

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

While anti-Muslim sentiments have increased in many countries in the European Union and the United Kingdom, the level of restrictions faced by Muslim women because of their religious dress is not the same everywhere. This fact sheet and corresponding report map laws and legal developments restricting religious dress—specifically the headscarf and face veil worn by Muslim women—in the 27 European Union Member States 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.

KEY FINDINGS

- Legally enforceable restrictions are relatively rare in the EU. Of the 27 EU Member States and the United Kingdom, there are only 10 where restrictions on religious dress worn by Muslim women are enforced. Of those 10, 9 states have enacted some form of national ban. In addition, local bans exist in 6 countries, some of which also have national bans. Another 2 states are currently considering legislative proposals for a ban. In 16 out of 27 EU countries and the UK, there have been reports of institutional/private bans or bans in practice. Not taking into account legislative proposals, currently 12 countries have no legal bans, or cases or reports about institutional or private bans. Of these, 5 countries do not have and never had a proposal for a ban either.
- 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, five interlinked justifications, discussed on the following page, 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 countries, with a few important wins. In 20 countries, previous legislative proposals to ban the headscarf or face veil 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 and the Court of Justice of the European Union, has given states and private actors more leeway in instituting bans.

WHAT TYPES OF BANS EXIST IN THE EUROPEAN UNION AND THE UNITED KINGDOM?

Bans on Muslim women's dress are classified into six categories:

1 | A national general ban applies to all public places in the entire country.

2 | A national specific ban applies to specific sectors, such as government or teaching jobs across the entire country.

3 | A local general ban applies to all public spaces in a specific jurisdiction within a country (i.e., a region, city, or district).

4 | A local specific ban applies to specific sectors in a specific jurisdiction within a country, such as government or teaching jobs in a city.

5 | Institutional/private bans by practice are 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 private workplaces and educational institutions.

6 | Pending legislation on Muslim women's dress restrictions.

What types of Muslim women's garments are included in bans?

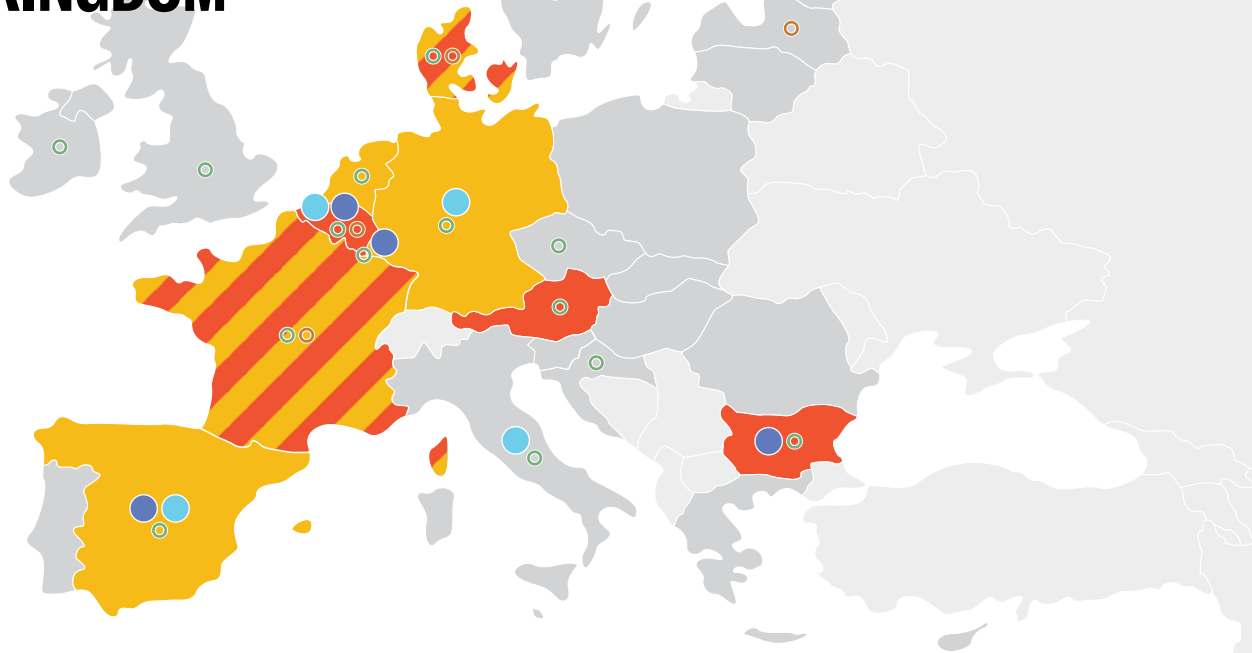
This fact sheet and corresponding report cover three types of garments: headscarf bans, face veil bans, or bans that cover both. The face veil covers the head and face but not the eyes, also known as the niqab. The niqab is often confused with the burqa, which covers the eyes with a strip of perforated fabric and generally falls under the same legal restrictions. 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. The map on the following page does not break down bans by this level of information, but details are included in the full report.

How are legal bans justified in the European Union?

Our research has identified five common justifications for legal bans on religious clothing proposed by politicians and considered by judges, among others:

- **Gender equality:** The assertion that Muslim women are forced to wear headscarves or face veils against their will and bans will help counter the oppression of women. Belgium, France, Luxembourg, and Spain all used this justification in legal bans.
- **Security and Counterterrorism:** The assertion that face veils threaten public and national security was most popular in Belgium, Bulgaria, Estonia, Italy, Latvia, Lithuania, the Netherlands, and Spain.
- **Neutrality:** The assertion that the public should be neutral in dress, meaning a ban on all religious symbols. Austria, the Czech Republic, Belgium, France, Germany, and the Netherlands are among the countries where this argument is often advanced.
- **Integration and assimilation:** The assertion that those who wear a headscarf and/or face veil are unable to integrate into Western culture and society is most prominent in the Czech Republic, Finland, Ireland, and the Netherlands.
- **Desire for homogeneity:** The motivation to reject all diversity and maintain a homogeneous society, which occurred across the European Union and specifically in Asotthalom, Hungary.

STATUS OF RELIGIOUS DRESS BANS IN THE EUROPEAN UNION AND THE UNITED KINGDOM



COUNTRY	NATIONAL GENERAL BAN	NATIONAL SPECIFIC BAN	LOCAL GENERAL BAN	LOCAL SPECIFIC BAN	INSTITUTIONAL/PRIVATE BAN	LEGISLATIVE PROPOSALS
Austria	■				○	
Belgium	■		●	●	○	○
Bulgaria	■		●		○	
Croatia					○	
Cyprus						
Czech Republic					○	
Denmark	■	■			○	
Estonia						
Finland					○	
France	■	■			○	○
Germany		■		●	○	
Greece						
Hungary						
Ireland					○	
Italy				●	○	
Latvia						
Lithuania						
Luxembourg		■	●		○	
Malta						
The Netherlands		■			○	
Poland						
Portugal						
Romania						
Slovakia						
Slovenia						
Spain		■	●	●	○	
Sweden					○	
United Kingdom					○	

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 the 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 organizations to investigate claims of discrimination, providing sufficient funding and facilitating exchange on good practices.

Action by Courts

- Give more consideration and emphasis to the disproportionate impact that religious dress restrictions have 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.
- 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 shows discriminatory intent.

The Open Society Justice Initiative uses law to protect and empower people around the world. Through litigation, advocacy, research, and technical assistance, the Justice Initiative promotes human rights and builds legal capacity for open societies around the world.

For more information about the Open Society Justice Initiative and to download the full *Restrictions on Muslim Women's Dress in the 27 EU Member States and the United Kingdom* report, please visit: osf.to/headscarfbans