition of Islam in modern-day Poland in 1936. Today, they make up a smaller part of Polish Muslims that consist mostly of descendants of Arab

Muslim students and their families who came to the country in the late 1980s and Polish converts.⁷⁷⁷

Despite its small Muslim population, Poland has experienced a sharp rise in anti-Muslim and anti-Islam attitudes, spurred by both liberal-secularist and far-right groups.⁷⁷⁸ The number of Muslims present in the country is nowhere as overestimated as in Poland, running from 7 percent to 13 percent, suggesting there are more Muslims in Poland than in any other country in Europe despite it being one of the region's most ethnically and religiously homogenous countries. This is a reality the right-wing nationalist government led by the Law and Justice party is hoping to maintain, or even advance, using Islamophobic rhetoric to justify policies to keep out migrants and refugees.⁷⁷⁹

Dominic Tarczynski, a European Parliament member from Poland, has publicly stated that there is a fear among Polish people that Poland could be "taken over by Muslims" in the near future. By labeling Muslims a security and cultural threat and pursuing aggressive deportation and push back policies, the Polish government has capitalized on antimigrant sentiment among the Polish public to fuel a xenophobic agenda that politically benefits the Law and Justice Party.⁷⁸⁰ This is reflected in a study conducted by the Pew Research Center in 2016, which determined that four-in-ten Polish adults say they would not want Muslims to be citizens of their country, their neighbors, or members of their family.⁷⁸¹

Muslim women who wear a headscarf are a rare sight in Poland, and those who wear a face veil even more so. Nevertheless, the Islamic headscarf—often reduced to the "burqa"—plays a central role in public anti-Muslim discourse in Poland contributing to widespread beliefs about Muslim women being both oppressed and posing a threat.⁷⁸² Discrimination against Muslim women wearing head coverings in Poland is a prevalent issue, especially in the job market.⁷⁸³ Violations experienced by Muslim women wearing headscarves are also reported occasionally in the media.⁷⁸⁴

National Bans

There have been no national legal bans or legislative proposals for bans on Islamic headscarves and face veils in Poland.

Local Bans

There have been no legal bans or legislative proposals for such bans in Poland.

Institutional and Private Bans in Practice

No bans under this category were reported.

National Legislation

Direct and indirect discrimination in employment based on religion is prohibited under the Polish Labor Code.⁷⁸⁵

Portugal

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

There is little data on religious discrimination or Islamophobia in Portugal, a country that prides itself on its religious pluralism. There are no local or national laws restricting Muslim women's dress in Portugal, and no reports of practices targeting Muslims at the institutional level or in private employment. Political and academic consensus generally maintains that Portuguese society is accepting of its Muslim communities, although reports about anti-Muslim hate crimes and hate speech are starting to emerge.

Background

Portugal's Muslim community is small, making up approximately 60,000 or 0.58 percent of the country's total population of 10.3 million.⁷⁸⁶ Although official narratives in Portugal do not share the negative attitudes toward Muslims prevalent in many EU countries, and instead present an image of a community that is well integrated, reports of anti-Muslim hostility have started to emerge.⁷⁸⁷ Given that a significant part of the Muslim community in Portugal descends from the former colonies of Guinea-Bissau and Mozambique, discrimination is primarily understood as racial.⁷⁸⁸ Overall, Muslims in Portugal attract relatively little media attention. When they are covered in the news, they tend to be portrayed positively.⁷⁸⁹

The extent of discrimination against Muslims, and specifically women who wear Islamic clothing, is not well known. It has been reported that Muslim

women face increasing difficulties obtaining jobs due to prejudice against those who wear headscarves,⁷⁹⁰ but there is no data available to substantiate this.

National Bans

There have been no national bans or legislative proposals for bans on Islamic headscarves or face veils in Portugal.

Local Bans

There have been no local bans or legislative proposals for such bans in Portugal.

Institutional and Private Bans in Practice

No bans under this category were reported.

National Legislation

The Portuguese Constitution recognizes religion as one of the protected grounds of discrimination.⁷⁹¹ In employment, the Constitution also grants equal treatment for every worker, regardless of, inter alia, their religion and belief.⁷⁹² This constitutional principle is further elaborated by Law 16/2001 of June 22 on Religious Freedom, which grants all people the freedom to practice their religion, both in private and in public.⁷⁹³

Portugal's Religious Freedom Commission (Comissão da Liberdade Religiosa, CLR)⁷⁹⁴ was established in 2004 by the Ministry of Justice.⁷⁹⁵ Its members include representatives from the Islamic Community of Lisbon, as well as from the country's Jewish, Roman Catholic, and Evangelical Christian communities, among other religious groups. The CLR monitors religious freedom, and has the power to file complaints at the national level or with the European Court of Human Rights. The CLR also informs the government about religious discrimination cases and adopts positions on matters involving Portugal's religious freedom laws.

Romania

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

While there are currently no bans on face coverings in Romania, legislation to ban face coverings in educational and vocational institutions has been proposed and cases have been brought to the National Council for Combating Discrimination. Muslims make up a small minority of Romania's population. There have been several cases of discriminatory treatment, verbal harassment, and physical assault toward Muslims because of their religion.

Background

According to a 2017 survey, Romania has about 80,000 Muslims that make up 0.4 percent of the total population.⁷⁹⁶ While the number of Muslims in Romania has decreased,⁷⁹⁷ anti-Islam sentiments are on the rise,⁷⁹⁸ supported to a great extent by mainstream media and the country's political elite.⁷⁹⁹

Several incidents have occurred of Muslim women being attacked or harassed on the grounds of their Islamic clothing. Incidents of visibly Muslim refugees and asylum seekers being attacked have also been reported.⁸⁰⁰

Several highly ranked politicians have made anti-Islam comments, either through public or personal media channels.⁸⁰¹ In December 2016, the nomination of the country's first Muslim prime minister, Sevil Shhaideh, was opposed by President Klaus Iohannis.⁸⁰² Despite the lack of stated reasons for the rejection, it was widely suggested in the media that the opposition was based on Shhaideh's gender and religion.⁸⁰³ In 2019, the former Romanian President Traian Băsescu criticized the EU's inaction towards migration issues and used Muslims as a scapegoat in a TV interview claiming: "The EU, through its lack of action, seems to tell us that we must live with the Muslim invasion."⁸⁰⁴

A nation-wide poll conducted in 2016 revealed that almost 90 percent of respondents opposed the settlement of refugees in Romania.⁸⁰⁵ In a 2017

study on the perception of interethnic relations, 24 percent of respondents were against Arabs coming to Romania—a 6 percent increase from 2015.⁸⁰⁶ With overwhelming anti-immigrant sentiment, several media outlets have depicted asylum-seekers as invaders and relied on stereotypical portrayals of Muslims. Romania has been described as witnessing generalized anti-Islam propaganda, where Muslims are “demonized by politicians, cultural figures and opinion leaders” and “unjustified Islamophobia is cultivated for ideological purposes.”⁸⁰⁷ Islamophobic and anti-immigrant articles, campaigns, and hate speech were registered but hate crimes are underreported and difficult to track because public authorities do not collect disaggregated data on crimes against immigrants.⁸⁰⁸

National Bans

There are no national bans on religious dress.

[Face Veil]

Proposals: In December 2017, the “Legislative Proposal for the Modification and Completion of National Education Law No. 1/2011” was presented to the Permanent Bureau of the Chamber of Deputies.⁸⁰⁹ The explanation for the proposal was to restrict “activities that violate the norms of morality” and was allegedly motivated by the statistics of school violence and fear of terrorism. The proposal would prohibit face coverings in vocational and educational spaces, except for medical purposes, in order to facilitate the identification of people in educational institutions. A violation would lead to refusal of access to the buildings and spaces designated for vocational education and training. Violators could also be fined up to 50,000 lei (€10,000). The proposal was ultimately rejected by the Chamber of Deputies in April 2018 and terminated by a final rejection by the senate in March 2019. The Committee of Education rejected the proposal with an overwhelming majority and reported that the prohibition of face coverings falls under the provisions of Article 2 of the Government Ordinance No. 137/2000 on the prevention and sanctioning of all forms of discrimination. Furthermore, it found that the aim of preventing illicit deeds by applying this sanction was disproportionate in relation to the non-existent social danger of face covering.

Local Bans

There are currently no local bans in Romania.

Institutional and Private Bans in Practice

[Headscarf]
[Education]

Although there are no bans on head coverings in educational institutions, in October 2017, a professor at the University of Bucharest sent two girls out of the classroom for wearing head coverings.⁸¹⁰ He told them that they would not pass the exam if they came to class with head coverings and expressed strong beliefs that religious symbols of any kind should not be displayed in public institutions. This incident reached the National Council for Combating Discrimination, a Romanian government agency established in 2001, which determined that the allegations of the respondent were of a discriminatory character; the professor was sanctioned with a fine of 2,000 lei (about €800) paid to the complainant.⁸¹¹

[Both]
[Education]

The National Council previously ruled on the display of religious symbols in public schools on another occasion. In 2006, philosophy teacher and parent Emil Moise in Buzău County requested that religious symbols be withdrawn from his daughter's high school and all public schools in Romania. He argued that religious symbols were an infringement of the separation of church and state. He claimed that the display in public schools discriminated against atheists and those belonging to religions other than the ones represented by the symbols.⁸¹² The Council decided to recommend that the Ministry of Education and Research implement an internal rule that would regulate religious symbols in public schools and allow local communities to decide each school's internal rules. This was essentially a decision against the presence of religious symbols in schools.⁸¹³ However, the decision generated a lot of backlash as up to 150 organizations sent letters to the Council and took legal action against it. In 2008, the Romanian Supreme Court of Justice declared the recommendation illegal because it was contrary to the principle of state neutrality, as it implied state intervention in a private issue that should be decided by teachers, students, and parents. The Romanian Orthodox Church, representing the faith of 80 percent of the Romanian population, celebrated this decision to allow religious icons to remain in schools.⁸¹⁴ While this decision was not prompted by a question on Islamic religious dress, it shows the strong opposition to potential restrictions that would prohibit religious signs of the dominant religious group.

National Legislation

National legal protection against discrimination on religious grounds in Romania is set out in the Constitution (1991, amended 2003),⁸¹⁵ and Law No. 48/2002 (16/1/2002), "On the Prevention and Sanction of All Forms of

Discrimination.” This law specifically rejects any privilege or discrimination in employment, according to Article 1.2(e).

Slovakia

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

There are no national or local bans on headscarves or face veils in Slovakia. The government does not provide statistics on hate crimes targeting religious groups, and there are limited data on employment discrimination against Muslims in the country. However, there is evidence of widespread prejudice against Muslims in society and in politics.

Background

Slovakia has a Muslim community of about 4,800 to 5,000 members, accounting for less than 0.1 percent of its total population.⁸¹⁶ Islam is not an officially recognized religion in Slovakia.⁸¹⁷ As a result, Muslim leaders cannot receive government funding, establish religious schools, or perform certain official functions, such as state-recognized weddings.⁸¹⁸ Muslim leaders have also reported that Islam’s lack of recognition has made it harder to establish a mosque in the country.⁸¹⁹

There are no particular cases or statistics that report discrimination against Muslim women, including Muslim women with face veils or headscarves, in Slovakia.

Attempts to restrict the rights of Muslims in Slovakia trace back to 2015, when the Slovakia National Party (Slovenská národná strana, SNS) chairman, Andrej Danko, issued a press release announcing his proposal to ban burqas and Islamic mosques. Danko’s proposal never advanced.

There have been reports of verbal and physical attacks against Muslims over the past three years.⁸²⁰ In a 2020 survey by a local NGO, a majority of respondents said it would be either “completely unacceptable” or “rather unacceptable” for a Muslim or “foreigner from a majority-Muslim country” to become their neighbor.⁸²¹

In 2018 and 2019, politicians, including members of parliament, made use of fake news and openly Islamophobic statements during election campaigns and in parliamentary debates.⁸²² Media outlets have similarly spread Islamophobic rhetoric, and far-right political websites use their platforms to spread misinformation.⁸²³

In 2017, a member of a far-right populist party proposed a law to parliament that would ban the construction of mosques. It was not accepted.⁸²⁴

In November 2016, parliament passed an amendment to an existing law, seeking to place stricter requirements on religions applying for official state recognition. Slovak President Andrej Kiska vetoed the amendment,⁸²⁵ but parliament overrode⁸²⁶ the veto, enacting the amendment. The law prevents Islam and other religions from officially registering with the state by requiring more than 50,000 adult citizen or permanent resident signatories.⁸²⁷ Only 4 of the 18 religious organizations that were registered before the recent amendment meet the current signatory requirements.⁸²⁸

National Bans

[Face Veil]

Apart from the above-mentioned proposal by Danko, no bans or legislative proposals on prohibiting face veils or headscarves have been discussed or enacted in Slovakia.

Local Bans

Similarly, no bans exist at the local level in Slovakia.

Institutional and Private Bans in Practice

No bans under this category have been reported.

National Legislation

Discrimination on religious grounds is prohibited by Slovakia's constitution⁸²⁹ and Antidiscrimination Act (2004, amended 2014).⁸³⁰

Slovenia

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	No	No

Executive Summary

There are no reports of national or local laws prohibiting headscarves or face veils in Slovenia. However, right-wing media and political groups regularly portray Muslims as an increasing threat. Much of the Islamophobic rhetoric in Slovenia centers around the migrant crisis in Europe and is driven by right-wing politicians stoking fears about immigrants.

Background

Slovenia's Muslim community represents about 100,000 or 4.8 percent of the country's total population of 2.1 million, making it the second largest religious group in the nation.⁸³¹ The majority of Muslims are Slavs from the south (mostly Bosniaks, but also Montenegrins, Macedonians and Slovenians), while the rest are Albanians, Roma, and those who came from African and Middle-Eastern countries as students to the former Yugoslavia, or more recently as refugees or asylum seekers.⁸³² Muslims in Slovenia face many obstacles to their religious practice.⁸³³ The fact that the first mosque in Slovenia was only built in 2013, after 44 years of repeated requests, is one illustration of the challenges that the community faces.⁸³⁴

The 2015 migrant crisis in Europe triggered a rise in Islamophobia in Slovenia, including a surge in right-wing internet groups, media with links to far-right political parties, and politicians openly propagating Islamophobic rhetoric. In 2019, Bernard Brščič, an economist and politician who frequently comments on Islam's incompatibility with Europe, established a far-right political party called Homeland League (Domovinska liga), and was elected its leader.⁸³⁵

Muslim women in Slovenia who wear Islamic clothing, though very few in numbers, struggle with discrimination and prejudice.⁸³⁶ However, cases of discrimination against Muslim women are not widely reported. According to unofficial data, Muslim women who wear headscarves experience discrimination in employment. They face difficulties getting jobs in the public sector and are more likely to be in private employment or unemployed.⁸³⁷

[Face Veil]

National Bans

Currently, there are no national laws that ban wearing face veils or headscarves in Slovenia.

Proposals: At the national level, in November 2015, a new bill was proposed by the Democratic Party (Slovenska demokratska stranka, SDS) seeking to amend the existing Protection of Public Order Act in order to ban the face veil. The proposal was part of an attempt to limit migration and impose stricter border controls. Under the proposed bill, women could be fined €100 for wearing the burqa in public.⁸³⁸ The bill was rejected at the parliamentary level for fear of it being unconstitutional considering the requirement of state neutrality towards religious communities.⁸³⁹

Local Bans

At the local level, no ban or legislative proposal has been adopted or implemented.

Institutional and Private Bans in Practice

While there have been reports of discrimination against Muslim women who wear headscarves or face veils, no data was found on specific bans under this category.

National Legislation

National legislation that protects Muslim women against discrimination is provided by the constitution, which states that everyone “shall be guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, [or] political [affiliation].”⁸⁴⁰ In the field of employment, the Act Implementing the Principle of Equal Treatment confirms this constitutional principle and states that equal treatment shall be ensured irrespective of, *inter alia*, religious or other beliefs.⁸⁴¹ The Employment Relationships Act (2017) went further by guaranteeing the prohibition of discrimination and retaliatory measures, which explicitly compels employers to “ensure that job seekers being given access to employment or workers during their employment relationship and in connection with the termination of employment contracts are afforded equal treatment, irrespective of their [...] faith or beliefs,” among other protected grounds.⁸⁴²

Spain

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	Yes	Yes	Yes	Yes	No

Executive Summary

Beginning in 2010 with an ordinance passed by the city of Barcelona, several towns in Spain have attempted to restrict the wearing of face coverings. In each instance, the town’s motivation was clearly directed at Muslim women, although in some instances the language used in regulations was neutral. The Spanish Supreme Court condemned some of the bans in 2013; however, following the 2014 decision of the European Court of Human Rights in *S.A.S. v France*, at least some towns have considered the national Supreme Court’s ruling no longer binding. Regulations restricting Muslim women’s choices are emblematic of ongoing efforts—including via the 2015 “Ley Mordaza”—to inhibit the liberty and equality of all Spaniards.

Background

According to the latest survey undertaken by the Islamic Commission of Spain in 2016, there are approximately 1,887,906 Muslim residents in Spain,⁸⁴³ which is equivalent to 4 percent of the total population.⁸⁴⁴ Of all Muslim residents, 41 percent are Muslim Spanish nationals and 59 percent are immigrants.⁸⁴⁵

Spain has constitutionalized the separation of church and state.⁸⁴⁶ However, its 1978 constitution recognizes that the country has ongoing cooperative relationships with the Catholic Church “and other confessions.”⁸⁴⁷ Spain officially recognized Islam as a “deeply rooted” religious tradition in 1989, and has since contracted with the Islamic Commission of Spain to provide enhanced accommodations for Muslims in its public institutions.⁸⁴⁸ Nevertheless, Islamophobia is a real and growing concern in Spain. Incidents of harassment increased more than sixfold in 2015; the threat is especially present for Muslim women.⁸⁴⁹

Spain’s far-right political party, Vox, is ideologically founded on Islamophobic sentiments.⁸⁵⁰ Like other right-wing parties throughout Europe such as France’s National Front⁸⁵¹ and Italy’s Northern League,⁸⁵² Vox’s agenda centers heavily on opposing immigration.⁸⁵³ Vox has been outspoken about its distaste for Muslim women’s freedom of expression and religion,⁸⁵⁴ and frequently uses deeply racist rhetoric in discussing issues of women’s

equality.⁸⁵⁵ It has had significant success in parliamentary elections since its inception in the 2010s.⁸⁵⁶

Only a handful of women wear a face veil or niqab in Spain.⁸⁵⁷ There are no reports of women wearing a burqa despite face veil bans being referred to as “burqa bans.”

National Bans

[Face Veil]

National specific bans: In 2015, a law called “Ley Mordaza” (or “gag law”), which restricts the rights of assembly, demonstration, and freedom of information, was enacted.⁸⁵⁸ Article 16 on the identification of persons imposes penalties for using any kind of cloth that covers the face during demonstrations.⁸⁵⁹

The “Ley Mordaza” law was the result of a legislative attempt to legalize a restriction on face veils, initiated by Spanish Minister of Interior Jorge Fernandez Diaz of the People’s Party (Partido Popular). In September 2014, Diaz stated that the Spanish government would consider an amendment to the bill banning face veils, including provisions that ban the covering of people’s faces during demonstrations, on the grounds of security.⁸⁶⁰ The first proposal for a national ban on face veils in public spaces was introduced by the People’s Party “in defense of the dignity and equality of all women.” In July 2010, the Spanish Parliament rejected the proposal to ban face veils in public spaces. Also in 2010, the Spanish Senate submitted a motion to urge the government to enact legislation to ban religious clothing in public spaces and events. However, neither the governing Socialist Party (Partido Socialista Obrero Español, PSOE) at that time, nor the subsequent governments, took up the motion.

Local Bans

[Face Veil]

Local general bans: Nine municipalities (out of 8,124) in Spain introduced a ban on face veils: Lleida, Reus, Barcelona, Cunit, El Vendrell, Mollet del Vallès, Santa Coloma de Gramanet, Tarragona, and Coín (Málaga). Coín is the only city in this list that is not part of Catalonia which has seen a higher increase in the number of migrants from Muslim majority countries than the national average raising questions around migration and religious diversity.⁸⁶¹

The year 2010 brought the first ban on face veils in public space in Spain, in the Catalan town of Lleida.⁸⁶² Lleida adopted this ban by amending the Municipal Regulation on Civic Responsibility and Living Together to include a prohibition on all dress that could “hamper identification when accessing

public buildings and facilities.”⁸⁶³ Fines of up to €600 could be imposed on anyone in breach of the prohibition.⁸⁶⁴ According to scholars Marian Burchardt, Zeynep Yanasmayan, and Matthias Koenig, “[T]he argument regarding the defense of Western culture was linked to and reinterpreted in light of the idea of ‘tranquility,’ which proponents of a ban formulated in reference to the French concept of ‘vivre ensemble’.” Anti-ban activists included members of the left-wing civil libertarian party Popular Unity Candidacy (Candidatura d’Unitat Popular), although the party rejected the possibility of a theoretical coalition with Muslim advocates due to the party’s secularist opposition to religion.⁸⁶⁵ A local Muslim association appealed the decision which was first temporarily suspended by a regional court and then declared unconstitutional by the Supreme Court in Madrid for infringing religious liberties.⁸⁶⁶ The Majorcan town Sa Pobla enacted a restriction similar to Lleida’s in 2013.⁸⁶⁷

In 2014, shortly after the *S.A.S v France* judgment, the Catalan town of Reus banned full-face veils in public pushed by the conservative People’s Party and the Catalan nationalist coalition. The ban was legalized and passed by the Council Assembly in July 2014.⁸⁶⁸ The Reus law was amended at the last minute to remove specific references to the niqab and burqa, and replaced with a more general ban on clothing that would “impede identification” or make identification more difficult.⁸⁶⁹

[Face Veil]

Local specific bans: In 2010, Barcelona announced a ban on face veils, thereby becoming the first large Spanish city to ban face veils in municipal buildings,⁸⁷⁰ schools, and markets.⁸⁷¹ According to a council statement, the ban aimed to “forbid the use of the burqa, niqab and any other item which hinders personal identification in any of the city’s public installations.”⁸⁷²

Case law: When municipal bans were challenged in court, the Spanish Supreme Court found the local prohibitions on face veils by Lleida and Reus to be contrary to the scope of municipal governments’ authority. The Court overturned the ban in Lleida in 2013.⁸⁷³ The judgment also made clear that no penalty can be imposed on Muslim women wearing face veils in Reus.⁸⁷⁴ However, the town of Reus was reported to have kept the ban in place, relying instead on the *S.A.S. v France* judgement.⁸⁷⁵ It is unclear whether the Supreme Court judgment led to changes in the other towns. The Court left open the question of whether national legislation banning the veil would be constitutional, relying instead on the municipalities’ lack of authority to enact such regulations.⁸⁷⁶

Institutional and Private Bans in Practice

[Headscarf]
[Private Employment] *Private employment:* In the most recent court case, from February 2017, a judge of the Social Court of Palma ruled in favor of the complainant, a Muslim stewardess for the company Acciona at Palma airport. The ruling authorized her to wear a headscarf at work and stressed that by requesting that she not do so, her employer violated her fundamental right to religious freedom.⁸⁷⁷

[Both]
[Education] *Education:* Up to the end of 2011, there were no clear guidelines on the enforcement of dress codes. Such issues are normally left to individual school boards to decide, but in some cases bans on Islamic clothing have been overturned by the state, based on the argument that the constitutional right to an education overrides a school's right to determine its own policies.

Case law: The first case dates back to 2002 when Fátima Elidrissi, a 13-year-old Moroccan girl, was expelled from her Roman Catholic school, La Inmaculada Concepción, in the town of San Lorenzo de El Escorial, for refusing to remove her headscarf in school.⁸⁷⁸ From 2007 to 2011, there was a series of similar cases that sparked public debate on Islamic clothing.⁸⁷⁹

Additional key cases arose in 2007, 2010, and 2011, when female Muslim students were suspended, or even expelled from school, for refusing to remove their headscarves.⁸⁸⁰ They were accused of either violating the schools' general dress codes or interfering with measures against cheating during exams by hiding electronic devices.⁸⁸¹ In January 2012, a Court of First Instance in Madrid ruled in favor of the Institute José Cela's decision to expel a student for wearing a headscarf. According to the Court, the school's rule was necessary to "protect public order and the rights of others" because it applied to everyone and was "aimed at introducing common dress code rules to ensure social harmony within the school and to avoid distractions to pupils." The same case was appealed to the High Court of Justice of Madrid in February 2013, which rejected the appeal on procedural grounds.⁸⁸²

A night school student in Valencia successfully opposed her school's prohibition on headscarves in 2016.⁸⁸³ The regional government intervened following publicity on the matter, directing the school to permit the young woman to wear her headscarf on the grounds that doing otherwise would encroach upon the guaranteed right to education.⁸⁸⁴

[Headscarf]
[Practice] *Bans in practice:* In another incident, a Muslim female lawyer named Zoubida Barik Edidi was rejected from Spain's High Court of Madrid for not removing her headscarf. She brought her case to the Supreme Court and then the Constitutional Court. The Supreme Court did not rule on the merits of the case but declared it inadmissible for procedural reasons. Zoubida Barik Edidi then

appealed the Supreme Court's dismissal to the Constitutional Court and the Audiencia Nacional, which has jurisdiction over matters concerning the internal functions of the courts. The Audiencia Nacional again found it inadmissible because the filing exceeded the time limit for the case to be considered. At the Constitutional Court, the case was declared inadmissible on the grounds that no violation of a fundamental right was established. In March 2013, Zoubida Barik Edid submitted the case to the ECtHR, which rejected the case for its failure to exhaust domestic remedies due to the fact that the applicant failed to comply with procedural requirements while lodging her appeal at the domestic judicial level.⁸⁸⁵

National Legislation

National legislative protection against discrimination on the grounds of religion in general and employment in particular is set out in the Spanish Constitution and the specific law on freedom of religion, Ley Orgánica 7/1980, de 5 de julio, de libertad religiosa. One of the core principles in the Spanish Constitution is to place responsibility on public authorities to "promote the conditions so that the freedom and equality of the individual and of the groups in which they are integrated are real and effective" and, at the same time, to "remove obstacles that impede or hinder their fullness and facilitate the participation of all citizens in political, economic, cultural and social life." Article 14 further stresses the principle of equality and nondiscrimination on grounds of religion, among others. Legal protection of Article 14 is guaranteed by means of special expedited proceedings before regular courts and the writ of amparo (a special remedy for the protection of constitutional rights) before the Constitutional Court, according to Article 53 of the constitution. In addition, the specific law on freedom of religion, Ley Orgánica 7/1980, de 5 de julio, de libertad religiosa, Article 1.2, prevents religious beliefs from constituting grounds for inequality or discrimination. It also asserts that no religious grounds may be claimed to prevent anyone from engaging in any job or activity or the performance of positions or public functions.

Sweden

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	Yes	No

Executive Summary

Although Sweden has no national or local bans on headscarves, there is a current of Islamophobia and xenophobia present in the nation. Motivated by “colorblindness,” “Swedish universalism” or “religious neutrality,” political parties and companies have proposed headscarf bans and, at times, have been successful in passing these bans temporarily. The Swedish Democrats (Sverigedemokraterna) and other right-wing/moderate parties have consistently pushed for bans against headscarves and face coverings.

Background

Sweden is home to residents with various national and religious backgrounds.⁸⁸⁶ According to the most recent estimate available, 8 percent of the total Swedish population is Muslim.⁸⁸⁷ Muslims in Sweden face negative attitudes and discrimination in many aspects of their lives, including media, law, politics, education, and employment, as well as public perception.⁸⁸⁸

Muslim women in Sweden are frequently targets of physical and verbal abuse.⁸⁸⁹ A 2017 survey asked Swedes their opinion on restricting the religious clothing of Muslim women.⁸⁹⁰ The results showed that 49 percent support no restrictions on religious clothing, 32 percent said they should be allowed to wear religious clothing as long as it does not cover their face, and 16 percent of respondents felt that Muslim women should not be allowed to wear any religious clothing. In sum, 51 percent of respondents support some type of restriction on Muslim women's religious clothing.⁸⁹¹

Media coverage of the headscarf debate steadily increased between the years 2008 and 2015. It was documented that there were 72 articles relating to the face veil published in the most popular newspapers in Sweden during that time; 69 of those articles were written by people who did not wear headscarves, and the majority of the articles expressed negative opinions on Islamic clothing.⁸⁹² In recent years, public discussion on headscarves and face veils in Sweden has become more intense.

National Bans

Despite various proposals, Sweden has no laws that prohibit the wearing of Islamic headscarves or face veils at the national level.

[Both]

Proposals: There have been several attempts to propose a legal ban on headscarves or face veils in Sweden. Proposals have been introduced by the Centre Party (Centerpartiet), the Liberals (Liberalerna), the Moderates (Moderaterna), and the Swedish Democrats (Sverigedemokraterna). All were rejected.

[Face Veil]

The first attempt was put forward in 2009 by two members of parliament from the Centre Party, Staffan Danielsson and Lennart Pettersson, who submitted a motion proposing a ban on the face veil. In 2010, the Swedish Democrats, represented by Kent Ekeröth and Björn Söder, proposed banning full veils in schools in 12 cities and in the police forces. The Liberal Party also joined the Swedish Democrats by suggesting banning full veils in schools.⁸⁹³ The proposal was rejected.

[Headscarf]

In January 2016, the Moderate Party in the city of Norrköping floated the possibility of introducing a local regulation on headscarves for girls under the age of 15. The party claimed that girls younger than 15 are forced to wear the headscarf, which prevents them from enjoying their right to their own body and sexuality, as well as their freedom to play and be sociable. They claimed a need for a regulation to combat various forms of oppression. That same year, representatives for the Moderate Party in Norrköping presented two proposals to ban face veils for employees within the municipality.⁸⁹⁴ The party reasoned the ban was based on the quality of communication, which, according to them, cannot be achieved if the face is hidden.⁸⁹⁵ Nevertheless, the proposal was rejected.

[Face veil]

In 2021, Sweden had three proposals to ban the face veil. The first one was presented by the Swedish Democrats and it proposed banning the face veil in public spaces. The second one was also presented by the Swedish Democrats and it advocated eliminating all religious marks from police uniforms to achieve “neutrality.” Finally, the Christian Democrats suggested a ban on children in childcare settings wearing the face veil as well as primary school students and public servants.⁸⁹⁶ All three proposals were rejected.

Local Bans

[Headscarf]

[Education]

In 2019, the southern Sweden municipalities of Skurup and Staffanstorp implemented a local ban on headscarves in schools. The municipalities cited

women's rights as a justification for the ban, claiming that headscarves went against Swedish values, and young women under the age of 13 should not have to hide themselves.⁸⁹⁷ The bill was passed by members of the Swedish Democrats in the municipalities. In 2020, however, the bans were struck down by the Malmö Administrative Court of Appeals. The Court ruled that the bans violated Sweden's constitutional laws on religious freedom. In the case against the Skurup Municipality, the judge stated that "neither the Swedish Education Act nor any other law gives a municipality the right to decide on restrictions in the way that has now taken place."⁸⁹⁸

Institutional and Private Bans in Practice

[Headscarf]
[Private Employment]

Private employment: A job applicant for Scandinavian Airlines was told by the interviewer she would qualify for the job if she did not wear her headscarf. The interviewer explained the suggestion was based on the company's "neutral" uniform policy, which excludes any garments and accessories with political, religious, cultural, or ideological symbols.⁸⁹⁹ The Swedish Equality Ombudsman investigated the case⁹⁰⁰ and determined that the airline had not discriminated against the woman. The organization cited the 2017 CJEU ruling in *Achbita* allowing companies to ban religious symbols, such as headscarves, if it is done with the purpose of preserving the company's religious neutrality to the public. Since the woman would be interacting directly with customers, the Swedish Equality Ombudsman concluded that Scandinavian Airlines had the right to maintain a certain corporate image and the ban was not discriminatory.⁹⁰¹

[Both]
[Education]

Education: According to an official guideline issued in 2012 by the Swedish National Agency for Education, Swedish schools enjoy the autonomy to issue and implement bans on face veils and headscarves. The guidelines state that restrictions on headscarves and face veils must be decided on a case-by-case basis, and not with a general ban. Schools should strive to be as accommodating as possible but can require students to remove their headscarves when they pose specific risks or hinder the interaction between students.⁹⁰² The guideline was established despite a ruling by the Swedish Equality Ombudsman, stating that the headscarf ban amounted to a violation of Sweden's antidiscrimination laws in 2010. The decision was delivered for a court case in which two Muslim women were banned from their class in an adult education center in Spanga, north of Stockholm, for wearing face veils.⁹⁰³

[Headscarf]
[Practice]

Bans in practice: The discourse on Islamic headscarves in Sweden started to attract public attention as early as 2002 when a Muslim female reporter

working for a public television firm was not allowed to be promoted to the presenter of a program called *Mosaik* on Sweden's Television Stock Company (SVT), Sweden's public broadcaster, because she wore a headscarf. The broadcaster's leadership believed that a television presenter wearing a headscarf would breach its impartial and neutral image.⁹⁰⁴

National Legislation

National legal protections against discrimination in general, and discrimination in employment based on religion in particular, are laid out in the Discrimination Act (Swedish Code of Statutes 2008:567). The Act, which entered into force in 2009, explicitly prohibits direct and indirect discrimination on the basis of religion, among other protected rights. The Act also enables a new agency called the Swedish Equality Ombudsman to supervise compliance with the act.

United Kingdom

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Institutional/Private Ban	Legislative Proposals
No	No	No	No	Yes	No

Executive Summary

Anti-Islamic incidents are increasing in the United Kingdom (UK), where Muslims have the highest unemployment rate compared with other religious groups. While there are no legal prohibitions against head coverings or face veils, several government leaders have expressed support for such bans. A public petition in 2018 calling for a ban on all face coverings garnered almost 20,000 signatures. However, a growing number of police forces in the UK have included Muslim headscarves as part of their operational uniforms.

Background

According to the most recent data released by the Office for National Statistics, there are about 3,372,966 Muslims living in the UK as of March 2018, which constitutes approximately 4.5 percent of the total population.⁹⁰⁵

Islamophobia is on the rise in the UK.⁹⁰⁶ The government's counterterrorism policies, including the much-debated Prevent Program launched in 2003, are said to contribute to Islamophobia and discrimination against Muslims by

pointing to their religion as the cause of security problems.⁹⁰⁷ It has not only eroded public trust but also limited the civic space left for Muslims to voice their political and social concerns, with critical opinions and increased individual religiosity viewed as suspicious.⁹⁰⁸

Muslim women face significant levels of racism, harassment, abuse, and violence due to their religious identity. The challenges are even more serious for Muslim women who wear a headscarf or face veil because they are more visible as Muslims, which increases the likelihood of being targeted for a hate crime.⁹⁰⁹ Research has shown that Muslim women who wore a face veil were frequent victims of verbal abuse, which can lead to assault and violence.⁹¹⁰

In August 2020, a Muslim woman wearing a face veil was spat at by a man as she left a shop in South London.⁹¹¹ In December 2019, two sisters Redena and Wida Al-Hadi, aged 14 and 13, were verbally abused by a man in Sheffield before another woman told Redena that her headscarf made her sick, dragged Redena off the bus, strangled her with her headscarf, and punched her in the eye. Redena became temporarily unconscious after her head hit the ground. After the police arrested the woman, she was let off with a caution because it was her first offense.⁹¹²

In March 2020, the Metropolitan Police reached an out-of-court settlement after a woman was forced by police officers to remove her headscarf for a photograph. The Metropolitan Police admitted that such a practice could be unlawful.⁹¹³ The power to forcibly remove a woman's headdress is provided under Schedule 7 of the Terrorism Act of 2000. A petition demanding that the All-Party Parliamentary Group on British Muslims take action against the Home Office for its discriminatory use of Schedule 7 powers received over 30,000 signatures after the incident was publicized.⁹¹⁴

A February 2020 report found that the employment rate of Muslims was significantly lower than that of other religious groups between 2012 and 2018. Notably, economic inactivity rates were highest among Muslim women, which was the only group with more than half the population economically inactive in 2018.⁹¹⁵ While there has not yet been any study examining how Muslim women's religious headwear affects the gender disparity in employment,⁹¹⁶ the Employment Tribunal has heard numerous cases about Muslim women alleging harassment and discrimination in relation to their headscarf or face veil.

Despite the rise in Islamophobia and occasional debates surrounding the face veil, the UK stands out compared to mainland Europe in its general acceptance of religious dress and symbols in education, employment, and

public space. It is common to see employees wear a Muslim headscarf or Sikh turban (e.g., TV news reporter,⁹¹⁷ shopkeepers, police officers,⁹¹⁸ judges,⁹¹⁹ and royal guardsmen⁹²⁰), and for various professions to accommodate religious dress by devising ways to include it in the uniform. As only a small number of Muslim women wear a face veil, it is less common but still allowed in public spaces and certain occupations.⁹²¹

Nonetheless, somewhere in the range of half the UK population appears to support banning Muslim face veils in public. A 2017 YouGov survey found that 48 percent of respondents supported introducing a law against wearing full body and face veils while an earlier survey conducted in 2016 found that 50 percent supported such a law.⁹²² According to a public survey conducted in 2009, 53 percent of the British public believed that removing face veils is needed for Muslims to integrate.⁹²³ This contrasts with a survey conducted by Channel 4 News in 2013 and in 2016, which found that 55 percent and 57 percent of respondents supported a ban on face veils, while 88 percent supported a ban of face veils in specific public places, including schools, courts, and hospitals.⁹²⁴

National Bans

Despite various attempts to date as described below, the UK has not enacted any legal ban on face veils or headscarves.

[Face Veil]

Proposals: There were two official attempts to legalize face veil bans in the UK. In 2012, a ballot bill titled the “Face Coverings (Regulation) Bill” 2010-12, sponsored by Member of Parliament Philip Hollobone of the Conservative Party,⁹²⁵ was debated at the first reading in the House of Commons. The bill did not get a second reading. Hollobone continued to sponsor another identical bill, which had its first reading in September 2013 and its second reading in February 2014. During the second reading at the House of Lords, the bill failed to pass after then prime minister David Cameron closed parliament early and the bill was not considered in subsequent sittings.⁹²⁶ It is unlikely that the bill would have passed as many members of parliament had signaled their disapproval towards a ban during parliamentary debates and indicated that they would vote against the bill.⁹²⁷

British politicians first brought the discussion over Islamic headwear to the political stage in 2006. As a member of parliament and minister, Jack Straw expressed his opposition to the practice of wearing full face veils.⁹²⁸ Following Straw, a number of politicians, mostly from the Conservative Party, expressed similar views. Between 2010 and 2013, a number of

proposals to ban veils nationally were put forward by members of the UK Independence Party (UKIP) and the British National Party.⁹²⁹

While opposing a national ban in all public places, David Cameron stated in 2013 that he would support bans in schools and in courts.⁹³⁰ In 2017, then prime minister Theresa May backed the right of Muslim women to wear a headscarf “without fear,” and said that she believed that “what a woman wears is a woman’s choice.”⁹³¹

In 2016, a public petition with almost 20,000 signatories was submitted to the British government to ban the wearing of any full or partial face coverings in public. The petition claimed that “the burka is a huge security risk, the person wearing it could be male or female unless you can see the full face you would never know... it's been said in the past a wanted male criminal had escaped the country by wearing a burka.”⁹³² In response, the Home Office noted that it “has no intention of making it a criminal offence to wear face coverings” and explained that current legislation empowers police officers to remove face coverings if they are used for the purpose of concealing one’s identity.

In August 2018, former foreign secretary Boris Johnson, who later became prime minister, stated in a *Telegraph* column that he opposed bans on face veils in public places and he disagreed with the total ban that Denmark had imposed.⁹³³ Nevertheless, he referred to women wearing face coverings as “looking like letter boxes” and said that it was “ridiculous” that people chose to wear them.⁹³⁴ A subsequent report in 2019 found that Boris Johnson’s comments on women wearing the veil led to a surge in anti-Muslim attacks and incidents of abuse.⁹³⁵ In December 2019, Johnson apologized for his comments while noting that they were “taken out of context.”⁹³⁶ In May 2021, Johnson again apologized for his comments in a report that criticized the Conservative Party over how it dealt with complaints of Islamophobia; however, he reiterated that his *Telegraph* article was a “liberal defense of a Muslim woman’s right to choose what she wore.”⁹³⁷

Local Bans

No local ban has been proposed or implemented in the UK.

Institutional and Private Bans in Practice

Public employment: In 2016, Police Scotland announced that Muslim women may wear the headscarf as part of their uniform after the Metropolitan Police in London approved a uniform headscarf in 2001.⁹³⁸ In

[Headscarf]

[Public Employment]

November 2020, the North Yorkshire Police launched a headscarf as part of its police uniform which was under consideration to be launched nationwide; this followed from West Yorkshire's development of a police uniform specifically for Muslim women.⁹³⁹ In February 2021, the operational headscarf was trialed in Leicester.⁹⁴⁰

However, not all sectors have been as accepting of Muslim women wearing headscarves, particularly schools. In *Azmi v Kirklees Metropolitan Borough Council*, in 2007, an assistant teacher was instructed to remove her face veil while teaching. The teacher claimed that this instruction discriminated against her as a Muslim woman. Both the Employment Tribunal and the Employment Appeal Tribunal found no direct discrimination on the grounds of religion or belief. The tribunal found indirect discrimination, but held that the instruction to remove her veil was proportionate and served a legitimate aim. The case raised the important question of proportionality while weighing the quality of education and Muslim women's right to wear religious dress.⁹⁴¹

[Headscarf]

[Private Employment]

Private Employment: Despite the general acceptance of visible religious diversity, there are cases where Muslim women face rejection because of their religious dress. They can, however, rely on strong antidiscrimination legislation if they decide to take matters to court. Cases with high chances of succeeding tend to result in out-of-court settlements often including confidentiality clauses. The resulting lack of media attention or a written legal decision means the utility of litigation often goes unnoticed.⁹⁴² It also means that there are likely to be more cases than reported below.

Case law: In *Ms Muna Abdi v Deltec International Courier Limited*, in 2020, a Somali woman who wears a headscarf succeeded in her claim of unlawful harassment against her employers, who had sent "highly offensive and threatening" messages to her, including threats of violence.

In *Farrah v Global Luggage Co Ltd*, in 2012, the Employment Tribunal decided that a company was liable for unfair dismissal after the aggrieved employee was forced to resign because her headscarf allegedly undermined the company's aim of maintaining a "trendy image." The Tribunal found that this was an illegitimate and discriminatory justification. The employee's claim for direct discrimination was, however, rejected because the employer did not target her for her faith, although it was noted in the judgment that she would have had a better case if she had claimed indirect discrimination. This is because a rule against the wearing of headscarves would have unfairly burdened her as a Muslim woman compared to a non-Muslim woman.

[Both]

[Education]

Education: The UK has no legal ban on wearing headscarves or face veils but schools can decide their own dress codes.⁹⁴³ This autonomy is granted by the guidance on school uniforms issued by the Department for Education, called *School Uniform: Guidance for Governing Bodies, School Leaders, School Staff and Local Authorities*.⁹⁴⁴ The guidance is further supported by several court cases, as analyzed below.

[Headscarf]

[Education]

In 2018, St. Stephen's, a primary school in London, adopted a ban on the headscarf for pupils under the age of eight.⁹⁴⁵ It was quickly revoked following strong resistance from civil society groups.⁹⁴⁶ This controversy arose shortly after the Chief Inspector of the Office for Standards in Education (Ofsted), Amanda Spielman, called on school inspectors to question primary school girls who wear a headscarf about why they do so to determine whether it "could be interpreted as sexualization."⁹⁴⁷ Notably, Spielman had expressed support for St. Stephen's ban and claimed that "schools must have the right to set school uniform policies as they see fit in order to promote cohesion;" she was subsequently requested to appear before the parliamentary Education Select Committee over her comments.⁹⁴⁸ Spielman was not alone in her support for such a ban, with Lord Agnew of Oulton, who served as schools minister, offering government support to schools that try to ban headscarves and fasting.⁹⁴⁹

Case law: The leading cases are R (on the application of X) v The Headteacher of Y School and another in 2007,⁹⁵⁰ and R (on the application of Begum) v Headteacher and Governors of Denbigh High School in 2006.⁹⁵¹ The first involved a female Muslim student who wished to wear a face veil at school, the second concerned a Muslim student who wanted to wear a jilbab (an ankle length gown) in breach of the school's uniform policy. Both students were expelled for not complying with the school's dress code. Their claims were dismissed by the House of Lords on the basis that the right to hold religious beliefs was not inviolable and that there had been no interference with the right to hold and manifest one's religion.⁹⁵² In the first case, the defendants claimed that having another alternative school where veils are allowed meant there was no interference with the students' beliefs or ability to gain an education, which was in line with the argument in the second case.⁹⁵³ Hence, the House of Lords found the expulsion to be proportionate and not an infringement of the claimants' rights.⁹⁵⁴

[Face Veil]

[Practice]

Bans in practice: In November 2006, a judge in an immigration tribunal in Stoke-on-Trent adjourned a hearing because he could not properly hear a Muslim woman legal adviser who wore a face veil. The woman was accustomed to wearing it in the course of her work and refused to remove it when asked by the judge. The Asylum and Immigration Tribunal issued

temporary advice allowing legal advisers and solicitors to wear a face veil in court, as long as it did not interfere with the judicial process allowing judges to exercise discretion on a case-by-case basis when it does.⁹⁵⁵ The case was eventually resumed with a different judge, but several more debates occurred related to Muslim women with face veils who were part of court proceedings (as a defendant,⁹⁵⁶ witness, etc.⁹⁵⁷).

The most recent guidance to the judiciary on the matter is in Section 9-5 of Chapter 9 (Religion) of the *Equal Treatment Bench Book* from 2018. Judges are still allowed some discretion to decide on a case-by-case basis but are given more guidance. A judge can ask a woman to remove her face veil when she has to provide evidence but only if necessary and after consideration of whether it is possible to do so without having to remove her veil. Where removal is required, arrangements should be made to limit the woman's discomfort, e.g. limiting the number of observers and/or creation of images. Alternatively, a female staff member can establish the identity of the woman in private.⁹⁵⁸

National Legislation

The government has taken legislative action to address discrimination and inequality in employment since 2010. The Equality Act (2010), which strengthens the protection for female and religious employees, is an example of this effort.⁹⁵⁹ In particular, the law combined and replaced many antidiscrimination laws, which makes it easier to comprehend and apply. It includes religion/belief and sex as protected characteristics, among others, which require the protection of public authorities.⁹⁶⁰ The law not only prohibits direct and indirect discrimination at work based on religion and belief but also recognizes combined discrimination (or dual characteristics).⁹⁶¹ At the domestic level, the UK has another source of legal protection against discrimination in relation to religious freedom. The Human Rights Act, 1998, Article 9, which mirrors the European Convention on Human Rights, provides freedom to exercise religion or belief “publicly or privately” and “in practice and observance.”

However, as discussed above, while a prohibition against Muslim women wearing the headscarf or face covering may constitute indirect discrimination, employers may still do so if they are able to provide justification. In a 2019 speech on religious dress at the Woolf Institute in Cambridge University, Lady Hale, then President of the Supreme Court, observed that “it is quite possible for employers and service-providers to have reasons for their rules which are independent of the religion or ethnicity

of the complainant and are sufficient to justify them.”⁹⁶² Dealing with the question of Catholic religious symbols in the work place, in *Eweida v United Kingdom* [2013] ECHR 3, the European Court of Human Rights clarified that even if the employer’s justification may be legitimate, it must be balanced against the restriction on the employee’s right to religious freedom; in that case, the Court held that the domestic courts had accorded “too much weight” to the employer’s desire to “project a certain corporate image” in prohibiting its employees from wearing items of religious clothing.⁹⁶³

Annex I: Religious dress bans in the EU and the United Kingdom

	National Ban	Local Ban	Private/ institutional Bans	On-going Proposal	Failed Proposal
Austria	General		Austria		Austria
Belgium	General	General & Specific	Belgium	Belgium	Belgium
Bulgaria	General	General	Bulgaria		Bulgaria
Croatia			Croatia		
Cyprus					
Czech Republic			Czech Republic		Czech Republic
Denmark	General & Specific		Denmark		Denmark
Estonia					Estonia
Finland			Finland		Finland
France	General & Specific		France	France	France
Germany	Specific	Specific	Germany		Germany
Greece					
Hungary					Hungary
Ireland			Ireland		Ireland
Italy		Specific	Italy		Italy
Latvia					Latvia
Lithuania					Lithuania
Luxembourg	General	General	Luxembourg		Luxembourg
Malta					Malta

Netherlands	Specific		Netherlands		Netherlands
Poland					
Portugal					
Romania					Romania
Slovakia					Slovakia
Slovenia					Slovenia
Spain	Specific	General & Specific	Spain		Spain
Sweden			Sweden		Sweden
UK			UK		UK
Total	9	6	16	2	23

Annex II: List of national reviewers and experts

Austria	Johanna Schlintl Elisabeth Holzleithner Farid Hafez	Italy	Mary Cortese Patrizio Gonnella Corallina Lopez Curzi
Belgium	Saïla Ouald Chaïb Julie Pascoet Ida Dequeecker	Latvia	Roberts Osis
Bulgaria	Kaloyan Stanev Mihail Ekimjiev	Lithuania	Erika Leonaitė
Croatia	Luka Buic Nela Pamuković	Luxembourg	
Cyprus	Natalie Alkiviadou	Malta	Lorraine Spiteri
Czech Republic	Susanne Prochazka Magda Faltová	The Netherlands	Merel Brouwer Jelle Klaas
Denmark	Michael De Martino Jensen	Poland	Zuza Rudzinska

	Bashy Quraishy		
Estonia	Lembi Treumuth Merit Ulvik	Portugal	Eva Kalny
Finland	Linda Hyökki	Romania	Ruxandra Fatma Yilmaz
France	Naima Bouteldja Kahina Rabahi Lila Charef	Slovakia	Zuzana Stevulova
Germany	May Zeidani Yufanyi Zeynep Çetin Aqilah Sandhu	Slovenia	Metka Trierä
Greece	Alexandros Sakellariou	Spain	Mercedes Melon Patricia Orejudo
Hungary	Zsolt Marcell Sereghy Zsanett Borsos	Sweden	Fatima Doubakil
Ireland	James Carr	United Kingdom	Heena Khaled Arzu Merali

Endnotes

¹ The series of reports by the European Network against Racism (ENAR) are good references on the matter. See ENAR, “Forgotten Women: The Impact of Islamophobia on Muslim Women” <https://perma.cc/6CZY-66NQ>.

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December 2002 and case No. 7035/2002 of the five-member court chamber of the Court (Решение № 11820 от 19.12.2002 г. на ВАС по адм. д. № 7035/2002 г, 5-членен съв, докладчик съдията Галина Карагъзова).

¹² Many Muslim women wear a turban that leaves the neck largely uncovered. It is not always clear that such headwear is covered by restrictions aimed at neck-covering headscarves/hijabs. In France, a young Muslim woman who wore a bandana to school was not allowed to wear it because of the assumed religious connotation.

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