

Universal periodic review France Third session 2018

Submission to the summary of informations shared by other parties

Association de défense des Droit de l'Homme/ Collective Against Islamophobia in France,

28th June 2016

A. Compliance to international obligations in the matters of human rights

1. In 2016, the CCIF noticed a drop in islamophobic acts with a decrease of 35.9% compared to 2015 and of 24.1% compared to 2014. This can be due to different reasons: organic decrease of islamophobia, dissuasive impact of the fight against islamophobia, but also the decline of acts by the victims.
2. The CCIF notes that generally, since 2013, most of the cases of discrimination happened in public services¹, solved by mediation and therefore could be avoided through a campaign of training and prevention for public workers. The recurrence of this phenomenon obliges us to conclude that there is a validation of the islamophobic act by the superiors and that the person enjoys impunity if the victim doesn't take any action against it.
3. The CCIF observes an aggravation of islamophobic and discriminating speeches by high rank politicians. While on a visit in France in January 2015, the personal representative of the current President of the OSCE noted a concerning level of discriminating political discourses on social media leading to essentialisation and to the targeting of Muslim or perceived as Muslim populations for security purposes².

I. Information provided by other stakeholders

A. Background and framework

1. Scope of international obligations

4. The CCIF recognises with interest the work of the defender of the rights who seriously takes into account the challenges posed by islamophobia.
5. The CCIF recommends to the DDD to put into place a protocol to treat the cases of islamophobic discrimination in order to improve their measurement and treatment.
6. The CCIF is worried by the numerous security laws coming into practice and the almost systematic extension of the state of emergency; the lack of measurement of its efficiency and

¹ In 2016 the discriminations in public services represented 66% of the total discriminations reported to the CCIF.

² 12 KÜÇÜKCAN Talip, « Visit to France, January 19-21, 2015 », OSCE

the impact on fundamental rights and freedoms, in particular those of ethnic and/or religious minorities.

7. The CCIF recommends to the DDD and the National Consultative Commission of Human Rights to conduct an objective review of these dispositions in terms of their efficiency and impact on fundamental freedoms.

B. Implementation of international human rights obligations

a. Equality and non discrimination

8. In 2016 the CEDAW highlighted the fact that Muslim women faced a disproportionately higher risk of being exposed to violence and discrimination which were islamophobic and sexist³.
9. Since 2013 the CCIF notes that the majority of victims of discrimination are women. In 2016 based on the reports made to the CCIF, 75% of islamophobic acts targeted women and 100% of the physical attacks with over 8 days of work time interruption have targeted women. It seems obvious that Muslim women are victims of multiple discriminations.
10. The politics of fight against violence done to women must also take this particularity into account. The measures can't be limited to fighting against domestic abuse and must take into account the specificities and complexity of the realities that a diversity of women face, due to their ethnicity, their religion or their nationality.
11. In 2015 a study by the Montaigne Institute⁴ revealed that candidates who had a name which sounded Muslim had three times less chances to get an interview than candidates who had names which sounded Christian, whatever their socio economic status and their level of education. In 2014, the study led by Tisserant⁵ measured the impact of religious signs in the access to employment. It compares the level of positive answers to three women applicants: one with a Christian name against that of someone with an Arab name. Then it tests the applications with a Christian name against that of a woman with an Arab name wearing the headscarf. With the same reference group the percentage of positive answers goes from 49% for an application with an Arab name to 1% when the parameter headscarf is added (against 58% in the 1st case and 72% in the second for an applicant with a Christian name).
12. According to the CCIF, in 2016, 141 cases of reported cases of discrimination took place in private businesses, which represents more than one discrimination per day. If France is engaged in fighting discriminations in accessing the labour market, the introduction of the concept of neutrality in this area by the law 2016-1088, Art.2, allows employers to discriminate against Muslim women wearing the headscarf. Internal rules of neutrality are a bypass strategy by employers to discriminate against some of their candidates with the explicit agreement of the courts of justice and of the law.

³ Committee on the Elimination of Discrimination against Women (CEDAW), *Final observations concerning France's report as the seventh and eighth periodical report*, 25 July 2016

⁴ Valfort M-A. 2015. 'Discrimination religieuses à l'embauche. Une réalité'. Institut Montaigne

⁵ Tisserant P. 'Discrimination à l'embauche liée au port de voile: les résultats d'un testing sur CV réalisé en France'. Conference 'The Making of Discrimination', 6 November 2014.

13. Following the recommendations made in 2013⁶, the CCIF encourages to the Denfendor of Rights and the CNCDDH to establish recommendations to prevent the law 2016-1088, which imposing neutrality on employees, from allowing discrimination against people in the labour market.

b. Right to life, liberty and security of the person

14. Since 2015 France has suffered a series of terrorist attacks which first started in January with the attacks in Charlie Hebdo, the Kosher supermarket and then Paris and the Stade de France (Football Stadium) in November 2015. After these attacks, the French government has undertaken a stigmatising security policy towards Muslim populations. It put in place a religious screening regarding religious practice as a problem. This work of deligitimisation, of securitisation of the populations of Muslim faith or perceived as such culminated in November with the abuses of the state of emergency. Almost 4,000 raids and house arrests which were lead to which 8,000 reportings on the phone lines for denouncing people for radicalisation. However, less than ten investigations for terrorism have resulted from this show of force.
15. The government has used innocent households, especially Muslims, to give the impression of acting against terrorism following the failure of its intelligence agencies and of its security policy since January 2015. However, these security policies haven't prevented the attacks in Nice (city in France with the most CCTV cameras), killing almost eighty people in July 2016, the murder of the priest Jacques Hamel in Saint-Etienne de Rouvay or the killings of police officers in Magnanville.
16. The government hasn't started a discussion on the efficiency of these measures yet, nor on the impact on fundamental rights and the security of a part of the population. Moreover, the lack of sanctions against slanderous denunciations proves the lack of interest from the government to protect Muslim populations or those identified as such.
17. Even worse, these denunciations lead to the opening of a surveillance file by social services where the belonging to Islam and the assessment of the religious practice become aggravating criteria. The set of public policies against radicalisation which had a budget of a hundred million euros isn't subject to to any evaluation, with public workers used who are rarely trained on these matters.
18. Moreover, the CCIF by accompanying the victims who faced prohibitions to leave the territory and those whose flying authorisations had been revoked, realised that it was impossible to know what was the content of the intelligence files on which these restrictions are based. Despite the requests sent to the Commission Nationale de l'Informatique et des Libertes, it is impossible to know the content of these intelligence files and thus to challenge them.
19. For nineteen months, the state of emergency has almost systematically been extended, allowing for the gradual establishment of a state of exception. Yet, the measures taken by the state of emergency already existed in community law, under the control of a judicial procedure. The goal aimed is really to extend administrative competences while doing without a judge, despite the abuses on public freedoms and fundamental rights.

⁶ Recommendations 120.38 (Roumanie); 120.40 (Ukraine); 120.91 (Pologne); 120.92 (Irlande)

c. Freedom of religion or of faith, freedom of speech, of association and or peaceful gathering and right to take part to public and political matters

20. During the last cycle, France rejected the recommendations to repeal the law 2004-88⁷, prohibiting the wearing of religious signs for secondary school pupils. The government considers that this law is nationally accepted and isn't questioned by school staff.
21. However, this analysis doesn't take into account the feelings of the main people concerned, namely the pupils. The report proposed by the government doesn't show whether a part of the pupils left the classical education system or would have adopted other strategies. Moreover, the psychological impact and the impact on the child's identity construction aren't tackled.
22. Through this provision, the CCIF considers that this law has a disproportionate impact on religious minorities, especially on Jewish, Muslim and Sikhs populations. Under the false pretext of neutrality, France violates freedom of religion, crossing the frame allowed by secularism.
23. Besides, the CCIF has accompanied and supported pupils who have been victims to the abusive interpretations of the law 2004-88, which prevented girls who had taken off their headscarf before entering the school to actually enter their school due to the length of their long skirts. In 2014, twenty-eight cases and in 2015, seven cases have been reported to the CCIF and taken care of. Similarly, some pupils have been banned from class due to their bandana which was deemed too long. It clearly appears that the right to education for students from religious minorities who decide to express their faith outside of their school is sanctioned within the school.
24. Since 2011, the CCIF supports mothers who wear the headscarf and have been prevented from accompanying schools and pupils due to the circular introduced by the previous Minister of Education, Mr. Chatel⁸. Thanks to the CCIF's legal work, the administrative court of Nice⁹ agreed to the accompanying of mothers wearing the headscarf in June 2015. This consists in a seriously disturbing abuse of the law 2004-88 introduced by a member of the government, violating the state's value of secularism and of respect of the citizens' freedom of religion.
25. The CCIF also opposes the law 2010-1192 and considers that this law imposes an illegitimate and disproportionate restriction to religious freedom of speech to Muslim women.
26. The CCIF recommends a new assessment¹⁰ of the laws 2004-228 and 2010-1192 by organising a cross functional parliamentary commission including academics and members of the public who are in touch with the victims of discriminations in order to assess the impact of these laws.

⁷ Recommendation 120.27 (Sudan)

⁸ Circulaire n° 2012-056 du 27-3-2012

⁹ TA NICE du 9 juin 2015 - n° 1305386.

¹⁰ Recommendation 120.25 (Roumanie)

27. If the main institutions in charge of equality matters (namely the Defender of rights and the Commission Nationale Consultative des Droits de l'Homme ou l'Observatoire de la laïcité) have grasped the challenges set by islamophobia, it is obvious that the interministerial body, the Delegation interministerielle de Lutte contre le Racisme et l'Antisemitisme (DILCRA) remains in complete denial, creates a hierarchy in terms of racist oppressions and opposes the members of the public who don't share its vision.
28. High state representatives feel comfortable in openly stigmatising the Muslims. In 2016, the Minister of Women rights, Laurence Rossignol, indulged in comparing women wearing the headscarf, whom she regards as « *political activists* », to “*American negroes who supported slavery*”¹¹. The former Prime Minister, Manuel Valls, dared to explain that “*The headscarf which prevents women from being what they are, will remain for me and must remain for the Republic an essential fight*”¹²
29. The objective sought remains the alienation and exclusion of a minority on the only basis of its religious identity. These discourses are a real problem as they legitimise discriminating policies. The summer 2016 has been noticed as a period of outraging prohibitions of the headscarf on beaches, and thus in the public space. Under the false pretext of the prohibition of a bathing suit judged inappropriate, the concepts of respect of secularism, neutrality of the public space and disruption of public safety have all been mobilised. Beaches became the surreal landscape for forced undressing of women by the police, leading to attacks on entire families. If this episode lead to international uproar, it is only after the legal intervention of The Council of State¹³, the highest administrative authority, that these measures have been withdrawn.
30. France has accepted¹⁴ the recommendations regarding the need to take measures against discriminations against Muslims or people regarded as Muslims.
31. The CCIF recommends that all islamophobic decisions taken by public servants in spite of the law should be sanctioned, including members of the government ; to lead a large campaign of prevention within public services on the basis of the opinions delivered by l'Observatoire de la laïcité in order to prevent acts of discriminations. The CCIF also recommends to put in place an observatory of public discourses in order to watch and sanction racist abuses.

¹¹ Bourdin direct, 30 mars 2016, RMC-BFM TV

¹² Interview of Jean-Pierre Elkabbach, Europe 1, 7th February 2011

¹³ Conseil d'Etat, ordonnance n° N° 402742

¹⁴ Recommendations 120.64 (Malaysia) and 120.70 (Sri Lanka)