

BRIEFING PAPER

Restrictions on Muslim women's dress in the 28 EU Member States:

Current law, recent legal developments, and the state of play

Open Society Justice Initiative
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This report maps laws and legal developments restricting religious dress—specifically the headscarf and face veil worn by Muslim women—in the 28 countries of the European Union (EU). 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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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 many Muslim women, in 28 countries of the European Union (EU).¹ The restrictions and proposed restrictions explored within the study include legislation, administrative law,² case law, political platforms, and legislative proposals. The report also considers public discourse, activism for and against bans, and the spread of bans and attempted bans within the EU across various sectors, including employment, education, services, and public space.

Each chapter of this report examines restrictions and proposed restrictions in a specific country of the European Union, for a total of 28 chapters. Each chapter aims to provide the most up-to-date information for that particular EU country, as of 10 July 2018. General background on the Muslim community in that country, in particular information on women who wear religious headscarves or face veils, is included. Each chapter reports on the existence of legal bans at the national or municipal levels, as well as institutional/private bans or restrictions in practice, plus relevant case law. Each chapter also traces the development of public discourse on banning headscarves and face veils, media coverage, and political initiatives related to banning efforts.

In addition to describing legal restrictions, the report tracks the development of bills and political proposals in each country. Such initiatives may become national legislation or influence the enforcement of existing laws, as well as influencing public discourse. Where possible, the report maps each country's national legislative protections against religious discrimination, with a focus on religious discrimination in employment.

In Europe today, both academia and civil society are paying increasing attention to Islamophobia and discrimination against Muslims in general, but there has been significantly less focus on how legislation and government policies—particularly restrictions on religious dress—discriminate against Muslim women. Mainstream international media and major reports by nongovernmental organizations (NGOs) have focused primarily on France, Belgium, Germany, the United Kingdom, and Italy. This report looks beyond those five countries, and pays equal attention to each EU member. This provides a comprehensive view of the limitations Muslim women encounter in their daily lives in the EU when they chose to practice their religion by wearing religious dress.

Discrimination against Muslim women must be understood from an intersectional perspective. In addition to being women and religious minorities in Europe, Muslim women who wear religious dress are highly visible and easily identifiable as Muslim, making them even more vulnerable. The intersectionality of discrimination against Muslim women who wear face veils or headscarves in the EU is emphasized throughout this report.³

The report does not cover legal restrictions on headwear in photographs required for official documents (such as passports), which are therefore not included here. While the wearing of face veils is strictly prohibited in official photographs across all EU countries, the wearing of headscarves for religious reasons is often permitted as long as the face is clearly visible. Such restrictions are often long-standing and chiefly motivated by the need to establish a person's identity rather than by religious discrimination. Although in some countries Muslim women⁴

and Sikh men⁵ face difficulties even when they only cover their heads in photographs—particularly in France, which requires pictures be taken with the head uncovered (article 5 of the decree of 26 February 2001⁶), and in Bulgaria, which has a similar requirement⁷—this issue falls outside the scope of this report.

B. Terminology and methodology

The terms “Islamic headscarf,” “face veil,” “religious clothing,” and “religious dress” are used interchangeably in this report. The terms refer to the practice of Muslim women wearing a headscarf or face veil in accordance with their faith. 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.⁸ 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 in an Afghan one-piece garment that also covers the eyes with a grille and falls under the same legal restrictions.

Scope: kinds of garments covered. Three types of bans are discussed in this report: headscarf bans, face veil bans, or bans that cover both. The distinction is important. While some legal bans, case law, bills, 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.”

Scope: spatial and temporal. Within a single jurisdiction, bans on Islamic clothing 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/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.

In the country chapters that make up the majority of 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 a potential law, whereas political platforms, proposals, or statements to ban religious dress are not, unless they are submitted to the 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 accounts. 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 unearthing restrictive policies by nongovernmental or semi-autonomous institutions and private sector employers.

C. Central findings

- Actual, legally enforceable restrictions are relatively rare in the EU. Of the 28 EU member states, there are only nine where restrictions on religious dress worn by Muslim women are enforced. Of those nine, seven states have enacted some form of national ban. In addition, local bans exist in five countries—some of which also have national bans. Another five countries are currently considering legislative proposals for a ban. In 13 out of 28 EU countries, there have been reports of institutional/private bans or bans in practice. Not taking into account legislative proposals, currently 14 countries have no legal bans, or cases or reports about institutional or private bans. Of these, six countries do not have—nor did they ever have—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 22 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 (ECtHR) and the Court of Justice of the European Union (CJEU), has given states and private actors more leeway in instituting bans.

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 EU, 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 France and Belgium, 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 countries including Austria, Bulgaria, Denmark, Germany,

Italy, Spain, and the Netherlands, there are important legal restrictions affecting Muslim women, but they are less far-reaching and fewer Muslim women are affected by them. In the 19 other EU member states, restrictions are either nonexistent (in 14, or half the EU states) or are limited to scattered institutional/private bans, and bans in practice.

The attempt to prevent Muslim women who wear headscarves and face veils from entering specific spaces, however rationalized, can 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. France, which already had a law banning 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.⁹

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 Belgium, Germany, the Netherlands, and Denmark, the current 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. Most of these proposals were rejected, and only Belgium, Bulgaria, Austria, and most recently the Netherlands, have enacted a legal ban on the face veil, as have a few cities in Spain and Italy.

Headscarf and face veil debates often took place against the backdrop of ethnic minority 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.¹⁰ Disparities between majority and minority populations deepened when religion became an added ground for discrimination. Muslim women who wore religious dress bore the brunt, being the most visible and easiest targets.¹¹

The increasing numbers of refugees 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.¹² Negative stereotypes associating Islam with terrorism and associating headscarves and/or face veils with the oppression of women have become increasingly entrenched.

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, Finland, Ireland, Italy, Luxembourg, the Netherlands, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom.

While the discourse surrounding face veils is different from that on 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 Ireland, Finland, the Netherlands, and the Czech Republic. In other countries, such as France and Spain, the justification is slightly different: face veils, specifically, undermine the possibility of “living together” in society.¹³ Similarly, Austria has argued for the concept of an “open society” that, the argument goes, cannot be achieved if face-concealing practices are permitted.¹⁴

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.¹⁵

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.¹⁶

Many bans are justified as a means to promote “neutrality” and/or “secularism,” which, some argue, is undermined by Islamic dress. This reasoning is particularly popular in certain municipalities, and has been applied to areas that range from courtrooms to classrooms, from public to private sector. France, Belgium, Austria, and Germany are among the countries where this argument is often advanced. The need for “neutrality” or “secularism” 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.¹⁷ 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, chiefly nondiscrimination 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 Spain, Germany, Austria, the Czech Republic, Denmark, Finland, 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 on religious dress. These cases cover various contexts, including bans in schools,¹⁸ in the public sector,¹⁹ and in public places.²⁰ In its jurisprudence to date, regardless of the settings in which bans have been challenged, the ECtHR has 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. At the time of writing, there is one case still under review, which concerns wearing a headscarf in a courtroom (*Lachiri v. Belgium* [No. 3413/09]). The application was communicated to the Belgian government in October 2015.²¹ It is unclear when the judgment will be delivered.

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. In its judgment, the ECtHR's Grand Chamber relied upon the concept of "living together" for the first time to conclude that the ban did not violate the right to private life or the religious freedom of Muslim women who wear face veils.

The only 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 relevant EU directive addressing religious discrimination in employment. At the heart of both cases are bans on the headscarf imposed by private companies, one in Belgium and one in France. Both cases were referred by national courts to the CJEU for an authoritative interpretation on the application of EU law, specifically the Employment Equality Directive 2000/78.

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."²² 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.²³ 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."²⁴

National bans

At the time of writing, there are five EU states that have passed a national general ban on face veils: France, Belgium, Bulgaria, Austria and Denmark. 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.²⁵ Shortly after the law was passed in France, Belgium adopted the same ban in its Criminal Code, under article 563bis. 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.”²⁶ Bulgaria, Austria and Denmark adopted national general 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 government offices, schools, cultural institutions, or any place of public recreation. People who do not comply with the ban in Bulgaria face fines of up to 1,500 levs (€760). In Austria, the law that bans wearing veils that cover the face in public was adopted in May 2017 and enforcement began in October 2017. Denmark’s law that bans face veils in public will be enforced as of August 2018 with a fine of 1,000 kroner (€134) for anyone who violates it.

Overview of existing and proposed bans

National General Ban	National Specific Ban	Local General Ban	Local Specific Ban	Legislative Proposals
Austria				
Belgium		Belgium		Belgium
Bulgaria		Bulgaria		
Denmark	Denmark			Finland
France	France		Germany	Germany
			Italy	
				Latvia
				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.” Secondly, 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,²⁷ festive events,²⁸ sporting activities, and artistic or traditional occasions.²⁹

National bans on religious clothing (including headscarves, in addition to full-face veils) in specific settings or sectors exist in France, Denmark, Spain and the Netherlands. In France, a

ban on religious dress for public employees (including government administration, public schools, and hospitals, among others) was implemented in 1983. 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 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. 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.³⁰ In Spain, using any kind of cloth that covers the face during demonstrations is prohibited by the *Ley mordaza* (“gag law”), enacted in 2015. The Netherlands passed a law banning the wearing of face veils on public transportation, and in education, health care, and government buildings, in June 2018. It is still unclear when the law will be enforced.

Local bans

Five EU states apply legal bans at the local (provincial or municipal) level: Belgium, Bulgaria, Germany, Italy, and Spain. In Belgium, Bulgaria, 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 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 five EU states, there are pending legislative proposals seeking to ban face veils. These countries are Belgium, Finland, Germany, Latvia, and Luxembourg. In addition, a legislative proposal in Hungary sought a ban that would apply only at the local level (in the town of Assothalom), but it was struck down by the Hungarian Constitutional Court. In Belgium and Germany, at least one type of legal ban already exists.

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 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 28 EU states, there are 13 where data on restrictions is available: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Ireland, 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.³¹

Case law on bans in private employment

Nine EU countries—Austria, Belgium, Denmark, Finland, France, Germany, Sweden, Spain, 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. There have been at least 20 court cases of this type, 16 of which concerned the headscarf and four concerned the face veil. Of the 20 cases where private company restrictions were challenged, judges ruled in favor of the bans in six cases, judges overruled the bans in eight cases, four cases reached settlement with victims receiving compensation from their employers, and one case (in Sweden) is still pending before the court.

Case law on bans in education

There are at least nine court cases challenging restrictions placed on Muslim students' dress by educational institutions. The countries in which these challenges took place include Austria, Belgium, Bulgaria, Czech Republic, France, 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 six 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, Portugal, and Romania.

EU country	Out of 28 EU countries
With a legal ban	9

With a legislative proposal under review	5
With past failed legislative proposals	22
With reported institutional/private bans/bans in practice	13
With case law on private employment bans	9
With case law on bans in education	7
Free of a legal or institutional/private ban	14
No past or present proposal for a ban	6

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

Background

1. Austria is home to a Muslim community of approximately 600,000 people, according to available estimates.³² Islam gained official status and was legally recognized in 1912.
2. Islamophobia is a growing concern in Austria.³³ A 2015 study by Linz Market Institute—a private market research firm—found that one in two Austrian respondents reported being afraid of Islam and perceived it as a threat to Austrian culture. Sixty-five percent of survey respondents expressed negative attitudes toward Islamic dress.³⁴ Muslim women appear to face a great deal of discrimination and stigmatization.³⁵
3. Local experts point to the role the Austrian Freedom Party (FPÖ), an increasingly popular far-right party, has played in shaping the political discourse, mainstreaming anti-immigrant and anti-Islam attitudes, and swaying traditional parties to the right (including the conservative Austrian People’s Party, with which they recently formed a government).³⁶
4. An online newspaper reported that there are only between 100 and 150 women who wear the full-face veil in Austria.³⁷ Although few in number, Muslim women in Austria are more likely to face discrimination in various areas in society, especially in education and employment.³⁸ Various verbal and physical attacks against Muslim women who wear a veil have been reported.³⁹

National ban

5. *National general ban:* Despite opposition from Muslim women,⁴⁰ the Austrian Parliament adopted a bill to ban face coverings in public space in May 2017. People who wear veils that cover their face risk a fine of €150. The ban entered into force in October 2017.⁴¹ [Face Veil]
6. Attempts to legalize a national ban on face veils in Austria, which resulted in the general national ban mentioned above, started in January 2017. Despite many attempts from the FPÖ (see below), it was the governing coalition made up of the leftist Social Democrats (SPÖ) and the conservative Austrian People’s Party (ÖVP) that legislated the ban. The proposal primarily aimed to prohibit full-face veils in public space; however, to avoid claims of discrimination, the ban is enforced quite literally on everyone covering their faces. This has stirred even more controversy.⁴² The ruling coalition used the concept of an “open society” to support their bill, claiming this could not be achieved by allowing full-face veils.⁴³ [Face Veil]
7. Citing the principle of neutrality, the coalition originally intended to include a ban on religious and ideological symbols, including headscarves, for judges, [Both]

prosecutors, and policewomen. Ultimately, this provision did not make it into the law because the dress codes for these three professions already prohibit the wearing of a headscarf. Even after the ruling by the CJEU, the relevant ministries stated there is no need for action on the matter.⁴⁴

8. The FPÖ—a nationalist and populist party—has played a central role in promoting Islamophobia in Austria, including several attempts to legalize a national ban on face veils.⁴⁵ The FPÖ called for, among other things, a referendum—despite its nonbinding nature—on the wearing of the burqa and the niqab.⁴⁶ The party's efforts to call for a national ban on face veils in public places continued in 2011⁴⁷ and again in the aftermath of *S.A.S. v France* in 2014.⁴⁸ It even planned to submit a bill to parliament in July 2014. Shortly after the proposal by the FPÖ was announced, a bill on Islam was submitted to the Austrian Parliament in October 2014, which deals with the legal recognition of different denominations but does not address any of the claims made by the FPÖ, including the proposal to bar the face veil.⁴⁹ It should be noted that throughout this period, the main reason given by politicians for a face veil ban was to liberate women.⁵⁰ [Face Veil]
9. A few months after the center-right Austrian People's Party (ÖVP) won the elections and formed a coalition government with the far-right Freedom Party (FPÖ), they announced their intention to draft a law banning Muslim girls from wearing a headscarf in kindergarten and primary school. Without providing any evidence, Chancellor Sebastian Kurz implied this was an increasing problem.⁵¹ Vice-Chancellor Strache (FPÖ) 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.⁵²

Local ban

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

Institutional/private bans/bans in practice

11. *Private employment*: There are no court decisions, but there were settlements (up to €4,500) reached between two complainants who were dismissed for not removing their headscarves during working hours and their employers. The employers paid the litigation costs of the complainants, who were a waitress at a pastry shop and a doctor at a spa. The fact that settlements were reached voluntarily outside of the courtroom indicates that the companies were aware they stood to lose on the discrimination claims made by the complainants.⁵³ [Headscarf] [Private Employment]
12. There were a number of similar cases in 2008. One of them is a case brought before the Labor and Social Court that involved Dr. A., a general practitioner who is a Muslim woman who wears a headscarf. She applied for a post as a rehab physician, but removing her headscarf at work was a requirement for the job. No judgment was given because the parties successfully settled their dispute before the second hearing.⁵⁴ [Headscarf] [Private Employment]

13. *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 niqab 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 § 20 Abs 1 GIBG.⁵⁵ Regarding the aspect of discrimination, the court found indirect discrimination based on religion in respect to work conditions following § 17 Abs 1 Z 6 GIBG. 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.⁵⁶ [Face Veil] [Public Employment]
14. *Ban in practice*: In 2008, the Austrian High Court ruled (OGH 130s83/08t or OGH 130s39/09y) on face veils in Austrian courtrooms.⁵⁷ 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.⁵⁸ [Face Veil] [Practice]
15. In 2015, the Upper Austrian Labor and Social Court held that a personnel recruiter (the first defendant) must pay €1,000 for 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 in this case also accepted a settlement of €550 from the second defendant—the company where she applied for the job.⁵⁹ [Headscarf] [Practice]
16. *Education*: There is a case concerning a teacher at a fashion institute who demanded a Muslim female student remove her headscarf during class, claiming that it posed a threat to her safety. In October 2003, court-sponsored mediation decided that the student should be allowed to wear her headscarf in class. [Headscarf] [Education]
17. 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.⁶⁰ [Headscarf] [Education]

National legislation

18. 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.⁶¹

Belgium

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

Background

19. Muslims make up approximately six percent of the national population, constituting the second largest religious group in Belgium. This measure does not include Belgian natives converting to Islam, who are estimated to be around 50,000 to 100,000 persons.⁶²
20. Anti-Muslim sentiment is a widespread problem, and Islamophobic incidents are on the rise.⁶³ Support for the far right in Belgium has been quite high since the 1980s, enabling a party like Vlaams Belang (formerly Vlaams Blok) to heavily influence and shape the discourse on issues related to multiculturalism and security.⁶⁴ Anti-Islam sentiments became even more popular as traditionally centrist and leftist parties came to view Muslims as a threat to secular progressive values.⁶⁵ Where the far right and right-wing nationalists have been quite straightforward in their position for banning Muslim women’s dress, the headscarf debate has created division across the rest of the political spectrum, turning coalition partners⁶⁶ or even members of the same party against each other.⁶⁷ This has led to different policies being implemented across cities and services with regard to the wearing of religious dress.
21. In a case that made national headlines in 2004–5, the public (including government officials, employers, and the royal family) showed great support to a Muslim factory worker, Naima Amzil, and her employer, Rik Remmery. They received death threats because Remmery refused to dismiss Amzil, who wore a headscarf at work.⁶⁸ The outpouring of support in this case did not prevent rules and regulations to ban the headscarf (together with other religious dress) from being implemented in different places of employment, education, and services. Nor has it prevented an ongoing public debate on headscarves—to the extent that experts such as University of Ghent human rights professor Eva Brems talk of “headscarf persecution” to characterize the situation in Belgium.⁶⁹ There are a few examples of businesses, local governments, and public opinion becoming more accepting of women wearing headscarves.

22. Belgium's political structure, which consists of federal, regional, and community governments with different but also interlinked competencies, many of which are the responsibility of institutions, affects the extent to which the wearing of religious clothing can be legislated. The French- and Dutch-speaking regions are also very much 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 part of Belgium.⁷⁰ 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 Dutch-speaking region.⁷¹

National ban

23. *National general ban*: After near unanimous support in the federal parliament, Belgium imposed a legal ban on face veils in 2011 for reasons of public security and the liberation of women.⁷² The article was inserted into the existing Criminal Code under article 563*bis*.⁷³ The law bans the practice of partial and complete face covering in any place that is accessible to the public. According to the law, offenders are subject to "a fine of between fifteen and twenty-five Euros," which can be multiplied by 5.5, making the maximum fine €137.5,⁷⁴ and "imprisonment of between one and seven days, or only one of those sanctions." It also provides exceptions by employment regulations or administrative ordinances, such as for festive events.⁷⁵ The law is the result of a legislative proposal by francophone liberal party Mouvement Réformateur (MR) to ban the burqa and niqab.⁷⁶ Although Islamic headwear is not explicitly targeted in the wording of the law, it is widely known as the "burqa ban," and political debates focused on the burqa and niqab worn by a small number of Muslim women have intensified.⁷⁷ [Face Veil]
24. The proposal that resulted in this legal ban was not the only attempt to legalize the prohibition of face covering 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. There were other legislative proposals made by the Christian and liberal parties, as well.⁷⁸ [Face Veil]
25. *Case law*: Shortly after the 2011 law entered into force, it was challenged before the Belgian Constitutional Court as unconstitutional and contrary to human rights. In 2012, the court ruled that the ban was constitutional and not in violation of fundamental rights, such as the right to freedom of religion, the right to freedom of expression, and the right to private life.⁷⁹ The court's reasoning was identical to that of the parliament, that is, the ban is necessary for "living together," "public security," and the "protection of women." The court did make an exception for face covering in places of worship and made it clear that enacting such prohibition under these circumstances would constitute a violation of freedom of religion.⁸⁰ [Face Veil]

26. *Proposals*: The French- and Flemish-speaking liberals of the MR and Open VLD parties submitted a resolution to ban the wearing of conspicuous religious symbols for all federal employees in all communities, regions, provinces, cities, and public institutions, and to impose strict neutrality.⁸¹ [Headscarf] [Public Employment]
27. Open VLD member Patrick Dewael,⁸² 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.⁸³ 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.⁸⁴ [Headscarf] [Public Employment]
28. 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.⁸⁵ 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.⁸⁶ None of the proposals was accepted. The lack of a single coherent policy for the entire government administration has made it possible for some employees to continue wearing religious dress, but it also demonstrates the challenges of trying to interpret the constitutional principle of neutrality. [Headscarf] [Public Employment]

Local ban

29. *Local general bans*: In 2011, the face veil was already banned in almost all major cities and towns under local regulations.⁸⁷ Even after the introduction of a national law, municipal bans are still enforced.⁸⁸ Sanctions for violating local bans usually take the form of administrative fines. The maximum fine that can be imposed varies across municipalities in Belgium. While most bans impose a maximum of €250 for an infraction, there are municipalities where the fine is €150 or €125.⁸⁹ [Face Veil]
30. *Case law*: A 2009 case involved a woman in Brussels who filed an appeal to the Police Court against the fine imposed on her for wearing a niqab while picking up her children from school. The fine was based on a regulation issued by the Brussels municipality Etterbeek. The court ruled in favor of the complainant.⁹⁰ [Face Veil]
31. The legal enforcement of the ban on face veils in municipalities has been challenged through domestic court cases. In 2006, a woman in Maaseik—a small city of Flanders—filed an appeal against the fine that was imposed on her for wearing a niqab in public. She challenged the ban for not being “adequately justified” and failing to indicate the extent to which wearing a niqab amounts to danger. She also pointed out that she was the only person to wear a niqab in the whole city; therefore identifying her is not an issue. The court ruled in favor of the ban, citing its justifiable aim to ensure public safety and its compliance with the equality principle. [Face Veil]
32. *Local specific bans*: There are no local specific bans.

Institutional/private bans/bans in practice

33. *Private employment*: A number of employees from various sectors and industries have brought complaints challenging restrictions on religious dress in the workplace in Belgium. The most popular reasons to justify the bans are the principle of neutrality, security, and hygiene.⁹¹
34. *Case law*: A ban on the headscarf at work has been challenged before the European Court of Justice (ECJ). In March 2017, the ECJ delivered a landmark judgment on case C-157/15, referred by the Court of Cassation in Belgium (*Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v. G4S Secure Solutions NV*).⁹² The case concerned Ms. Samira Achbita, who worked for G4S in Belgium as a receptionist. G4S provided no uniforms at the time. After Achbita started wearing the Muslim 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.⁹³ In this case, the court 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.⁹⁴ The Belgian Court of Cassation 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.⁹⁵ [Headscarf]
35. In 2013, a case was brought to court by the Interfederal Equality Body (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, finding this constituted discrimination based on religion.⁹⁶ However, the reason for this decision was not based on the employee's rights, but rather on HEMA's lack of a clearly stated policy. [Headscarf]
36. 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.⁹⁷ [Headscarf]

37. *Public employment*: Information on local bans is not widely available. Evidence shows that policies differ from one city to another and that bans tend to be limited to customer-facing jobs.
38. One of the more publicized and controversial bans is the 2007 Antwerp City Council ban applicable to front office employees, called *dienstnota*—D2007046—implemented by the then socialist Sp.a Mayor Patrick Janssens.⁹⁸ This administrative regulation not only prohibits the wearing of religious symbols, but also the logos of sports teams, unions, political parties, and even HIV awareness pins,⁹⁹ among other things, for public employees in customer-facing positions.¹⁰⁰ The employees are allowed to wear visible 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-facing jobs and stated they would reverse the ban if the party were still in power in Antwerp.¹⁰¹ [Headscarf]
39. Different municipalities in the Flemish region followed the example of Antwerp. The city of Lokeren adopted a headscarf ban in 2007. An initial attempted ban was struck down by the provincial governor for being discriminatory.¹⁰² However, the ban passed shortly after, when the wording was adjusted to include all visible religious symbols.¹⁰³ The city of Lier adopted a similar ban for civil servants in 2008.¹⁰⁴ When the extremist right-wing party Vlaams Belang first pushed for a blanket ban on the headscarf for civil servants, they found support from liberal parties Open VLD and Lijst Dedecker as well as the Christian Democrats for a ban on the headscarf for civil servants in front-office jobs. 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 Vlaams Belang.¹⁰⁵ [Headscarf]
40. Other cities have taken a different approach. In February 2008, the Leuven City Council (led by socialist Sp.a Mayor Louis Tobback) voted overwhelmingly against a proposal introduced by far-right Vlaams Belang to ban headscarves for municipal employees. Talking to the press, different council members argued that only the behavior of the city's employees has to be neutral, not their appearance.¹⁰⁶ In April of the same year, Open VLD Mayor Bart Somers of the city of Mechelen confirmed that there would be no ban on the headscarf in his city.¹⁰⁷ [Headscarf]
41. The municipality of 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.¹⁰⁸ [Headscarf]
42. Upon occasion, restrictions on public employees wearing the headscarf are also lifted by administrative decisions. In June 2017, the Brussels Mobility Minister and the board of directors of the train service MIVB eliminated the general ban placed upon their staff for wearing religious symbols, including the headscarf. In 2013, the City Council of Ghent ruled to lift the ban on the [Headscarf]

headscarf that had been in force since 2007. The annulment was the result of a successful campaign by grassroots organizations and activists.¹⁰⁹

43. In June 2009, the human resources department of the Ministry of Justice presented a letter to Minister Stefaan De Clerck arguing employees should be allowed to wear symbols expressing a religious or other worldview.¹¹⁰ No action was taken in response.
44. *Case law*: 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 €6,210.¹¹¹ The Actiris case caused controversy because it called into question the Brussels municipal regulation banning religious dress. [Headscarf]
45. *Ban in practice*: 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, and a gym. In the case against the ice cream parlor, in 2014 the court of first instance found no discrimination for banning women wearing a headscarf,¹¹² but the court of appeal overruled the decision in 2015.¹¹³ 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.¹¹⁴ The courts of first instance did, however, find discrimination in the cases concerning the denial of access to the restaurant terrace in 2009¹¹⁵ and the bowling alley in 2011.¹¹⁶ 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 hijab with the atmosphere within the establishment.” 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.¹¹⁷ [Headscarf]
46. There is one pending case before the ECtHR regarding the wearing of a hijab in a courtroom. In *Lachiri v. Belgium* (No. 3413/09), submitted in December 2008, the applicant is Hagar Lachiri, a Muslim woman and Belgian national. She entered the courtroom wearing her headscarf and refused to remove it when the judge asked her to, and was therefore expelled from the courtroom. The ECtHR has now provided questions to both parties under articles 9 (freedom of thoughts, conscience, and religion) and 35 (admissibility criteria) of the ECHR. The last communication was in October 2015.¹¹⁸ [Headscarf]

47. *Education*: In educational settings, banning the wearing of religious symbols, including headscarves and face veils, is a widespread practice applied to both students and teachers.¹¹⁹ The French-, Flemish-, and German-speaking communities in Belgium all have decrees demanding neutrality from teachers in public schools that are part of the community network (i.e., not city schools).¹²⁰ Although different interpretations of neutrality exist, it falls under the authority of the schooling systems to decide which to enforce. The majority of primary and secondary schools in Belgium, including state, community, and confessional (mostly Catholic) schools, does not allow (non-Catholic) religious symbols for teachers (excluding teachers of religion or moral ethics classes) or students. However, a recent study showed that six out of 10 Belgians are in favor of allowing teachers to wear headscarves in front of the classroom.¹²¹ Both Muslims and Sikhs have taken legal action against educational institutions that ban religious signs. [Both]
48. After a few publicized debates (and legal cases) involving Muslim women teachers wearing headscarves, on 29 March 2010 the City Council of Charleroi adopted a rule banning teachers in public city schools (in addition to the community schools covered by the decree) from wearing religious symbols, with the same exception for teachers of religion and ethics classes.¹²² [Both]
49. *Case law (teachers)*: A math teacher in Charleroi city schools who had worn a headscarf since 2007 took matters to court after she was dismissed in 2009 for refusing to take off her headscarf. The teacher, Nuran Topal, lost her case in the first instance, but won on appeal. The court ruled that Topal could wear her headscarf because she did not engage in proselytizing and acted neutrally, and ordered 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.¹²³ Topal took legal action against this rule before the State Council but lost on 27 March 2013 when the council judged that "a teacher has the obligation to obey the orders directed at her by the hierarchical authority, except when they are manifestly illegal."¹²⁴ She tried her case several times before the State Council but finally gave up after a series of losses.¹²⁵ [Headscarf]
50. On 11 March 2010, a teacher of math and physics who had worn the headscarf for 2.5 years was dismissed under the French-speaking community rule of neutrality when she refused to take it off. She lost in first instance but won before the Court of Appeal in Mons, which stated the community neutrality rule did not apply to her because she was a teacher in a public city school. As the city at the time did not have a specific rule demanding neutrality, the court ordered her reinstatement.¹²⁶ [Headscarf]
51. Cases from both French- and Flemish-speaking community schools were brought before the State Council with regard to teachers of religion who wear a headscarf.¹²⁷
52. In April 2013, the State Council judged in favor of a teacher of Islam who questioned a new regulation by schools in Grâce-Hollogne that allowed her to wear a headscarf only in and during her class but not at other times or in other [Headscarf]

areas of the school.¹²⁸ In February 2016, the State Council issued another decision in a case involving a Flemish community school confirming the right of teachers of Islam to wear a headscarf outside their religious education classes.¹²⁹ When a teacher of Islam in Maldegem was not hired because she refused to sign the circular of the Flemish community schooling system (known as Gemeenschapsonderwijs, or GO!), specifying she could only wear a headscarf in class, she took legal action against this policy. The board of GO! stated it would not change the circular, claiming the decision only pertains to that one school.¹³⁰

53. Another case involved a teacher who was refused a job teaching Islam in a community school in Chaudfontaine because she wore a headscarf; the refusal came in spite of the exception for teachers of religion. The town's mayor backed the school's decision, claiming it was not good for pupils to be confronted with a headscarf because it is a sign of the "submission of women to men."¹³¹ The teacher, Meryem Yildirim, won her case before the State Council.¹³² [Headscarf]
54. When the GO! board adopted a general ban for pupils and teachers on 11 September 2009, to take effect on 1 September 2010, two teachers of religion took legal action against the primary schools they worked for in Antwerp. While the legal process was unfolding, the board changed its policy to make an exception for teachers of religion, which the State Council acknowledged in its decision of 1 February 2011.¹³³ The same decision was reached for another teacher of Islam, from Wilrijk, in a similar case.¹³⁴ Two teachers of Islam who wore headscarves took legal action against Flemish primary community schools in Mariakerke¹³⁵ and Maldegem¹³⁶ that refused them entry and asserted that the GO! policy banning religious symbols applied to them. The teachers called for the suspension of the GO! policy by the State Council. This was denied, but in its decisions, the council affirmed that teachers of religion are allowed to wear a headscarf. [Headscarf]
55. Two teachers of Islam who wore headscarves, from Vilvoorde and Dendermonde, took legal action against the GO! policy on substantive grounds, as did two teachers from Ghent in a separate case. Both challenges to the policy were denied. The State Council reaffirmed in October 2014 that it falls within the competence of the board of the Flemish community schooling system to decide matters related to the interpretation of neutrality and to regulate the wearing of religious symbols by teachers and pupils.¹³⁷ [Headscarf]
56. In 2006, a teacher of Islam took legal action against three primary Flemish community schools in Brussels that dismissed her because she refused to take off her headscarf outside of class. Several attempts before the State Council to have the dismissal suspended were unsuccessful, but the case against the school's competency on the matter was won. The State Council decided in July 2009 that only the board of the Flemish community schooling system has the authority to develop a neutrality policy, and not individual schools.¹³⁸ In the meantime, the GO! board developed a policy that allows teachers of Islam to wear a headscarf outside of class, unless they engage in activities where they [Headscarf]

“transmit values, knowledge or vision,” during which they do have to remove their headscarves.¹³⁹

57. 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 city, 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.¹⁴⁰ [Headscarf]
58. The prohibitions in educational settings have also presented a barrier to students seeking internships with companies that do not allow them to wear a headscarf and/or face veil.¹⁴¹ [Headscarf]
59. *Case law (pupils/students)*: In February 2017, the Court of Tongeren granted 11 pupils from two schools in Maasmechelen (Limburg)—who went to court to fight their schools' headscarf bans—the right to wear their religious dress at school. The court relied on the precedent created by the 14 October 2014 State Council decision.¹⁴² In response, the GO! board refused to revoke its circular calling for a headscarf ban in all schools, meaning pupils and their parents must fight each school regulation separately.¹⁴³ Since then, two Muslim women who wore headscarves while taking part in their high school reunion were asked to leave school premises or take off their headscarves, further focusing public attention on this controversial ban.¹⁴⁴ [Headscarf]
60. In 2016, the Haute École de la Province de Liège attempted to implement a ban on religious dress for its adult students, but faced strong opposition from grassroots activists. The Interfederal Equality Body (UNIA) eventually took the case to court, and the judge dismissed the school's attempt to ban religious, philosophical, or political signs.¹⁴⁵ [Headscarf]
61. Two Sikh pupils in Sint-Truiden¹⁴⁶ and Borgloon,¹⁴⁷ and a Muslim pupil in Dendermonde,¹⁴⁸ took legal actions against the general GO! ban, supported by a broad coalition of civil society organizations. The State Council came out with a remarkable decision in all the cases on 14 October 2014, striking down the schools' religious dress bans for pupils. It said that schools cannot implement a limitation on 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 in the GO! circular (which the State Council does not have the authority to directly annul) is not justified. The GO! board has unfortunately refused to change its circular and implement the decision in all of its schools, claiming the State Council's decision only relates to the three schools involved.¹⁴⁹ [Headscarf]
62. These cases followed one that went to court in October 2009, involving a Muslim pupil who took legal action against the decision of the GO! board to impose a general ban on religious symbols for pupils, teachers, and other personnel in all community schools. The pupil had left a school in Antwerp because it banned religious dress and went to another school so she could continue wearing her headscarf, when GO! decided to implement a general [Headscarf]

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, instead of the responsible minister. The last question was referred to the Constitutional Court, which in March 2011 decided the board of GO! was in fact competent in the matter.¹⁵⁰ In September 2011, the State Council lifted the suspension on the GO! general ban.¹⁵¹ 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.

- 63. In the French-speaking community, Muslim students took action against six different public schools in Charleroi and Liège to have the bans on religious dress suspended before the State Council, but all failed on formalities or the lack of a genuine interest.¹⁵² In the meantime, unfortunate situations—for example, not allowing children to wear hats even in winter because a Muslim child might use that as an excuse to cover her head with a scarf—persist.¹⁵³ [Headscarf]

National legislation

- 64. 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.¹⁵⁴ 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

Background

- 65. There is no exact data available on the current size of the Muslim population in Bulgaria, but it is believed to make up approximately 10–13 percent of the country’s total population.¹⁵⁵ Muslims, especially Roma-Muslims, have long been isolated from mainstream Bulgarian society as a consequence of discriminatory policies and the attitudes of the public.¹⁵⁶
- 66. There are various documented incidents of Muslims being harassed and abused. The abuses take numerous forms, especially against Muslim women wearing headscarves, and range from threats to spitting, throwing liquid, and using dogs to chase them away.¹⁵⁷ The discrimination and hostilities Muslims face in Bulgaria are rather serious and can result in violence.¹⁵⁸

National ban

[Face Veil]

67. *National general ban*: In 2016, the nationalist Patriotic Front coalition put forward a bill, “Wearing Clothing Covering or Hiding the Face Act” (Проект на Закон за носенето на облекло прикриващо или скриващо лицето), aimed at a nationwide banning of the wearing of face veils in public.¹⁵⁹ In September 2016, the Bulgarian Parliament legalized the bill but left out a few 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 veils was also not adopted into the Criminal Code.¹⁶⁰
68. While other legal bans in 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, veil wearers carry a political agenda that is supported by outsiders (i.e., Gulf countries), banning face covering is a mechanism to counter terrorism and preserve the nation’s secularity, and Muslim women are forced to wear them. According to the subsequently-passed “Restriction on Wearing Clothing, Covering or Hiding the Face Act,” any kind of nontransparent or semitransparent clothing that covers the mouth, nose, and eyes of the wearer may not be worn in any publicly accessible places within the territory of Bulgaria. The law also provides exceptions, including face covering for health or professional reasons, for participating in sports or cultural events, in religious buildings, or when provided by the law. The law is to be 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 1500 BGN (€765) can be assessed for repeated violators. Fines for public servants in violation are 500 BGN (€250) for the first time, and 2000 BGN (€1000) for any times thereafter. The same fines are applied to people who force others to wear veils. Since its enactment, there is no data available on how the law has been enforced in practice, if at all.
69. *National specific ban*: There are no national specific bans on religious dress.
70. *Case law*: There has been no court case that challenges the national general ban. [Headscarf]

Local ban

71. *Local general bans*: The local government of Pazardzhik in central Bulgaria became the first town in the country to prohibit the wearing of full-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.¹⁶¹ According to the regulation, wearing clothing or accessories that hide the face and prevent identification of the face of citizens and public servants in public space is forbidden. The ban applies to all public institutions, urbanized areas, and spaces in relation to the provision of administrative, educational, or social services as well as places for public recreation, such as parks, cultural areas, or any places that are publicly accessible. The ban even applies to transportation and vehicles. Exceptions are made for face coverings for health and professional requirements, temporary [Face Veil]

sport, cultural activities, at home, or in places of worship.¹⁶² Wearing helmets for transportation safety reasons is also allowed. Fines from 300 BGN (€150) to 1,000 BGN (€500) are charged to those who do not comply.¹⁶³ The regulation has already been enforced. At least three cases have been reported, all taking place around the Roma neighborhood where there is a small number of women who wear the burqa. According to a report by the Bulgarian Helsinki Committee, there were incidents where police officers intentionally waited around the Roma neighborhood to impose fines on people wearing the face veils, including women sitting in a private car. However, authorities never collected the fines.¹⁶⁴

Institutional/private bans/bans in practice

72. *Education:* There was at least one incident related to a school regulation 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 dismissed from the school for a period of one week, after which she left to continue her studies at a religious high school.¹⁶⁵ In this case, the Supreme Administrative Court decided that the ban was justified for securing the secularity of the school and that it is 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 weigh the freedom of religion of the student in question.¹⁶⁶ [Headscarf]

National legislation

73. Bulgaria’s legal protection against discrimination on the basis of religion is set out in the Constitution (1991, amended 2015) and the Protection against Discrimination Act (2003, amended 2006). According to the Constitution, there shall be no privileges or restrictions of rights on the grounds of religion¹⁶⁷ 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.”¹⁶⁸ 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.¹⁶⁹

Croatia

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

Background

74. Islam is the second-largest religion in Croatia. The Muslim community was found to consist of 62,977 people in 2011, which constituted 1.47 percent of the national population.¹⁷⁰ Islam has been officially recognized in Croatia since 1916, when

Croatia's Parliament passed a law that introduced equality between Islam and other religions.¹⁷¹

75. There is limited information on how Islam is perceived by the general public in Croatia and on how Muslims are treated. The only published report that discusses the topic in depth is the National Report on Islamophobia in Croatia in 2015 and 2016, which found a rise in anti-Muslim sentiment in the media, related to the war in Syria.¹⁷²
76. Croatian Muslim women are said to face discrimination,¹⁷³ but information on actual cases where Muslim women face injustices is limited.

National ban

77. There have been no national bans or proposals to restrict the Islamic face veil or headscarf in Croatia.

Local ban

78. There are no local bans or proposals to restrict the Islamic face veil or headscarf in Croatia.

Institutional/private bans/bans in practice

79. No data available.

National legislation

80. 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."¹⁷⁴

Cyprus

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

Background

81. Muslims have a long historical presence in Cyprus.¹⁷⁵ As of 2006, it was estimated that there were 4,182 Muslims living in the territorial areas under the control of the Government of the Republic of Cyprus.¹⁷⁶ The Muslim population in the areas occupied by the Turkish Cypriot administration is undocumented. As they do in many other countries in Europe, Muslims in Cyprus face Islamophobia.¹⁷⁷ The "dangerous phenomenon"¹⁷⁸ was well documented by a survey conducted in 2016, in which the majority of non-Muslim participants responded that they think Islam is a backward and violent religion and is harmful to the cultural values of Cyprus.¹⁷⁹
82. In regard to Muslim women in Cyprus, there have been no physical assaults or verbal abuse reported or documented. When asked about the headwear of

Muslim women, 53.2 percent agreed that Muslim women in Cyprus should be allowed to practice their face-covering tradition.¹⁸⁰

National ban

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

Local ban

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

Institutional/private bans/bans in practice

85. No data available.

National legislation

86. 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 law prohibits discrimination on the basis of 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.” The assessment of “comparable situation” is important. According to the law, there is indirect discrimination on the basis of religion when “an apparently neutral provision, criterion or practice would put persons having a particular religion, at a particular disadvantage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.”¹⁸¹

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

Background

87. The Czech Republic is home to a Muslim population of less than 20,000 members.¹⁸² The Muslim community is perceived as well educated and peaceful within Czech society.¹⁸³ However, due to the recent migration crisis, the Muslim community, especially women, have faced an increase anti-Muslim sentiments.¹⁸⁴
88. Discussions on Islamic face veils draw significant public attention in the country. At the political level, Czech President Milos Zeman, an active anti-refugee advocate, claimed that it was “practically impossible” to integrate the Muslim community¹⁸⁵ and that Muslims should be deported.¹⁸⁶ Online, there is an influential Czech website advocating against Muslims and Islam, both within the Czech Republic and on a global level, with specific articles discussing the

restrictions of women's rights¹⁸⁷ as well as the security risks posed by the wearing of the veil.¹⁸⁸ In addition to these articles, the website employs an image that is evocative of a woman being "imprisoned" by her hijab.¹⁸⁹

89. In addition to the public debate on banning the Islamic headscarf and face veil, a dispute over banning the body-covering swimsuit, popularly referred to as a "burkini," in a Czech water park came up in July 2017.¹⁹⁰

National ban

90. 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.¹⁹¹

Local ban

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

Institutional/private bans/bans in practice

92. *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 Prague Nursing School because they were not allowed to wear headscarves. One of the two students, Ayan Jamaal Ahmed Nuur, took her case to court. She sought an apology and financial compensation from the school administration for discriminating against her based on her faith. In January 2017, the Prague Court dismissed her claim on the grounds that Ayan was unable to prove her eligibility to attend the school, but made no comment on the question of Ayan's freedom to wear religious clothing.¹⁹² Ayan filed an appeal, which is still pending before the Regional Court of Prague. The court case produced a lively debate on religious clothing and the freedom of those who wear it. The Ministry of Education said there is no reason for it to interfere since Czech legislation does not ban headscarves or other religious symbols. It is up to individual schools to set their own norms.¹⁹³ [Headscarf]
93. 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 niqab, be expelled from the school, fearing that the young girl was disseminating Islamist propaganda.¹⁹⁴ The director of the grammar school refused to expel the student. Also in Teplice, there was a move by residents to forbid the wearing of the niqab and other Muslim head coverings.¹⁹⁵ 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.¹⁹⁶ [Face Veil]

National legislation

94. 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 he/she faced different and/or discriminatory practices. The defendant has

to prove that discrimination did not happen. The Ayan case, as mentioned above, is one of the rare occasions where the Antidiscrimination Act was applied, but the decision is still pending.

Denmark

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

Background

95. Denmark is home to 284,000 Muslims, who make up five percent of the country's population.¹⁹⁷ Seventy-one percent of Muslims in Denmark are Danish citizens. As of 1 January 2016, the five largest ethnic groups among Muslims in Denmark were: Turks (19.9%), Iraqis (9.3%), Lebanese (8.7%), Pakistanis (8.2%), and Somalis (7.6%). Syrian Muslims are the fastest growing group (8.5% compared to 4.8% on 1 January 2015).
96. According to the 2015 Eurobarometer survey, 78 percent of Danes responded that there is "widespread" discrimination against ethnic minorities in Denmark, which is higher than the European average of 64 percent who believe widespread discrimination takes place in their country.¹⁹⁸ The survey also found that seven percent of Danes would "feel bad" if one of their colleagues were Muslim. Another survey, conducted by the European Network against Racism (ENAR), found that the headscarf is a major reason Muslim women feel discriminated against, especially in the workplace.¹⁹⁹
97. Denmark has seen a strong rise in anti-Muslim sentiments in recent years. 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 the Mohammed cartoons published by the Danish newspaper *Jyllands-Posten* in 2005 was a significant turning point in the debate about Muslims.²⁰⁰ 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 have equal access to different social spheres.²⁰¹ A case in point was the heated political debates about the young Danish Muslim woman of Palestinian origin, Asmaa Abdol-Hamid, who had been elected to a local city council in 2005 wearing a headscarf and greeting men by putting her hand on her heart instead of shaking hands.²⁰² Despite her progressive stance on women's and gay rights, following the polemic created around her candidacy, in 2007 she lost her bid for a seat as the first Muslim woman in the Danish parliament running for the Red-Green alliance. The Danish People's Party that contributed to the attacks on Abdol-Hamid comparing her headscarf with the Nazi swastika, has been leading various campaigns against Muslim women's religious dress.²⁰³
98. The sight of women wearing a full-face veil in Denmark is relatively rare. According to a study commissioned by the Danish government,²⁰⁴ estimates of women who wear the full-face veil range between 100 and 200 (at most 0.2%

of Muslim women), including a high proportion of Danes who converted to Islam.²⁰⁵

National ban

99. *National general ban:* In May 2018, the Danish center-right government passed a law banning the wearing of face veils in public space, making it illegal for Muslim women to wear a niqab. The ban is expected to affect a tiny number of Muslim women, many of whom are Danish converts.²⁰⁶ A violation of the ban will result in a fine of 1,000 kroner (€134). Exceptions are allowed during cold weather or festivities, leaving it to police to judge when the law is violated.²⁰⁷ In response to the debate on Muslim headwear and the Headscarf Act, the Konservative Party (the Conservatives) had proposed a ban on face veils (coined a “burqa ban”), which would apply to public spaces. The proposal received support²⁰⁸ and was eventually submitted by the Danish government.²⁰⁹ [Face veil]
100. *National specific ban:* In 2008, the Danish government put forward a ban on judges wearing headscarves and similar religious or political symbols, including crucifixes, Jewish skullcaps, and turbans, in courtrooms. The law (the Headscarf Act) was passed by parliament in July 2009. No cases involving this law have taken place.²¹⁰ There have been several efforts to extend the ban to more public places or institutions in Denmark, but none of them have been successful. In 2016, the Danish People’s Party called for the law to be extended to Danish public schools and hospitals. [Both]

Local ban

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

Institutional/private bans/bans in practice

102. *Private employment:* The discussion on Islamic headscarves started in 2000 when 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 reason had no legal foundation and therefore constituted indirect discrimination.²¹¹ [Headscarf]
103. 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.²¹² In 2013, Dansk Supermarked voluntarily removed its rule banning the wearing of religious headscarves.²¹³ The decision by Dansk Supermarked was the result of a boycott against Netto, another supermarket in Denmark, for prohibiting its employee from wearing a headscarf. In that case, Nada Faije, a trainee candidate of the supermarket Netto, was forbidden to wear a headscarf.²¹⁴ [Headscarf]
104. *Public employment:* In 2006, 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 [Face Veil]

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 niqab did not have her application rejected, but she did have to agree not to wear her niqab at work.²¹⁵

105. *Education:* While there are no national bans on face veils, a number of Danish Adult Education Centers (VUC) do not allow women to cover their faces in class.²¹⁶ This requirement made the news when a VUC in a Copenhagen suburb 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 has been criticized by the VUC student council, but the Danish Ministry of Education states that the education centers are within their rights to ban niqabs, burkas, or any other veiling clothing item as there is no central framework in Denmark for regulating staff or student attire.²¹⁷ [Face Veil]

106. *Ban in practice:* In 2007, the municipality of Århus decided that two women, one wearing a burqa and the other a niqab, would not be entitled to receive a jobseeker’s allowance because both women had refused to replace their burqa or niqab with the required work attire.²¹⁸ This decision received support from a number of other Danish municipalities. [Face Veil]

National legislation

107. In Denmark, a number of EU laws are incorporated in Danish legislation to prevent discrimination. The most important law is the Danish Act on Nondiscrimination (1996). According to the law, direct and indirect discrimination on grounds of religion or faith are prohibited. The prohibition is effective upon employment, during the employment, and upon dismissal.²¹⁹

Estonia

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

Background

108. There is little data available on the Estonian Muslim population. The only relevant data comes from the National Census of 2000, which reported 1,387 Muslim persons, or 0.12 percent of the total population.²²⁰ Women wearing a headscarf or face veil appear to be rare in Estonia.²²¹

109. The Muslim community in Estonia receives very little media coverage.²²² It appears that Muslims live peacefully and are well integrated into Estonian society.²²³ It was also 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.²²⁴ 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.”²²⁵

110. Incidents and legal cases on discrimination against Muslim women, especially Islamic veil wearers, have been absent from the media.

National ban

111. There are no rules restricting Islamic headwear in public or any other specific place. In 2005, a government regulation was issued to allow headwear for religious reasons in photos for official documents. The principle is also regulated in the Identity Document Act.²²⁶

112. *Proposals:* 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.²²⁷ Shortly after that, 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.²²⁸ 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 freedoms or Muslim women's rights but mainly on the fact that legalizing the ban would be costly and unnecessary since there was no one reportedly wearing burqas or face veils in the whole country.²²⁹ The proposal is no longer under consideration. [Face Veil]

Local ban

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

Institutional/private bans/bans in practice

114. No bans under this category were reported.

National legislation

115. Estonia's legislative principles on antidiscrimination based on religion and belief is stipulated in the Constitution of the Republic of Estonia (1992, amended 2011).²³⁰ 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.²³¹ The act governs both direct and indirect discrimination, in which indirect discrimination occurs where "an apparently neutral provision, criterion or practice would put persons, on grounds of religion, at a particular disadvantage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary."²³² 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	Yes

Background

- 116. There are approximately less than 65,000 Muslims residing in Finland, making up a little over one percent of the total population. The number of people converting to Islam is increasing. Even though Islam has a long history in Finland dating back to the early 19th century, the Muslim community is not immune to the rise of discrimination and prejudice against them, especially as reflected in the public discourse on Muslim refugees.²³³
- 117. Stereotypes and prejudice against Muslims are prevalent in Finnish national media, including TV shows and public posters. The main focus of public debates is radical Islamism, often linked to refugees. 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.²³⁴

National ban

- 118. Regardless of 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,²³⁵ Finland does not have any legal bans.
- 119. *Proposals:* In October 2016, MP Vesa-Matti Saarakkala submitted a legal proposal²³⁶ aimed at amending the Finnish Criminal Code to prohibit the wearing of face veils in public places; it included fines for noncompliance.²³⁷ At the time of reporting, the bill is still being considered by a committee and going through a hearing by experts.²³⁸

[Face Veil]

- 120. The Finns Party developed a proposal to legally ban the face veil in 2013. The bill was submitted to the Finnish Parliament by Finns Party MP Vesa-Matti Saarakkala and aimed at banning veils that completely cover the face in public, including imposing fines on offenders.²³⁹ 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 wish.²⁴⁰

[Face Veil]

Local ban

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

Institutional/private bans/bans in practice

- 122. The discourse on discrimination against Muslim employees took a positive turn when the Regional State Administrative Agencies, which monitor

[Both]

discrimination in employment 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 niqab 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.²⁴¹

123. *Private employment:* There are several cases where Muslim women wearing Islamic clothing were discriminated against in the workplace in Finland. In 2011, a saleswoman was dismissed for wearing a headscarf to work at one of Guess's Helsinki stores. 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 2014.²⁴² [Headscarf]
124. 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 ombudsman and then to court, where her supervisors were ordered to pay fines. In this case, 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.²⁴³ [Headscarf]
125. *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 the headscarf.²⁴⁴ [Headscarf]
126. *Ban in practice:* A positive decision on headscarves was delivered by the ombudsman's office in 2017. Female asylum seekers were forced to remove their headscarves during the registration of their asylum applications, according to a rule issued by the police force. In this case, the rule was found to contradict the general rule on what is acceptable in photos for ID cards and passports in Finland. The ombudsman 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. [Headscarf]

National legislation

127. Antidiscrimination legislation in Finland is set out in two main sources: the Constitution²⁴⁵ and the Non-Discrimination Act. In both, religion is explicitly a protected right, meaning any unequal treatment is against the law. The Non-Discrimination 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."²⁴⁶ 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"²⁴⁷ (emphasis added).

France

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

Background

128. Of the 28 EU member states, France has the largest Muslim community. Although there are no exact recent statistics available, it is estimated there are approximately five million Muslims.²⁴⁸
129. The 1905 law on the separation of church and state is central in providing the legal and philosophical basis for French *laïcité* or state secularism, establishing state neutrality and institutionalizing the freedom of conscience and belief. The explicit inclusion of *laïcité* in the Constitution in 1946 and 1958 further enshrined it as a constitutional and founding principle of the French Republic and guaranteed the equality of all people irrespective of differences in ethnic origin, race, or religious background. The initial goal was to stop any kind of interference between the state and organized religion, to maintain a strict separation between the two, to make the protection of individual freedom of conscience and belief the rule, and to allow very few limitations to protect public order.²⁴⁹ Faced with political and demographic changes, France adopted a much stricter interpretation of the constitutional principle of *laïcité*, invoking it to justify bans on religious manifestation and introduce a range of limitations on the freedom of religious minorities, Muslim women in particular.
130. Anti-Islam sentiment is deeply imbedded in French society. It is tied to the country's colonial history, and is reflected in France's issue with Muslim women's veils.²⁵⁰ Islamophobia in its recent form took shape mostly in the late 1980s, when France's 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 but also by a surge in racist attacks and murders, as well as police brutality against minorities. The far-right party, Front National (FN), also became a political success for the first time, reshaping the debate from one about a lack of equality into one about the minorities' unwillingness to integrate. Influenced by the popularity of FN, the government, led by Prime Minister Jacques Chirac (whose party formed a local coalition with FN), launched a national debate about identity and integration. The following years were characterized by social tensions, leading to multiple riots as well as a revival of the debate over the Muslim veil.²⁵¹ International events (such as the Gulf war, the Salman Rushdie affair, and 9/11), made it easier to delegitimize the demands for equality and basic rights for citizens of minority background (many of whom were Muslim), the "Muslim problem" came to replace the "immigrant problem."²⁵² Islamophobic discourse and measures only increased and grew more popular, and the situation deteriorated even more with the terrorist attacks that took place within France's borders. The consequences for French

Muslims have been an increase in both verbal abuse and physical assaults. The overwhelming majority of documented victims are women.²⁵³

131. France does not have many different legal or administrative religious dress regulations in place, but does have a few wide-ranging national bans that affect people who choose to wear religious dress. These bans and the public debates around the headscarf have also influenced the private sector, where it is very difficult for educated Muslim women who wear a headscarf to find employment, which pushes them into self-employment.²⁵⁴ National controversies regularly arise around Muslim women's dress,²⁵⁵ drawing more and more attention from international observers.²⁵⁶ The most recent debate centered on Maryam Pougetoux, a national student union leader who wore a headscarf on TV while discussing education reforms.²⁵⁷

National ban

132. *National general ban*: With full support from President Nicolas Sarkozy,²⁵⁸ France was the first country to legalize a ban on Islamic face veils in "public space." 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)²⁵⁹ entered into force. Article 1 of the act stipulates that "no person may conceal their face in public," in which "public space" is defined in article 2(1) of the act as "public roads and places open to the public or of government service."²⁶⁰ It required unprecedented efforts to define the legal contours of this novel concept of "public space."²⁶¹ 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 a part of an artistic or traditional event.²⁶² The act has legal effect at the national level. [Face Veil]
133. According to estimates, in 2010 about 2,000 women in France wore full veils. 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 raised the question of the legitimacy of enacting a law that only targets a limited number of people, but affects many French Muslims who see in this law and accompanying debates another attack on Islam. The law makes no reference to Muslim dress, but is commonly referred to as the law on the burqa or veil.²⁶³ The parliamentary commission tasked with the preliminary research was also asked to look into the creation of a law to ban the full veil (*voile intégral*), not to prohibit the covering of one's face in public.²⁶⁴
134. Further evidence of the controversial nature of the general ban on face covering can be found in the diverging opinions given by the French high courts. The Council of State judged that a ban like this would not have indisputable legal grounds and could amount to a violation of the Constitution and the European Convention of Human Rights.²⁶⁵ The Constitutional Court, on the other hand, concluded the ban was in accordance with the Constitution and therefore was justified.²⁶⁶
135. The penalty for violating the 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.²⁶⁷ Forcing a woman to cover her face is punished more severely, with the possibility of a fine of up to €30,000.²⁶⁸ During the period from April 2011 until March 2016, there were 1,726 official checks, resulting in 1,644 fines and 82 warnings.²⁶⁹

136. *National specific ban:* In August 2016, the French government, in an effort to reform its labor law, adopted a new amendment that allowed private employers to include the principle of neutrality in their internal regulations in order to restrict their employees from manifesting their beliefs.²⁷⁰ Article L. 1321-2-1 of the labor code, proposed by Françoise Laborde, states that this restriction must be justified by the exercise of other fundamental rights and freedoms or the proper functioning of the enterprise, and must be proportionate to this aim. The amendment came after several attempts to expand the requirement of strict neutrality, long applied only to public services, to the private sector. In 2003, when the Stasi Commission came out with its recommendation about the application of *laïcité* in France, it already included a clear call to insert in the labor code an article allowing private enterprises to adopt internal regulations restricting the religious practice and religious manifestation of employees.²⁷¹ This call was reiterated in September 2011 by the High Council on Integration (Haut Conseil à l'intégration) amidst the famous *Baby Loup* case (see below for further discussion).²⁷² That case sparked the most debate to date about expanding *laïcité* to the private sector. Several legislative proposals have been submitted to demand neutrality in childcare services (including one in October 2011 by the same Françoise Laborde²⁷³) or any private service working with minorities, but all drew strong opposition and were never adopted as law.²⁷⁴
137. The period from 2002 to 2004 marked a turning point in the debate in France about the Muslim headscarf, the French principle of *laïcité*, and its application to pupils and students—in other words, those who are not providers but users of public services. In 2004, a national ban on Muslim headscarves 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. It had the support of the Stasi Commission, an independent consultation body tasked by President Chirac with investigating the application of the principle 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.²⁷⁵ France's involvement in the war in Afghanistan and the public narrative about the need to save (Afghan) Muslim women from oppression (by the Taliban) greatly influenced the meaning ascribed to the headscarf worn by French Muslim women.²⁷⁶ The ensuing ban, known as “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 15 March 2004, amended the original legal definition of secularism to restrict students' fundamental right

[Both]
[Private
Employment]

[Both]
[Public
Education]

to manifest one's religion. The legal amendment was controversial—it received significant political and public support but also sparked public debate and resulted in mass protests. One opponent stood out: sociologist and laïcité expert Jean Baubérot, the sole member of the Stasi Commission who did not support the proposal. Baubérot mainly saw in it a fear of Islam and stressed that laïcité is a matter of behavior, not of dress.²⁷⁷

138. The public school religious dress ban has a very contentious history.²⁷⁸ It started in October 1989 with the expulsion of three Muslim girls who refused to remove their headscarves in class.²⁷⁹ The school claimed after the expulsion that the girls had caused a scene at school when Ayatollah Khomeiny died, which is why the school resorted to a headscarf ban. There were many heated public debates with calls to oppose the “Iranian headscarf.”²⁸⁰ On 27 November 1989, the Council of State came out with controversial advice on this case, concluding that pupils’ religious manifestation is not by itself incompatible with laïcité, but that it can be decided on a case-by-case basis (see further discussion under *Education*).²⁸¹ Numerous legal cases arose in the 1990s around the wearing of a headscarf in schools. On 20 September 1994, the national Minister of Education Francois Bayrou published a circular allowing the wearing of “discrete” religious signs that express a personal conviction and for schools to ban “ostentatious” signs that are intrinsically “proselytizing” and “discriminatory.”²⁸² 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).
139. In 1983, France adopted its first blanket ban on religious clothing and symbols, extending the restriction on the manifestation of religion in public buildings to individual employees. The ban covers all 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) irrespective of an employee’s position (in the front or back office). The ban is part of the deontological code specified in chapter 4, particularly article 25, of law 83-634 of 13 July 1983 on the rights and obligations of public employees.²⁸³ [Both] [Public Employment]
140. *Case law*: After the 2010 national ban on face veils in public space entered into force in 2014, the law was challenged at the ECtHR through the case of *S.A.S. v. France* (No. 43835/11). The case concerned a Muslim French national who complained that the ban prevented her from wearing the burqa and niqab, which are compatible with her religious faith. Therefore, the ban infringed on her right to a private life, as well as her right to freedom of religion. The court found no violation of either articles 8 or 9 of the ECHR. It also rejected the French government’s claim that the threat to public safety justified the ban, as there was no evidence of a general threat to justify such a general ban: a woman could always be asked to identify herself when needed. The argument of equality of men and women was also rejected as the practice was defended by women (the applicants) themselves. What made the *S.A.S.* case extraordinary is that the ECHR disqualified almost every [Face Veil] [Public Space]

popular argument made to justify religious dress restrictions, but instead took the idea of “living together” (*vivre ensemble*) as a legitimate aim to decide that the ban did not violate the European Convention. In regard to the prohibition of discrimination (article 14, ECHR), which was read together with articles 8 and 9, while admitting the negative effects of the ban on Islamic clothing wearers, the court believed that the ban was reasonably justified. Accordingly, there was no violation of article 14. Even though the case 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.

141. Legal action was also taken against headscarf bans in education before the European Court of Human Rights in 2008 and 2009 (after the 2004 law): *Dogru v. France* (No. 31645/04); *Kervanci v. France* (No. 27058/05); *Aktas v. France* (application No. 43563/08); *Bayrak v. France* (No. 14308/08); *Gamaleddyn v. France* (No. 18527/08); *Ghazal v. France* (No. 29134/08).²⁸⁴ The plaintiffs challenged the bans on their wearing of headscarves at schools on the basis that they 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 European Convention on Human Rights and found no violation of article 9.²⁸⁵
142. On 5 December 2007, the Council of State rejected several claims of Sikh and Muslim pupils who were expelled for wearing religious dress, which went against the 2004 law banning religious dress in French public schools (No. 285395, No. 295671, No. 285396, No. 285394).

Local ban

143. France does not have separate legal bans at the local level.
144. *Case law*: Although not necessarily part of traditional Islamic clothing, full-body swimsuits worn by Muslim women, also known as “burkinis,” were banned in several cities in France, including Nice, Villeneuve-Loubet, Cannes, Frejus, and Roquebrune.²⁸⁶ In August 2016, France’s top administrative court, the Conseil d’Etat, overruled the ban due to its violation of fundamental freedom. The ban was therefore lifted, but again sparked heated debate over the clothing of Muslim women in France.²⁸⁷

Institutional/private bans/bans in practice

145. *Private employment*: In France, the Baby Loup case received much political and public attention, as it was the first legal case brought by a Muslim employee who was dismissed by a private employer for wearing a headscarf. The case concerned a social worker, Fatima Afif, who worked in a private daycare center (called Baby Loup) and who was dismissed in 2008. The case went through several legal proceedings starting in 2010, and the final decision was delivered in 2014. In 2010, the case was first referred to France’s equality body (HALDE), which found the dismissal unlawful. It 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 previous decision. In 2013, the Court of Appeals of Paris found that the restriction was justified based on the secular nature of the job. Finally, the Court of Cassation decided that the dismissal was lawful. The court made it clear that neutrality and secularity do not apply beyond the public sector but did set out restrictions on an employee's freedom of religion, which can be reasonable if those restrictions are proportionate and justified by the nature of the job. The court ruled that in a nursery where all members of staff have contact with small children, it is important to ensure the general obligation of religious neutrality for the children's freedom of conscience.²⁸⁸ The court concluded that the ban imposed by Baby Loup was proportionate, and therefore the complainant lost the case.²⁸⁹

146. On 14 March 2017, the European Court of Justice (ECJ) ruled on the case of *Asma Bougnaoui and Association de défense des droits de l'homme (ADDH) v. Micropole SA*, Case C-188/15. The judgment on this case was delivered together with case C-157/15 (*Samira Achbita and Centrum voor gelijkheid van kansen en voor racismebestrijding v. G4S Secure Solutions NV*). The applicant of this case was Ms. Bougnaoui, a design engineer, who was ordered by her French employer not to wear her headscarf because a customer objected. Bougnaoui was fired when she refused to do so. In this case, the court provided that there are "very limited circumstances" where a restriction related to religion can form a decisive occupational obligation. Only requirements derived from the objective nature of the job can be categorized as one of the limited situations, while the subjective preference of a particular customer cannot. 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."²⁹⁰ The ECJ judgment is in accordance with the French Labor Law that since 8 August 2016 allows businesses to impose restrictions on employees manifesting their beliefs.²⁹¹ [Headscarf]
147. *Public employment*: In 2015, the national ban in France was upheld again for the entire French public sector through the judgment of the ECtHR in the case of *Ebrahimina v. France* (No. 64846/11).²⁹² In this case, the plaintiff contested the decision by her employer not to renew her labor contract at a public hospital because she would not agree to stop wearing her headscarf. The court was in favor of the hospital's decision and found no violation of article 8 of the ECHR. The court also weighed the right to wear a veil as a manifestation of religion and 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.²⁹³ [Headscarf]
148. *Education*: In April 2017, the Paris Administrative Court of Appeal found a headband worn with a long skirt to constitute "religious" dress. Although not part of traditional Islamic dress, according to the court this type of clothing is "ostentatious" and needed to be banned. The judgment came after a legal proceeding that started in 2013 and lasted several years. The case involved [Headband]

a Muslim pupil and her family, who sued her school authorities for first segregating her from her class and then expelling her. The reason 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.²⁹⁴

149. After another round of heated public discussions, on 9 June 2015 the administrative court of Nice decided that mothers who wish to accompany their children on school outings cannot be refused the opportunity to do so because they wear a headscarf (No. 1305386).²⁹⁵ [Headscarf]
150. The first headscarf-related court case that received extensive press coverage in France dates back to 1989, when three Muslim girls were expelled from a public school for refusing to remove their headscarves. In this case, the Council of State stated that wearing the headscarf was not by itself incompatible with the principle of secularism that, 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."²⁹⁶ The Council of State stressed that the freedom can be limited 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.²⁹⁷ Numerous legal cases arose from 1989 to the late 1990s around schools that expelled pupils who refused to take off their headscarves or adopted rules that banned headscarves or 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.²⁹⁸ 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 (No. 130394, No. 145656, No. 172717, No. 172718, No. 170398, No. 170343, No. 172725, No. 170941, No. 170941, No. 1727870). 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 class (No. 159981), or because pupils disturbed order in the school by taking part in protests (No. 172685, No. 170207, No. 170208). Given the sensitivity the issue of the Muslim headscarf had acquired, cases were even brought to the Council of State involving university students. Here, too, the council overturned decisions to refuse students entry merely on the basis that they wore a headscarf (No. 170106). [Headscarf]

National legislation

151. 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.²⁹⁹ The French Labor Code (Code du Travail) provides the next layer of legal protection, in which the principle of nondiscrimination is a core aspect.³⁰⁰ 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.³⁰¹ However, in 2016 the law was amended to include article L1321-2-1,³⁰² 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	No	No	Yes	Yes	Yes

Background

152. Germany’s Muslim community makes up approximately five percent of the national population. Muslim women who wear religious dress in Germany face a wide range of discriminatory treatments in various fields. However, discrimination against Muslims in Germany is said to be underreported.³⁰³ 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.³⁰⁴ A report by the national antidiscrimination body confirms this finding, and includes contributions from civil society about good practices in addressing discrimination against Muslim women.³⁰⁵

153. 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 where they were physically beaten.³⁰⁶ In a case from 2009, Marwa el-Sherbini, a Muslim woman who wears the headscarf, was the victim of hate speech. When she took her assailant to court, she was stabbed and murdered by the latter during trial after which she became known as the first “hijab martyr.”³⁰⁷ Discrimination against Muslim women in general, and Islamic headwear wearers in particular, happens in both public and private sectors, especially in the field of education and employment.³⁰⁸ The 2003 legislation banning the headscarf in eight federal states has 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 to prevent potential economic damages.³⁰⁹

154. The first proposal for a headscarf ban came from Die Republikaner (REP), a right-wing conservative party in Baden-Württemberg in 1998.³¹⁰ The debates around a significant legal case about a headscarf ban in 2003 demonstrated that support for such bans had spread amongst various public figures, politicians, judges, and citizens. 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. More recently, the push for bans has become stronger with the support of the far right AfD (Alternative für Deutschland). AfD argues for bans in public space on the face veil and also on the headscarf, claiming that they do not “belong in Germany.”³¹¹

National ban

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

156. *Proposals:* The year 2016 marked the first attempts to propose a national ban on the face veil. The proposal was first outlined by Interior Minister Thomas de Maiziere in August. It was later endorsed by Chancellor Angela Merkel in December 2016, who called for a burqa ban in schools, courts, and other state buildings.³¹² At the time of writing, there has been no further legislative development on the proposal. [Face Veil]

157. In 2016, German judges called for a ban on wearing the headscarf in courts, in order to show “neutrality” and to prevent the risk of religious dress undermining confidence in the legal system.³¹³ Certain states have enacted laws banning religious dress for court officials, but there is not national ban to date.

Local ban

158. It is important to note that the 16 German States (or Landern) enjoy full autonomy in the regulation of religious symbols within their territory. In other words, the authority to create legislation and directives on religious symbols does not rest with the national government but with the individual state. Even though there are no bans at the national level, local bans have been implemented.

159. *Local specific ban:* Starting from 2003, eight out of 16 states in Germany enacted legislation or policies banning religious symbols. The eight states include Baden-Württemberg, Bavaria, Berlin, Bremen, Hesse, Lower Saxony, North Rhine-Westphalia, and Saarland. The common aim of the restriction imposed by the eight states was to prohibit the wearing of visible items of religious clothing and symbols. None of the legislations explicitly banned Islamic headscarves or face veils. [Both] [Public Employment]

160. Despite sharing the common features, the extent to which the ban is applied varies between the states. Following the 2015 judgement of the Federal Constitutional Court concerning the right of teachers to wear a headscarf in state schools, many states that had religious dress restrictions for teachers with exceptions for Catholic and Jewish symbols (Bremen, Lower Saxony, Baden-Württemberg, Bavaria, Hesse, North Rhine-Westphalia, and Saarland), [Both] [Public Employment]

allowed Muslim women to work as teachers with a headscarf. Only Berlin has upheld its 2005 “Neutrality Act” that bans religious dress for all faiths equally and that covers civil servant roles in education, the justice system, and law enforcement. Teachers in private, confessional, and vocational training schools are allowed to wear religious dress. Baden-Württemberg, Bavaria, and Hesse do have headscarf bans in the judiciary that apply to judges, prosecutors, and legal trainees. North Rhine-Westphalia is planning similar restrictions.³¹⁴ Three other federal states—Brandenburg, Rheinland-Pfalz, and Schleswig-Holstein—discussed a ban but were unable to obtain parliamentary approvals.³¹⁵

161. The government of North Rhine-Westphalia stirred up controversy recently by proposing to impose a blanket ban on the headscarf for pupils under the age of 14, following a similar debate in Austria.³¹⁶ The proposal created debate within Angela Merkel’s governing coalition with the Bavarian conservative party CSU in particular trying to win back voters lost to the far-right AfD by taking a firmer stance on security, immigration, and Islam.³¹⁷ The proposal faced opposition from teachers, campaigners, and other politicians.³¹⁸ Currently there are no reports of an actual legislative proposal being drafted. [Headscarf] [Education]
162. *Case law*: The first case of this kind is the ruling by the German Federal Constitutional Court, which took place in September 2003. The case involved Fereshta Ludin, who was refused a teaching job at a public school in Baden-Württemberg in 1998 despite successful completion of her traineeship. The court found Ludin’s complaint, that the school authorities and the lower courts had violated her right to religious freedom, to be valid. It found the restriction imposed by her school to be a “legally insufficient” reason to surrender Ludin’s religious freedom. However, the court failed to provide legal grounds and guidance on when a ban is legally sufficient and left it to the individual states’ governments to decide, leading to various states enacting various bans (which were later undermined by the 2015 ruling below) and sparking many political controversies.³¹⁹ [Headscarf]
163. The Federal Constitutional Court’s ruling in March 2015 further intensified the debate on headscarf legislation in Germany. The case concerned two school workers who complained against the sanctions that were imposed on them for insisting on wearing their Islamic headscarves. The Federal German Constitutional Court was invited to reconsider its own jurisprudence and came to new conclusions. It decided that a blanket ban on headscarves and other visible religious symbols for teachers at a state school violates the freedom of religion, and is not compatible with the Constitution because it is disproportionate.³²⁰ The court decided that general headscarf bans cannot be justified unless it can be proven that the veil poses a concrete threat to a school’s peace or to the state’s neutrality.³²¹ [Headscarf]
164. In February 2017, Berlin’s labor court referred to the Federal Constitutional Court’s decision, especially the proportionality requirement of headscarf restrictions, to test whether or not a teacher wearing a headscarf posed a danger to a school’s peace. Based on this, the court ruled in favor of the [Headscarf]

complainant, a Muslim woman rejected from a teaching job in an elementary school because she wore a headscarf in violation of Berlin's neutrality law. 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."³²² The teacher received €8,680 in compensation.

165. In May 2018, a Muslim woman who was hired to teach in an elementary school in Berlin but was rejected after a day and transferred to an adult class for newcomers because of her headscarf, saw her claim of discrimination on religious grounds denied at the first instance. The woman was not allowed to teach in the elementary school based on Berlin's neutrality law, of which she said in court she had prior knowledge. A court spokesperson said, "primary school children should be free of the influence that can be exerted by religious symbols." The court granted the complainant permission to teach older students in a public secondary school if she wished to do so.³²³ The diverging court judgements have made the neutrality law more contentious, leading to disagreements amongst coalition partners about whether it is in fact still tenable. Social Democratic Party officials are in favor of maintaining the law, in contrast to the Greens.³²⁴ [Headscarf]

Institutional/private bans/bans in practice

166. *Private Employment:* Generally German high courts have been protective of the right to freedom of religion, setting quite high standards against the discrimination of Muslim women who wear a headscarf.
167. *Case Law:* 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).³²⁵ The dental practice also claimed it had the right to "religious neutrality" but the judge rejected this as it was not a religious institution.³²⁶ [Headscarf]
168. 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. The dentist is reported to have said, "we do not employ women who wear headscarves and do not understand how applicants envision this tolerance." He later apologized for this statement. The dentist then claimed he refused the woman for reasons of hygiene. The woman sued the dentist for damages.³²⁷ [Headscarf]
169. A Muslim woman who had been working as a salesperson in a department store since 1989 was fired when she expressed to her employer her intent to start wearing a headscarf for religious reasons. In July 2003, the Federal Constitutional Court ruled that this constituted a wrongful termination of [Headscarf]

employment whereby the fundamental right to freedom of belief was violated. The court refused to overturn a previous ruling of a state court that reached a similar conclusion. Although the court acknowledged that both the rights of the employee and employer have weight, it did not see how the exercise of religious freedom by the employee would lead to functional problems or economic losses for the employer.³²⁸

170. *Public Employment:* A Muslim woman who was hired to work in a childcare facility by the social welfare service (Arbeitswohlfahrt, AWO) in South Hessen, was told not to come in after two days work because she wore a headscarf. The AWO lawyer confirmed that women wearing the headscarf were allowed to work in other positions, but not in childcare. Despite the woman's being qualified and there being a need for childcare workers, the service would not employ her if she wore the headscarf. The case went to the Frankfurt Labor Court in August 2017, where the woman is suing for damages for the loss of income. [Headscarf]

171. *Bans in practice:* In July 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—despite her presence in court being 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. The order is currently being contested by her lawyer based on the fact that in Germany only court officials (not civilians) are bound by religious neutrality that forbids religious dress and symbols.³²⁹ [Headscarf]

172. A Berlin court judge refused to allow a Muslim woman lawyer to appear in court wearing a headscarf in September 2013, but was met with resistance when the Berlin Bar Association threatened to take the matter to the Constitutional Court. The president of the bar association stated that lawyers exercise a private profession and unlike prosecutors or judges (who work for the state) are not required to abide by the same neutrality laws that forbid the wearing of religious dress or symbols.³³⁰ [Headscarf]

National legislation

173. Equality and religious freedom are core principles of German legislation, as provided by both the constitutional and statute law. The German Constitution or the Basic Law for the Federal Republic of Germany (1949; Grundgesetz für die Bundesrepublik Deutschland) provides solid grounds for the principles through 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/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.³³¹ In

addition to the Constitution, 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.³³² However, the act only provides victims the right to compensation and omission, and not the right to be employed or reemployed, which were argued to be ineffective remedies.³³³ In addition, current laws feature other limitations, including insufficient time allowed for a complaint to be brought before a judicial body (two months) and disproportionality between damages borne by victims and the remedies they receive.

Greece

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

Background

174. The Muslim community in Greece makes up approximately 1.3 percent of the country's total population.³³⁴ Anti-Islam sentiments did not really become an issue in Greece until after 9/11 and the recent refugee crisis in Europe.³³⁵ Still, there is limited data on discriminatory incidents against Muslims in Greece, especially physical attacks. It was suggested that the lack of data is due to the absence of an observatory authority in relevant ministries.³³⁶
175. There have been indications that Muslim women in Greece, especially those who wear Islamic clothing, face various verbal attacks in their daily lives. However, none of the incidents can be verified because they were not reported to the police.³³⁷ There were also no reports of legal cases on the issue.
176. The most central and long-standing discussion relating to Muslims in Greece concerns the absence of mosques and Islamic cemeteries in Athens, for which Muslim leaders have criticized the government.³³⁸ The Islamic head covering was not an issue until 2004, when the French banned headscarves at public schools and institutions.³³⁹ This debate has intensified in the past few years, due to the increase in refugees from Muslim countries. However, the discourse has not reached the official forums of policymakers and lawmakers.³⁴⁰

National ban

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

Local ban

178. No local bans or proposals for a ban at the local level in Greece.

Institutional/private bans/bans in practice

179. No bans under this category were reported.

National legislation

180. 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.”³⁴¹ 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 antiracist 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.³⁴²

Hungary

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

Background

181. Islam has been a recognized religion in Hungary since 1916. Muslims make up 0.056 percent of the total population.³⁴³ The Muslim community in Hungary was believed to be relatively well integrated into the Hungarian society until 2015 when the so-called “refugee crisis” transformed the public discourse.³⁴⁴ As a result, Muslims in Hungary are increasingly experiencing discrimination in their daily and professional lives.³⁴⁵ While hate crimes against Muslims in the country have increased,³⁴⁶ no incidents of discrimination against Muslim women who wear religious clothing have been reported.

182. Wearing headscarves or face veils in public is not an issue. 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.³⁴⁷ A highlight of this discourse was the remark made by Prime Minister Viktor Orban, who referred to the Constitution (known as Basic Law) when he declared that “Islamization is constitutionally banned in Hungary.”³⁴⁸ 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. No political or legislative efforts by the Hungarian government were reported after the remark.

National ban

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

Local ban

184. At the municipal level, there are no legal bans being implemented on this matter.
185. There was a decree that bans the wearing of all forms of veil, including burkas and burkinis, issued in Assothalom, a town of 4,000 people. The ban was put forward by Mayor László Toroczkai and was declared official in November 2016. Punishment for violation was a fine of 150,000 forint (or US\$686).³⁴⁹ However, in April 2017, Hungary's Constitutional Court annulled the ban as unconstitutional. The court provided that the local government cannot adopt legislation that restricts basic rights.³⁵⁰

[Face Veil]

Institutional/private bans/bans in practice

186. At the time of writing, there were no bans reported under this category.

National legislation

187. National legislation that provides protection against discrimination in Hungary is set out in two main laws: The Constitution of Hungary³⁵¹ 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.³⁵²

Ireland

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

Background

188. According to the most recent data available in 2016, there are about 63,400 Muslims in Ireland, who make up approximately 0.13 percent of the population. The community is believed to have grown by 14,200 members over the five years from 2011 to 2016.³⁵³ Muslims are known to experience hostility and discrimination in Ireland.³⁵⁴ Although underreported, anti-Muslim incidents occur across multiple settings, ranging from classrooms to workplaces, from public transport to shops and restaurants.³⁵⁵
189. Muslim women were reportedly more than twice as likely to face discrimination and hostility, compared to Muslim men. Muslim women in Islamic clothing were found to experience violence and stigmatization more frequently than women not wearing religious dress.³⁵⁶ In December 2015, media widely reported on an event that took place in a hospital in Tallaght–Dublin, where a patient refused to get medical treatment from a Muslim

consultant wearing a headscarf, highlighting the negative attitudes toward those who wear headscarves.³⁵⁷

190. Public debate on headscarf bans in Ireland started in June 2008 when a politician from the Labor Party, Ruairi Quinn, 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.³⁵⁸

191. The debate over barring Islamic headwear continues to dominate academic and political forums and has attracted much media attention in Ireland.³⁵⁹ A recent public statement in support of burqa bans by German Chancellor Angela Merkel revived the discussion on banning the Islamic face veil in Ireland.³⁶⁰ However, the issue has not yet been commented on at the governmental level.

National ban

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

193. *Proposals:* There was a debate about a request for a change in the uniform policy of the Irish police to accommodate people who wear headscarves or turbans in 2016. The request was turned down by the authorities.³⁶¹

[Headscarf]
[Public
Employment]

Local ban

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

Institutional/private bans/bans in practice

195. *Education:* In 2010, an official guideline was circulated to 450 Roman Catholic secondary schools in Ireland to prohibit Muslims from wearing face veils at school. The restriction was worded in a way that respects non-Catholic 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.³⁶² 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 allows individual schools the autonomy to decide the dress code within their administration.³⁶³

[Face Veil]

National legislation

196. Legal protection for students against discrimination that targets Muslim women who wear a headscarf or face veil is to be established under two newly proposed bills: the Education (Admission to Schools) Bill 2016 and the Equal Status (Admissions to Schools) Bill 2016. The bills have the potential to provide remedy for discriminatory restrictions on access to schools on the grounds of faith/nonfaith. At this stage, it is unclear how

effective the remedy will be for victims of discrimination in admission policies and whether or not schools will be allowed to restrict admissions for children from non-Catholic backgrounds. In employment, in accordance with various EU directives, ³⁶⁴ national legal protection against discrimination on the grounds of religious belief is set out in two main sources: the Irish Constitutional Law³⁶⁵ and the Employment Equality Acts 1998–2015.³⁶⁶ According to the laws, it is illegal to discriminate against employees based on their religion, which includes “religious belief, background, outlook or none.”³⁶⁷

Italy

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

Background

- 197. According to the most updated data available, there were about 1.6–1.7 million Muslims residing in Italy in 2015, which accounts for about 2.8 percent of the population.³⁶⁸ Most Muslims in Italy are first-generation immigrants.³⁶⁹
- 198. It was reported that anti-Muslim prejudice is widespread in Italian society. Muslims continue to be discriminated against in different areas, including and especially in employment. Muslims have been stigmatized, particularly by the policy proposals of mainstream right-wing political parties such as The League (formerly the Northern League).³⁷⁰
- 199. Despite being underreported, incidents where Muslims are discriminated against are numerous.³⁷¹ Among Muslim women, those who wear Islamic headwear are more likely to be subjected to discrimination and stigmatization in Italy.³⁷² Immigrant women from Muslim-majority countries display the lowest level of employment compared to other groups of immigrants in Italy. ³⁷³ Discrimination against Muslims happens in different sectors, including and especially in employment. 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.

National ban

- 200. At the national level, Italian legislation does not ban religious clothing in public places. Similarly, there have been no court rulings that prohibit Islamic headscarves and full-face veils.
- 201. However, this fact has often been confused because of article 5 of the Law on the Provisions for the Protection of Public Order, No. 152 of 22 May 1975 (Law 152/1975). The provision 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 correct interpretation of article 5 was emphasized in a court ruling. The case involved an ordinance issued by Friuli Venezia Giulia, mayor of Azzano Decimo, which included the face veil as

[Face Veil]

prohibited clothing under article 5 of the 152/1975 law. The court invalidated the ordinance and ruled that the article 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.” The court’s verdict went further to provide exceptions, including requiring veil wearers to remove their veils upon request by public security authorities for security reasons. Despite the ruling, mayors of a few towns in Italy (including Novara, Treviso, and Drezzo) still issued the misleading ordinances. However, they were later invalidated for overlapping with law 152/1975.³⁷⁴

202. *Proposals*: The issue on the headscarf and face veil did not make it to the center of the political debate until a bill to ban the face veil was proposed to parliament in 2011.³⁷⁵ The bill has never been passed in Italy. [Face Veil]
203. After the ruling on the ordinance issued by Friuli Venezia Giulia, mayor of Azzano Decimo, the MPs Souad Sbai and Manlio Contento from the People of Freedom Party attempted to include an explicit ban on the burqa and niqab by amending article 5 of the law 152/175. Their bill also aimed to impose a fine on those who violate it. The bill was approved in 2011 by the Constitutional Affairs Committee, but not by parliament.³⁷⁶ [Face Veil]
204. 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 burqa throughout Italy. His reason was that the burqa is “a symbol of submission and oppression.”³⁷⁷ The statement has not materialized in an actual bill. [Face Veil]
205. In addition to that, 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.³⁷⁸ [Face Veil]

Local ban

206. *Local specific ban*: The first attempted legislative ban at the municipal level came in December 2015, when the regional government of Lombardy passed a law that was scheduled to enter into force 1 January 2016. The law prohibits the use of head coverings that could conceal the wearer’s identity in public buildings, including government offices and hospitals.³⁷⁹ Following Lombardy was the Veneto Region, which approved a similar law in June 2017.³⁸⁰ [Face Veil]
207. It was reported that several towns in Italy 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 burqa in the town of Novara. The fine was imposed under a municipal ordinance introduced by Novara’s Northern League mayor.³⁸¹ Most recently, in November 2016, another Muslim woman was fined for refusing to remove her face veil in a town hall in Pordenone.³⁸² [Face Veil]

208. *Case law:* The bans at municipal level in Lombardy did not go without protest. [Face Veil]

In 2016, four associations dealing with immigration filed an appeal against the law. In April 2017, the Court of Milan dismissed the appeal. The judge ruled that forbidding Muslim women to wear veils, and in particular “burqa and niqab” 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.”³⁸³

Institutional/private bans/bans in practice

209. There is no data on bans under this category.

National legislation

210. In Italy, antidiscrimination is established as a major constitutional principle, according to which, “All 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.”³⁸⁴ 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 ... is 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 24 July 2000).

Latvia

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

Background

211. Muslims in Latvia are a minority and make up about 0.4 percent of the total population.³⁸⁵ Among the estimated 1,000 practicing Muslims, there is mention of three women who wear Islamic face veils.³⁸⁶ In Latvia, the Muslim community faces Islamophobia, which has been aggravated by several prominent individuals.³⁸⁷

212. Although there are no explicitly discriminatory laws, there are reports of public discrimination and vocal prejudice against Muslims.³⁸⁸ However, there is no report of specific incidents or legal cases on discrimination against Muslim women or Muslim women wearing Islamic clothing.

National ban

213. To date, Latvia has no legal bans nationwide.

214. *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.³⁸⁹ While the president supported the ban for national security concerns,³⁹⁰ the majority of parliament rejected it on 24 September 2015.³⁹¹ [Face Veil]

215. The second and most recent initiative to legalize the ban on face veils was a bill proposed by the Latvian Justice Ministry in January 2016.³⁹² Even though there are only three veil wearers in the entire nation, the bill is said to aim at preventing prospective immigrants from Muslim countries from coming to Latvia, and preserving Latvian values.³⁹³ Results from a public poll organized by a private research company (TNS), commissioned by a morning news program, Latvia’s TNT TV, have shown that the bill received support from the majority of Latvian participants (77%).³⁹⁴ The bill was expected to come into effect in 2017.³⁹⁵ At the time of writing, the bill is being discussed at the ministerial level, and yet to be forwarded to parliament. The last update in the media was on 25 June 2017, stating that the Ministry of Justice is planning to move the process forward with no specific date provided.³⁹⁶ [Face Veil]

Local ban

216. No local bans have been implemented or proposed in Latvia.

Institutional/private bans/bans in practice

217. No bans under this category have been reported.

National legislation

218. 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 freedoms of religion and belief are provided, they 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.”³⁹⁷ The possibility of limiting the freedom to express ones’ 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

Background

219. 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.³⁹⁸ Public attitudes toward Muslims differ. Tatars—a predominantly Muslim people that has a long history of living in Lithuania—are viewed more favorably, in contrast to recent Muslim immigrants.³⁹⁹ A report on Islamophobia in Lithuania, conducted by the Foundation for Political, Economic and Social Research (SETA), shows there are no reported cases of discrimination against Muslims. However, public opinion surveys and interviews suggest possible underreporting, as Muslims risk losing their jobs and being identified.⁴⁰⁰ In the field of employment, it was reported that Islamic clothing was one of the causes of discrimination against Muslims.⁴⁰¹

National ban

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

221. *Proposals:* In August 2015, top politicians in Lithuania raised a discussion about a possible burqa ban. 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.⁴⁰² This proposal was quickly dismissed by other officials.⁴⁰³ 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.⁴⁰⁴ [Face Veil]

Local ban

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

Institutional/private bans/bans in practice

223. No bans under this category were reported.

National legislation

224. National legislation against discrimination on the grounds of religion, especially in the field of employment, is laid down in the Labor Code (effective since 1 July 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.⁴⁰⁵ Prohibition on discrimination on the grounds of religion is also enshrined in the Law on Equal Opportunities.⁴⁰⁶

Luxembourg

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

Background

225. Muslims are a minority in Luxembourg.⁴⁰⁷ 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 among other religions.⁴⁰⁸ It has been reported that women wearing Islamic clothing are rare in Luxembourg.⁴⁰⁹ The country is generally identified as a peaceful and tolerant one.⁴¹⁰ No incidents on discriminatory treatments toward Muslim women, especially on the grounds of their Islamic clothing, were reported.⁴¹¹

National ban

226. Currently, there are no national bans on headscarves and face veils in Luxembourg.

227. *Proposals:* In April 2016, Nicolas Schmit, labor minister of the Luxembourg Socialist Labor Party (LSAP), announced on Twitter: “The burqa is incompatible with our values. It degrades the dignity and equality of opportunities for woman [sic].”⁴¹² However, this sentiment was not taken up as a legislative proposal until October 2016, when the Luxembourg Christian Social Party (CSV) drafted a bill on banning burqas in Luxembourg.⁴¹³ The proposal did not last long: a month later, in November 2016, Justice Minister Felix Braz publicly confirmed that there were neither national bans on face veils, nor any legislative plans on banning the veil in public.⁴¹⁴ [Face Veil]

228. However, the situation changed more recently when a bill on the prohibition of wearing face veils in several public places was submitted for approval. Minister Braz specified that the bill will not apply to all public spaces but only selective places such as “schools and educational institutions, hospitals and nursing homes, offices and administrations, all public administrations in general, courts and public transport.” The bill, if approved, will become an amendment in article 563 of the Criminal Code, with a maximum fine of €250 for noncompliance.⁴¹⁵ The main reason for the ban as presented by the minister is the necessity of “face to face” interaction for “communication, interaction and ‘living together’ in certain public places.”⁴¹⁶ It is uncertain when Parliament will vote on the bill. [Face Veil]

Local ban

229. Currently, there are no provincial laws banning the wearing of face veils or headscarves in Luxembourg.

Institutional/private bans/bans in practice

230. Currently, there is no data indicating bans under this category.

National legislation

231. 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.⁴¹⁷ The general principle of equality is protected by the Constitution of Luxembourg, especially under article 111.⁴¹⁸

Malta

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

Background

232. Based on data from 2015, Muslims in Malta constitute approximately 41 percent of the national population.⁴¹⁹ Islamophobia has been a widespread issue faced by the Muslim community.⁴²⁰ Muslims in Malta report experiencing discrimination in many different fields, ranging from education to public participation to employment.⁴²¹ The main victims of discrimination and anti-Muslim sentiments are Maltese Muslim women, especially those wearing headscarves. Various relevant incidents were recorded where women wearing headscarves failed to find jobs⁴²² or were refused access to schools.

National ban

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

234. That fact can be confused because 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.” However, 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 masks in public.⁴²³

235. *Proposals:* Even though Muslim women wearing Islamic headwear 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 police circular, making it enforceable to prohibit the wearing of burqa in public.⁴²⁴ The proposal sparked public debate on the topic.⁴²⁵ At the time of writing, the proposal has not yet been finalized. [Face Veil]

Local ban

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

Institutional/private bans/bans in practice

237. No data on bans under this category was reported.

National legislation

238. 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.

The Netherlands

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

Background

239. Dutch Muslims make up around five percent of the overall population. Wearing a headscarf is common among Muslim women in the Netherlands. According to a 2009 study, only around 100 women were found to wear a face veil all the time and 400 occasionally.⁴²⁶ The number of women who wear a burqa is estimated to be zero.⁴²⁷
240. Although in the 1960s and 1970s they were mostly viewed as needed “guest workers” and “immigrants,” in the 1980s, Muslim ethnic minorities were reduced to their religion, and their behavior came to be associated with that alone, with little reference to socioeconomic factors. This was both in light of the 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. Debates about Muslims increased sharply after 9/11 and the murder of Theo Van Gogh. Key figures of mainstream political parties and opinion makers played a significant role in the demonization of Muslims.⁴²⁸
241. A report from the University of Amsterdam, “Monitor Moslimdiscriminatie,” shows that Muslims face discrimination in different areas of life and are even subjected to violent attacks.⁴²⁹ According to a report published by the Dutch government on the experiences with discrimination of Dutch citizens, “Ervaren discriminatie,” 65 percent of Muslim participants experienced discrimination at least once in the past year (75% of those participants who were not sure whether a particular experience counts as discrimination are included).⁴³⁰ As they are in many other countries in the EU, Muslim women are subject to discrimination, especially those whose faith is visible through their dress.⁴³¹
242. Political and public debates on both the face veil and headscarf have been pushed mostly by the right-wing populist politician Geert Wilders and his Freedom Party PVV (Partij Voor de Vrijheid), which 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.⁴³²

National ban

243. *National Specific Ban*: On 26 June 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.⁴³³ This clothing is prohibited in public transport, education, healthcare, and public government buildings. The law 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 due to its disproportionality and infringement on the right to freedom of religion⁴³⁴. When and how this law will be enforced is still being investigated, but different stakeholders have stated that enforcement will be a challenge. This is the first legal ban on religious dress applied nationally in the Netherlands.⁴³⁵ [Face veil]
244. It was Geert Wilders of the far-right Freedom Party PVV who first filed a motion for a ban on face veils (referred to as a “burqa ban”) in public spaces, in 2005. Then Minister of Integration Rita Verdonck from the liberal People’s Party for Freedom and Democracy (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.⁴³⁶ In 2007, Wilders submitted another proposal to criminalize the wearing of face veils; however, this was not supported by the ruling coalition consisting of the Labor party and two Christian Democratic parties.⁴³⁷ In 2008, a proposal for a general ban on all types of face coverings was submitted by a member of the liberal 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.⁴³⁸ This resulted in the current legal partial ban, which is still considered a victory for the PVV and Wilders.⁴³⁹ [Face Veil]
245. In 2009, Wilders advocated for a special tax on headscarves, which he disparagingly called “kopvoddentax,” or “head rag tax.”⁴⁴⁰ The proposal was to introduce special permits to wear headscarves costing €1,000 per permit.⁴⁴¹ Wilders justified this “tax” in two ways. First, he claimed that headscarves and long dresses, among other things, pollute the cityscape, and therefore the wearers must pay. Second, he argued that the headscarf is a symbol of a lack of freedom and the oppression of women; hence, the tax would support women’s shelters.⁴⁴² [Both]
246. The Council of State of the Netherlands issued opinions on all four proposals and was not convinced of the necessity or usefulness of such bans, finding, without further justification, that none of them would be in line with freedom of religion as enshrined in the ECHR. 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 the state 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 [Face Veil]

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.⁴⁴³ The Council of State 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.⁴⁴⁴

Local ban

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

Institutional/private bans/bans in practice

248. Despite the absence of legal bans, restrictions on headscarves and face veils in work and school settings exist, though mostly informally. The local grassroots organization MeldIslamofobie.nl has received numerous complaints on its hotline from Muslim women who were refused a job because of their headscarves.⁴⁴⁵ In the labor market, discrimination occurs mainly during the recruitment process; it is less apparent during employment. This results in candidates who wear a headscarf and veil being denied opportunities, and in existing employees being dismissed. 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 private and public sectors. Workers at multinational companies appear less likely to be discriminated against than workers at local private enterprises.⁴⁴⁶

249. *Private employment:* Dutch Perfume chain store Douglas stated it would change its policy prohibiting religious dress after pushback on social media and threats to boycott the shops occurred when one of its stores decided to move a Muslim woman employee who wears a headscarf from the shop to the stockroom where she would no longer be visible to customers.⁴⁴⁷ [Headscarf]

250. 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 to justify his policy.⁴⁴⁸ [Headscarf]

251. *Public employment:* There are no legal cases with regard to private sector refusals or dismissals based on wearing religious dress. On 20 November 2017, the Dutch equality body, College voor de Rechten van de Mens, published its views on a case regarding a Muslim woman who wore a headscarf and worked for the police. Sarah Izat, who wore a headscarf, was in [Headscarf]

charge of registering complaints (through phone and video calls)—a position that did not require her to wear a uniform. When she was offered a promotion, she accepted, but this new position included the requirement that she wear a police uniform. The 2011 behavioral code for the police (*Gedragscode lifestyle-neutraliteit*)⁴⁴⁹ does not allow the uniform to be combined with religious apparel—a dress code that Izat testified is not applied equally to all employees.⁴⁵⁰ Izat filed a complaint with the equality body, whose rulings are not binding but were influential. The *College voor de Rechten van de Mens* decided that for that particular police function, a ban on the headscarf is not justified and constitutes discrimination.⁴⁵¹

252. In May 2017, the Amsterdam police chief, Pieter-Jaap Aalbersberg, suggested allowing police officers to wear a headscarf in order to make it possible for women of minority background to join the force.⁴⁵² This proposal, if implemented, would go against the code of conduct for police officers issued by the Ministry of Security and Justice in 2011 (*Gedragscode lifestyle-neutraliteit*), which bars the wearing of religious symbols to preserve police neutrality and safety.⁴⁵³ The Amsterdam police force withdrew its proposal, stating that, unfortunately, at this moment there is not enough political support to challenge the 2011 code of conduct.⁴⁵⁴ The Amsterdam chief of police is still looking to build support for his proposal within the Amsterdam police force.⁴⁵⁵

[Headscarf]

253. In 2007, the *College voor de Rechten van de Mens* judged that the Immigration and Naturalization Service (IND) had discriminated against an applicant on the grounds of religion.⁴⁵⁶ The applicant, who was a Muslim woman wearing a headscarf, had applied for a job with the IND while wearing her headscarf, and after several tests, she became one of the final candidates. She was refused employment in the end because of her headscarf.

254. *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).⁴⁵⁷

[Face Veil]

255. In 2003, there was a famous case where a school did not allow three students to wear their niqabs.⁴⁵⁸ In the same year, the Equal Treatment Commission 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 weighty aim. In the abovementioned case, 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.⁴⁵⁹

[Face Veil]

National legislation

256. In the Netherlands, the main legal protection against discrimination in the workplace can be found in the Equal Treatment Act (*Algemene wet gelijke behandeling, Awgb*). This act is the implementation of Directive 2000/78, establishing a general framework for equal treatment in employment and occupation. Through its judgment in the *Achbita* case, the CJEU imposed a uniform interpretation of the Equal Treatment Directive. Since the Dutch

Equal Treatment Act implements this EU Directive, Dutch courts have to follow this interpretation when assessing if a case involves discrimination according to the Dutch Equal Treatment Act. Consequently, national courts can no longer subject a company's neutrality policy, which meets the *Achbita* case requirements, to a stricter proportionality review.⁴⁶⁰

Poland

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

Background

257. Poland has about 35,000 Muslims, which is less than 0.1 percent of the population.⁴⁶¹ Despite the small number, Poland is not excluded from the rise of Islamophobia in Europe.⁴⁶² Especially under the pressure of the EU's migration crisis, the objections toward Muslim immigrants have been increasing over time.⁴⁶³

258. Muslim women who wear a headscarf are a rare sight in Poland. The niqab or burqa are even less common in the Polish public sphere, as many Muslim women do not wear a headscarf at work or school because they don't want to stand out among others.⁴⁶⁴ However, discrimination against Muslim women wearing veils in Poland is still a prevalent issue, especially in the job market.⁴⁶⁵ Violations experienced by Muslim women wearing headscarves are also reported occasionally in the media.⁴⁶⁶

National ban

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

Local ban

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

Institutional/private bans/bans in practice

261. No bans under this category were reported.

National legislation

262. Direct and indirect discrimination in employment on the basis of religion is prohibited under the Polish Labor Code.⁴⁶⁷

Portugal

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

Background

263. Portugal's Muslims make up 0.1 percent of the total population.⁴⁶⁸ No public concerns targeting the Muslim community have been raised,⁴⁶⁹ and Portugal does not seem to share the negative attitudes toward Muslims prevalent in many EU countries. Muslims in Portugal also attract relatively little media attention. When they are covered in the news, they tend to be portrayed positively.⁴⁷⁰
264. The extent of discrimination against Muslims in relation to the practice and manifestation of their religion, especially women wearing Islamic clothing, is not well known. It was reported that Muslim women have faced increasing difficulties obtaining jobs due to prejudice against wearing a headscarf.⁴⁷¹ Unfortunately, there is no data available to substantiate this concern.

National ban

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

Local ban

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

Institutional/private bans/bans in practice

267. No bans under this category were reported.

National legislation

268. Portuguese legislation preventing discrimination based on the grounds of religion is laid out in the Constitution of the Portuguese Republic, which establishes religion as one of the protected grounds for equality.⁴⁷² In employment, the Constitution also grants equal treatment for every worker, regardless of, *inter alia*, their religion and belief.⁴⁷³ This constitutional principle is further elaborated by the Law 16/2001 of 22 June on Religious Freedom, which provides all people the freedom to practice their religion, both in private and in public.⁴⁷⁴

Romania

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

Background

269. Romania has 64,337 Muslims, which is approximately 0.34 percent of the total population.⁴⁷⁵ While the number of Muslims in Romania has decreased,⁴⁷⁶ anti-Islam sentiments are on the rise,⁴⁷⁷ supported to a great extent by mainstream media and the country's political elite.⁴⁷⁸
270. No incidents have been reported where Muslim women were attacked or harassed on the grounds of their Islamic clothing.

271. On the political level, even though there has been no talk of banning Islamic face veils, several highly ranked politicians have made anti-Islam comments, either through public or personal media channels.⁴⁷⁹ It is interesting to note that in December 2016, the nomination of the very first Muslim prime minister, Ms. Sevil Shhaideh, was opposed by President Klaus Iohannis.⁴⁸⁰ Despite the lack of stated reasons for the rejection, it was widely suggested by public media that the opposition was based on Ms. Shhaideh's gender and religion.⁴⁸¹

National ban

272. At the time of writing, Romania has not had any legal bans or proposals for banning Islamic face veils or headscarves.

Local ban

273. Local bans do not exist in Romania.

Institutional/private bans/bans in practice

274. No bans under this category were reported.

National legislation

275. National legal protection against discrimination on religious grounds in Romania is set out in the Constitution (1991, amended 2003),⁴⁸² 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

Background

276. Slovakia has a Muslim community of about 3,000 to 5,000 members, accounting for less than 0.1 percent of its total population.⁴⁸³ Muslims in Slovakia are mostly well educated and hold important business posts.⁴⁸⁴ Although small in size and currently enjoying high social status, the Muslim community in Slovakia is not immune to the widespread anti-Muslim sentiment in Europe.⁴⁸⁵

277. There are no particular cases or statistics that report discrimination against Muslim women, including Muslim women with headwear, in Slovakia.

278. The first mention of banning burqas came when the Slovakia National Party (SNS) chairman, Andrej Danko, announced his proposal to bar burqas and Islamic mosques in a press release in January 2015. After his public statement, the part of the proposal on burqas never made advanced. However, an amendment in an existing law that places stricter requirements on becoming a state-recognized religion in Slovakia was passed by parliament in November 2016, although it was then vetoed by the Slovak president, Andrej Kiska.⁴⁸⁶

This legal amendment aims to prevent Islam and other religions from registering and receiving money from the state, by requiring more than 50,000 followers in order to qualify for such funds.

National ban

279. Except for the proposal by Danko, no bans or any legislative proposals on banning Islamic face veils or headscarves have been discussed or legalized in Slovakia.

Local ban

280. Similarly, no legislative proposals for a ban exist at the local level in Slovakia.

Institutional/private bans/bans in practice

281. No bans under this category have been reported.

National legislation

282. Discrimination on religious grounds is prohibited by Slovakia's Constitution⁴⁸⁷ and Antidiscrimination Act (2004, amended 2014).⁴⁸⁸

Slovenia

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

Background

283. In Slovenia, the Muslim community represents about 2.4 percent of the total population and is the second largest religious group in the nation.⁴⁸⁹ Muslims in Slovenia face many challenges. The fact that the first mosque in Slovenia was only built in 2013, after 44 years of constant requests, illustrates one of the various obstacles that the community faces.⁴⁹⁰

284. Like many Muslim women in Europe, Muslim women in Slovenia, especially those wearing Islamic clothing, also struggle with discrimination and prejudice.⁴⁹¹ However, cases of women who wear Muslim clothing being discriminated against are not widely reported in the media. According to unofficial data, Muslim women who wear a headscarf are discriminated against in the field of employment. They face difficulties getting a job in the public sector, and it is common that Muslim women whose religious affiliation is visible are unemployed or only employed in the private sector.⁴⁹²

National Ban

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

286. *Proposals:* At the national level, in November 2015, a new bill was proposed by the opposition Democratic Party (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.

[Face Veil]

Under the proposed bill, women could be fined €100 for wearing the burqa in public.⁴⁹³ The bill was rejected at the parliamentary level. Except for this bill, there have been no other legislative moves on the matter.

Local ban

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

Institutional/private bans/bans in practice

288. No data was found on bans under this category.

National legislation

289. 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].”⁴⁹⁴ 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.⁴⁹⁵ 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.⁴⁹⁶

Spain

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

Background

290. According to the latest survey undertaken by the Islamic Commission of Spain in 2016, there are approximately 1,887,906 Muslim residents in Spain,⁴⁹⁷ which is equivalent to four percent of the total population.⁴⁹⁸ Of all the Muslim residents, 41 percent are Muslim Spanish nationals and 59 percent are immigrants.⁴⁹⁹

291. Only a handful of women wear a face veil or niqab in Spain.⁵⁰⁰ There are no reports of women wearing a burqa despite face veil bans being referred to as “burqa bans.”

National ban

292. *National specific ban:* In 2015, a law called Ley Mordaza (or “gag law”), which restricts the rights of assembly, demonstration, and freedom of information, was enacted.⁵⁰¹ Article 16 (identification of persons) imposes penalties for using any kind of cloth that covers the face during demonstrations.⁵⁰² [Face Veil]

293. The Ley Mordaza national specific ban was the result of a legislative attempt to legalize a restriction on face veils, initiated by Spanish Minister of Interior Jorge Fernandez Diaz (Partido Popular). In September 2014, Diaz stated that the Spanish government would consider an amendment to the bill banning burqas, including provisions that ban the covering of people's faces during demonstrations, on the grounds of security.⁵⁰³ The first proposal for a national ban on face veils in public spaces was introduced by the same conservative Popular Party (PP), "in defense of the dignity and equality of all women" and to make sure Muslim women are not forced by their husbands to be fully veiled. In July 2010, the Spanish Parliament rejected the proposal to ban the face veil 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 at that time, nor the subsequent governments, took up the motion.

[Face Veil]

Local ban

294. 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 from the group that is not part of Catalonia.

[Face Veil]

295. *Local general bans:* The year 2010 brought the first ban on face veils in public space in Spain.⁵⁰⁴ A ban was adopted by the Catalan town of Lleida (whose 29,000 Muslims make up more than 20 percent of the population).⁵⁰⁵ 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."⁵⁰⁶ Fines of up to €600 could be imposed on anyone in breach of the prohibition.⁵⁰⁷

[Face Veil]

296. In 2014, shortly after the *S.A.S v. France* judgment, the Catalan town of Reus banned full-face veils in public following efforts by the conservative Partido Popular and nationalist CiU coalition. The ban was legalized and passed by the council assembly on July 2014.⁵⁰⁸ 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.⁵⁰⁹

[Face Veil]

297. *Local specific bans:* In 2010, Barcelona also announced a ban on face veils. Barcelona was the first large Spanish city to ban the face-covering veils in municipal buildings,⁵¹⁰ schools, and markets.⁵¹¹ 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."⁵¹²

[Face Veil]

298. *Case law:* When these municipal bans were challenged in court, the Spanish Supreme Court found the prohibition on face veils by Lleida and Reus to be contrary to the right to freedom of religion. The court overturned the ban in Lleida in 2013.⁵¹³ The judgment also made clear that no penalty can be imposed on Muslim women wearing face veils in Reus.⁵¹⁴ The town of Reus

[Face Veil]

was reported to have kept the ban in place referring instead to the ECtHR *S.A.S. vs France* judgement.⁵¹⁵ It is unclear whether the Supreme Court judgment led to changes in the other towns.

Institutional/private bans/bans in practice

299. *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, was 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.⁵¹⁶ [Headscarf]
300. *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.
301. 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.⁵¹⁷ From 2007 to 2011, there was a series of similar cases that sparked public debate on Islamic clothing.⁵¹⁸ [Headscarf]
302. Some of the key cases occurred in 2007, 2010, and 2011, when female Muslim students were suspended, or even expelled from school, for refusing to remove their headscarves.⁵¹⁹ They were all accused of either violating the schools' general dress codes or interfering with measures against cheating during exams by hiding electronic devices.⁵²⁰ In January 2012, a Court of First Instance in Madrid ruled in favor of the Institute José Cela's decision to expel a student, Najwa, 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 denied the appeal on procedural grounds.⁵²¹ [Headscarf]
303. *Ban 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 tried her case with the Supreme Court and then the Constitutional Court. The Supreme Court did not rule on the merit 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 (the division that has jurisdiction for 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 [Headscarf]

applicant failed to comply with procedural requirements while lodging her appeal at the domestic judicial level.⁵²²

National legislation

304. 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

Background

305. As one of the most diverse societies in Europe, Sweden is home to residents with various national and religious backgrounds.⁵²³ According to the most recent estimate available, 4.5 percent of the total Swedish population is Muslim.⁵²⁴ Muslims in Sweden do face negative attitudes and discrimination in many aspects of their lives, including media, laws, politics, education, and employment, as well as public perception.⁵²⁵

306. In spite of the fact that Sweden is one of the best countries in the world for gender equality,⁵²⁶ Muslim women in Sweden are still much more frequently targets of physical and verbal abuse than others, due to their religious background.⁵²⁷ Muslim women who wear Islamic clothing are even more vulnerable. A recent survey showed that Swedes have different attitudes toward different forms of Islamic covering: while 83 percent are against the niqab and burka, 65 percent support the hijab and shayla (which is similar to the hijab and does not cover the face).⁵²⁸ Nevertheless, incidents and court cases where those who wore a headscarf and face veil were victims of abuse

and hostility are found in various reports produced by civil society.⁵²⁹ There are approximately 100 Muslim women who wear niqabs in Sweden.⁵³⁰

National ban

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

308. *Proposals:* To date, there have been several attempts to propose a legal ban on face veils in Sweden. The proposals have been introduced by the Centre Party, the Liberals, the Moderates, and the Swedish Democrats. The first attempt was put forward in 2009 by two MPs from the Centre Party, Staffan Danielsson and Lennart Pettersson, who submitted a motion proposing a ban on the burqa and the niqab.

[Face Veil]

309. In 2010, the Swedish Democrats, represented by MPs 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 to suggest banning full veils in schools.⁵³¹

310. In January 2016, the Moderate Party in the city of Norrköping, floated the possibility of introducing a local regulation on headscarves for girls under 15 years of age. The party claimed that minor girls 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. Therefore, there is a need for a regulation to combat oppression.⁵³²

311. The representatives for the Moderate Party in Norrköping presented two proposals to ban face veils for employees within the municipality.⁵³³ The party reasoned the ban was based on the quality of communication, which, according to them, cannot be achieved if the face is hidden.⁵³⁴ None of these proposals was legalized.

Local ban

312. There are no local bans being legalized or proposed in Sweden.

Institutional/private bans/bans in practice

313. *Private employment:* After the recent CJEU rulings on private employers' bans on headscarves, a job applicant with the Scandinavian airline SAS was told by the interviewer she would qualify for the job if she took off 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.⁵³⁵ At the time of writing, the Swedish Ombudsman is investigating the case to decide if the policy is compatible with the Antidiscrimination Law and if further legal action is needed.⁵³⁶

[Headscarf]

314. *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

[Face Veil]

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.⁵³⁷ The guideline was established in spite of a ruling by Sweden's Equality Ombudsman, who decided 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 niqabs.⁵³⁸

315. *Ban 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 (SVT) because she wore a headscarf. SVT’s leadership believed that a television presenter wearing a headscarf would breach the impartial and neutral image of the firm.⁵³⁹ Media coverage of the headscarf debate grew relatively extensively between the years between 2008 and 2015. It was documented that there were 72 articles relating to the veil published in the most popular newspapers in Sweden during the time period; of those, 69 articles were written by people who did not wear headscarves, and the majority of the articles expressed negative opinions on Islamic clothing.⁵⁴⁰ Public discussion on headscarves and face veils in Sweden has become even more intense recently. [Headscarf]

National legislation

316. 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 Equality Ombudsman to supervise the compliance with the act.⁵⁴¹

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

Background

317. There are about 2,787,000 Muslims living in the United Kingdom, which constitutes approximately 4.5 percent of the total population.⁵⁴²

318. Islamophobia is on the rise in the country.⁵⁴³ The government’s counterterrorism policies, including the much-debated Prevent Programme launched in 2003, are said to contribute to Islamophobia and discrimination against Muslims by pointing to their religion as the cause of security problems.⁵⁴⁴ 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.⁵⁴⁵

319. 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.⁵⁴⁶ Research has shown that Muslim veil wearers are frequent victims of verbal abuse, which can lead to assault and violence.⁵⁴⁷ The unemployment rate of Muslims is 12.8 percent, while it is 5.4 percent for the general population. Among Muslims who are unemployed, 65 percent are women and 35 percent are men. It is unclear how Muslim women's religious headwear affects the gender disparity in employment.⁵⁴⁸
320. 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.⁵⁴⁹ After France's legal ban of the face veil in 2011, a survey conducted by Channel 4 News in 2013 showed 55 percent of 1,077 British adult participants supported a ban on face veils, and 88 percent agreed to a ban of the niqab in specific public places, including schools, courts, and hospitals.⁵⁵⁰ Three years after this public survey, another public poll on the topic was conducted in August 2016. The poll's result showed 57 percent of the British public were in favor of the ban on burqas.⁵⁵¹
321. Despite the rise in Islamophobia and occasional debates surrounding the face veil, the UK stands out compared to the rest of the EU 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 (including a television news reporter,⁵⁵² shopkeepers, police officers,⁵⁵³ judges,⁵⁵⁴ royal guardsmen,⁵⁵⁵ and others), and for various professions to accommodate religious dress by devising ways to include it in the uniform. The face veil, although less common, is allowed in public space and certain occupations as well.⁵⁵⁶

National ban

322. Despite various attempts (as described below) to date, the United Kingdom does not have any legal bans on face veils or headscarves that apply nationally.
323. *Proposals:* British politicians brought the discussion over Islamic headwear to political stage in 2006. As an MP and minister, Jack Straw expressed his opposition to the practice of wearing full-face veils.⁵⁵⁷ 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 and British National Party.⁵⁵⁸ While opposing a national ban in all public places, former Prime Minister David Cameron stated in 2013 that he would support bans in schools and in courts.⁵⁵⁹ [Face Veil]
324. There were two official attempts to legalize face veil bans in the United Kingdom. In 2012, a ballot bill named Face Coverings (Regulation) Bill 2010-12, sponsored by MP Philip Hollobone (Conservative Party),⁵⁶⁰ 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 [Face Veil]

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 and is no longer being considered.⁵⁶¹

Local ban

325. No local bans have been proposed or implemented in the UK.

Institutional/private bans/bans in practice

326. *Public employment*: Important case law regarding those wearing Muslim clothing—who protested that their religious freedom was violated by religious dress bans—mostly involved dress code requirements in school settings.

327. *Case law*: The first case of this kind is *Azmi v. Kirklees Metropolitan Borough Council* in 2007. The case concerns Azmi, an assistant teacher who received instruction to remove her face veil while teaching. Azmi 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 deemed lawful the instruction to remove her veil as being proportionate and in support of 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.⁵⁶² [Face Veil]

328. *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 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.⁵⁶³ It also means that there are likely to be more cases than reported below. [Headscarf]

329. *Case Law*: In January 2016 a Muslim woman employee who worked for Global Luggage in their Oxford Street and Piccadilly branches, was forced to resign because her headscarf was said to undermine the company's aim to maintain a "trendy" image. In *Farrah v. Global Luggage Co Ltd 2012*, the Employment Tribunal decided the company was liable for unfair dismissal, finding the fact that the employee wore a headscarf to be an illegitimate and discriminatory justification. Her claim of direct discrimination was rejected because the employer did not target her for her faith.

330. *Education*: Even though the UK has no legal bans on wearing headscarves or face veils, it is important to note that schools can decide their own dress codes.⁵⁶⁴ 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."⁵⁶⁵ The guidance was further supported by several court cases, as analyzed below.

331. St. Stephen's, a primary school in London, adopted a ban on the headscarf for pupils under the age of eight.⁵⁶⁶ It was quickly revoked following strong [Headscarf]

resistance from civil society.⁵⁶⁷ The move came not long after controversy arose around a call by the head of Ofsted (Office for Standards in Education) to 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.”⁵⁶⁸

332. *Case law:* The relevant case law is *R (on the application of X) v. The Headteacher of Y School and another* (2007)⁵⁶⁹ and *R (on the application of Begum) v. Headteacher and Governors of Denbigh High School* (2006).⁵⁷⁰ The first involved a female Muslim student who wished to wear a face veil at school, the second concerns a Muslim student who wanted to wear a jilbab (an ankle length gown) in breach of the school’s uniform policy. Both 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 belief was inviolable and that there had been no interference with the right to hold and manifest ones’ religion.⁵⁷¹ In the *X* case, the argument 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 *Begum* case.⁵⁷² Hence, judges found the expulsion to be proportionate and not an infringement of the claimants’ rights.⁵⁷³

[Face Veil]
[Other]

333. *Ban 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 wear it in the course of her work and refused to remove it when asked by the judge. The Asylum and Immigration Tribunal issued temporary guidance allowing legal advisers and solicitors to wear a face veil in court, as long as it does not interfere with the justice process; the advice also allowed judges to exercise discretion on a case-by-case basis when it does.⁵⁷⁴ 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,⁵⁷⁵ witness, and in other roles⁵⁷⁶). 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 a certain amount of discretion on a case-by-case basis but are given more instructions. 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, for example by limiting the number of observers. A female staff member can establish the identity of the woman in private.⁵⁷⁷

[Face Veil]

National legislation

334. The UK government has taken some legislative actions to address discrimination and inequalities in employment since 2010. The Equality Act (2010), which strengthens the protection for female and religious employees, is an example of this effort.⁵⁷⁸ 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.⁵⁷⁹ The law not only prohibits direct and indirect discrimination at work based on religion and belief but also recognizes combined discrimination (or dual characteristics).⁵⁸⁰ At the domestic level, the United Kingdom 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.”

ANNEX I – RELIGIOUS DRESS BANS IN THE EU

28 EU States	National Ban	Local Ban	On-going Proposal	Failed Proposal
Austria	General			Austria
		General & Specific		
Belgium	General	Specific	Belgium	Belgium
Bulgaria	General	General		Bulgaria
Croatia				
Cyprus				
Czech Republic				Czech Republic
Denmark	General & Specific			Denmark
Estonia				Estonia
Finland			Finland	Finland
France	General & Specific			France
		General & Specific		
Germany		Specific	Germany	Germany
Greece				
Hungary				Hungary
Ireland				Ireland
Italy		Specific		Italy
Latvia			Latvia	Latvia
Lithuania				Lithuania
Luxembourg			Luxembourg	Luxembourg
Malta				Malta
Netherlands	Specific			Netherlands
Poland				
Portugal				
Romania				
Slovakia				Slovakia
Slovenia				Slovenia
		General & Specific		
Spain	Specific	Specific		Spain
Sweden				Sweden
UK				UK
Total	7	5	5	22

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 Chaib 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 Bashy Quraishy	Poland	Zuza Rudzinska
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	Slovenia	Metka Trierä
Greece	Alexandros Sakellariou	Spain	Mercedes Melon Patricia Orejudo
Hungary	Zsolt Marcell Sereghy Zsanett Borsos	Sweden	Fatima Doubakil
Ireland	Dr. James Carr	United Kingdom	Heena Khaled Arzu Merali

ENDNOTES

¹ In addition to the headscarf and face veil, this report briefly covers other dress restrictions, such as bans on body-covering swimwear.

² Regulations made by local authority or corporation < <https://en.oxforddictionaries.com/definition/by-law>>.

³ 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" <http://www.enar-eu.org/Forgotten-Women-the-impact-of-Islamophobia-on-Muslim-women>.

⁴ See Council of State cases no. 245321 of 2 June 2003

<https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000008137249&fastReqId=625788434&fastPos=4>; and no. 250084 of 24 October 2003

<https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000008205357&fastReqId=65957396&fastPos=3>.

⁵ See Council of State cases no. 289947 of 6 March 2006

<https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT000008241193&fastReqId=735431749&fastPos=2>; and no. 289946 of 15 December 2006

<https://www.legifrance.gouv.fr/affichJuriAdmin.do?oldAction=rechJuriAdmin&idTexte=CETATEXT00000825110&fastReqId=1210750539&fastPos=1>.

⁶ See <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000005630683>.

⁷ Council of Ministers (2010), Rules for the Issuance of the Bulgarian Personal Documents (Правилник за издаване на българските лични документи), Annex 5 to article 9(1) <http://lex.bg/bg/laws/ldoc/2135663268>: "The persons on the photos should be without hats and headscarves. Photos of persons with a hat or a headscarf are permitted if the two ears and at least 1 cm of the hair of the photographed person are visible." The first and only court case dates to 2002 when a Muslim woman refused to remove her headscarf to show her ears and hair for an ID photo. The case was brought before the Supreme Administrative Court with the help of the Association for European Integration and Human Rights to challenge the bylaw that requires ID photos show the person's ears and at least 1 centimeter of hair. In this case, the court upheld the bylaw and rejected the applicant's claim. Among other things, the court provided that wearing a headscarf is not proved to be demanded by Islam as a religion, and the rule is justifiable and proportional for public safety. See judgment No. 11820 from 12 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 с-в, докладчик съдията Галина Карагъзова).

⁸ 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.

⁹ Christine Delphy, "Separate and Dominate: Feminism and Racism after the War on Terror," *Verso* (2015).

¹⁰ Abdellali Hajjat and Marwan Mohammed, "Islamophobie: Comment les élites Françaises fabriquent le 'problème Musulman,'" *La Découverte* (2012).

¹¹ ENAR, "Forgotten Women: The Impact of Islamophobia on Muslim Women" <http://www.enar-eu.org/Forgotten-Women-the-impact-of-Islamophobia-on-Muslim-women>.

¹² See Enes Bayrakli and Farid Hafez, eds. *The European Islamophobia Report 2015* (EIR, 2015)

http://www.islamophobiaeurope.com/reports/2015/en/EIR_2015.pdf, page 7; Dermana Šeta, "Forgotten Women: The Impact of Islamophobia on Muslim Women," (ENAR, 2016), 3, 14 http://www.enar-eu.org/JMG/pdf/forgottenwomenpublication_lr_final_with_latest_corrections.pdf.

¹³ See *S.A.S. v. France*, App no. 43835/11 (ECHR, 1 July 2014); Amnesty International, "Amnesty International, Choice and Prejudice: Discrimination against Muslims in Europe" (2012), 100 <http://www.amnesty.eu/content/assets/REPORT.pdf> accessed 14 March 2017.

¹⁴ "Islamic Veil across Europe," *BBC* (31 January 2017) <http://www.bbc.com/news/world-europe-13038095> accessed 31 January 2017.

¹⁵ See "Belgian Ban on Full Veils Comes into Force," *BBC* (23 July 2011) <http://www.bbc.co.uk/news/world-europe-14261921> accessed 17 February 2017; "Bulgaria Parliament Bans Full-Face Veils in Public," *Aljazeera* (30 September 2016)

<http://www.aljazeera.com/news/2016/09/bulgaria-parliament-bans-full-face-veils-public-160930114855429.html> accessed 1 March 2017; Břetislav Olšer, "Proč burka, když o ní není v Koránu ani slovo?" ("Why the burqa when there is no mention of it in the Koran?"), *Eurabia* (19 May 2010) <http://eurabia.parlamentnilisty.cz/Articles/4434-proc-burka-kdyz-o-ni-neni-v-koranu-ani-slovo-.aspx> accessed 15 March 2017; "ENAR Shadow Report on Racism and Related Discriminatory Practices in Estonia 2011-2012" (ENAR, 2012), 13 <http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202011-12/Estonia.pdf> accessed 4 March 2017; Council of State, Judgment No. 3076 of 19 June 2008. Quoted in Giulia Dessi,

"Forgotten Women: The Impact of Islamophobia on Muslim Women in Italy" (ENAR, 2016), 59; US States Department, "Latvia 2015 International Religious Freedom Report" (2015), 320 <https://www.state.gov/documents/organization/256419.pdf> accessed 14 March 2017; "Arturas Paulauskas Calls for Ban on the Burqa in Lithuania," *The Baltic Times* (13 August 2015) http://www.baltictimes.com/arturas_palauskas_regulating_wearing_the_burqa_in_public_will_prevent_any_potential_misunderstandings/ accessed 20 March 2017; "Spain Opens Door to Ban on Burqas," *The Local* (4 September 2014) <http://www.thelocal.es/20140904/spain-opens-door-to-burqa-ban-catalonia-women-rights> accessed 17 March 2017;

¹⁶ See *S.A.S. v. France*, App no. 43835/11 (ECHR, 1 July 2014), para. 118.

¹⁷ Christopher Adam, "Ásotthalom—The Hungarian Town That Banned Muslims and Gays in Public," *Hungarian Press* (29 November 2016) <http://hungarianfreepress.com/2016/11/29/asotthalom-the-hungarian-town-that-banned-muslims-and-gays-in-public/> accessed 8 March 2017.

¹⁸ *Dogru v. France* (No. 31645/04; ii), *Kervanci v. France* (No. 27058/05), *Aktas v. France* (App no. 43563/08), *Bayrak v. France* (No. 14308/08), *Gamaledyn v. France* (No. 18527/08), and *Ghazal v. France* (No.29134/08).

¹⁹ *Ebrahimina v. France* (No. 64846/11).

- ²⁰ *S.A.S. v. France* (No. 43835/11), *Belkacemi and Oussar v. Belgium* (No. 37798/13), and *Dakir v. Belgium* (No. 4619/12).
- ²¹ See *Lachiri c. Belgium*, App no. 3414/09, available at <http://hudoc.echr.coe.int/eng/?i=001-158419>.
- ²² Case C-157/15 *Achbita*, *Centrum voor Gelijkheid van kansen en voor racismebestrijding v. G4S Secure Solutions* [2017] GC 1, para 38.
- ²³ Case C-188/15, *Bouagnaoui Association de défense des droits de l'homme (ADDH) v. Micropole SA* [2017] GC 1, para 40.
- ²⁴ Case C-188/15, *Bouagnaoui Association de défense des droits de l'homme (ADDH) v. Micropole SA* [2017] GC 1, para 39–41.
- ²⁵ Loi 2010-1192 du 11 Octobre 2010 interdisant la dissimulation du visage dans l'espace public ("Loi 2010-1192") <<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022911670&categorieLien=id>, accessed 10 March 2017.
- ²⁶ Article 563bis of the Belgian Criminal Code, *Loi Visant a Interdire Le Port De Tout Vêtement Cachant Totalelement ou de Manière Principale Le Visage (Law Forbidding the Wearing of Any Clothing Covering the Face Completely or in a Significant Manner)* of 1 June 2011, *MONITEUR BELGE* [M.B.] [*Official Gazette of Belgium*], 13 July 2011, 41734.
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- ²⁸ Article 563bis of the Belgian Criminal Code, *Loi Visant a Interdire Le Port De Tout Vêtement Cachant Totalelement ou de Manière Principale Le Visage (Law Forbidding the Wearing of Any Clothing Covering the Face Completely or in a Significant Manner)* of 1 June 2011, *MONITEUR BELGE* [M.B.] [*Official Gazette of Belgium*], 13 July 2011, 41734.
- ²⁹ Article 2(2) of Loi 2010-1192.
- ³⁰ Elisabeth Arnsdorf Haslund, "Her er seks danske signallove," *Politiko* (31 July 2013) <http://www.b.dk/politiko/her-er-seks-danske-signallove> accessed 15 March 2017.
- ³¹ See Department for Education United Kingdom, "School Uniform Guidance for Governing Bodies, School Leaders, School Staff and Local Authorities" (September 2013) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/514978/School_Uniform_Guidance.pdf accessed 20 March 2017; Simon Caldwell, "Ireland's Catholic Schools Ban Full Muslim Veil," *The Telegraph* (24 September 2017) <http://www.telegraph.co.uk/news/worldnews/europe/ireland/8023079/Irelands-Catholic-schools-ban-full-Muslim-veil.html> accessed 12 March 2017; "Sweden's Teachers Free to Ban Islamic Veils," *The Local* (11 January 2012) <http://www.thelocal.se/20120111/38452> accessed 18 March 2017.
- ³² Charlie Bayliss, "Austria Bans Islamic Veil and Demands Muslims Accept 'Enlightenment Values' or Be Deported," *UK Express* (London, 31 January 2017) <http://www.express.co.uk/news/world/760950/austria-full-face-veil-islamic-migrants-integration-contract-christian-kerr-public-spaces> accessed 15 February 2017.
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- ³⁶ Farid Hafez, "In Austria, the Problem Is Not the Far-Right Party" (15 October 2017) <http://www.aljazeera.com/indepth/opinion/austria-problem-party-171013082418684.html> accessed 20 December 2017.
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- ⁵⁵ [2016] OGH 9 ObA 117/15v <https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Justiz&Dokumentnummer=JJT_20160525_OGH0002_009OBA00117_15V0000_000> accessed 1 March 2017, Session "Rechtliche Beurteilung," I.3.2-I.4.3 and II.3-II.7: In general, discrimination based on religious clothing is direct discrimination based on religion (§ 19 Abs 1 GIBG). If an employee is dismissed, because they refuse to comply with the employer's order not to wear Islamic clothing at work, the court has to examine whether exceptional circumstances according to § 20 GIBG regarding direct discrimination (§ 19 Abs 1 GIBG) based on religion exist. According to § 20 GIBG, unequal treatment due to a characteristic which is connected to the specified discrimination grounds under § 17 GIBG, e.g., religion, does not amount to discrimination, if the characteristic, due to the nature of the work or the circumstances under which the work is conducted, is a fundamental and decisive prerequisite to do the work, provided that the employer's order is legitimate and has a sufficient purpose. As such, it has to be determined whether a prohibition on wearing a niqab at work, according to § 20 Abs 1 GIBG, is a fundamental and decisive prerequisite in order to fulfill the requirements as a notary employee. The court found that the wearing of a niqab kept the employee from fulfilling her duties as a notary employee, because the necessary communication and interaction of the employee with clients, colleagues and the respondent would be negatively impacted and rendered more difficult. Keeping the face unveiled is, because of the nature of the appellant's work and the circumstances under which she works, a fundamental and decisive prerequisite.
- ⁵⁶ [2016] OGH 9 ObA 117/15v <https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Justiz&Dokumentnummer=JJT_20160525_OGH0002_009OBA00117_15V0000_000> accessed 1 March 2017, Session "Rechtliche Beurteilung," I.3.2-I.4.3 and II.3-II.7: Contact with clients and acting as a witness are popular activities in a notary's office. The restriction of an employee to participate in this area of work puts her at a disadvantage compared with her colleagues. This is indirect discrimination of the appellant based on religion. The respondent cannot rely on § 20 Abs 1 GIBG to claim that exceptional circumstance justified his actions, as he based his decision on the potential expectations of clients. According to § 20 Abs 1 GIBG, not wearing the hijab and abaya must be a fundamental and decisive prerequisite to work as a notary employee in order to be able to rely on the exception clause. That is not the case, which can be derived from the fact that the employee was allowed to work in this capacity (with unlimited client contact and as a witness) over several years while wearing Islamic clothing. The respondent's decision to change his mind about the appellant's work conditions upon her return from maternity leave is not justified.
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