

26 RELIGIOUS GARMENT AS PUBLIC SECURITY RISK IN THE EUROPEAN UNION

Afraid of Clothes?

János Tamás Czigle*

26.1 INTRODUCTION

Humans have an inner inspiration to express themselves either individually or as a member of a group. From this perspective clothes bear essential importance as they reflect one's identity, personality and in certain cases religious beliefs. Some religions are more demanding in terms of external expression, and require the wearing of special items, tokens of faith or clothes. The latter has been coupled with a somewhat negative overtone in light of the ongoing migration crisis in Europe which has apparently become one of the most predominant social and political topics in recent years. It is often perceived as a threat, an issue of national security followed by huge media attention focusing on certain topics such as the Burkini-ban,¹ Burqa-ban in many European countries, or the harassment of women on festivals, and terror attacks which led to the reintroduction of border checks in countries such as Austria, Germany, France, Denmark etc. and other tightened security measures.² These issues have given rise to a renewed harsh rhetoric against items such as religious clothes of Islam origin.

Such counter-terrorism measures naturally had additional backlash effects, since they target the whole population of which the terrorists also form part, and can be also viewed by some as a counterproductive radicalizing factor.³ While the essential reasoning behind legal restrictions on clothes worn in public is that these do not specifically target religious groups, as all body coverings are banned, it is nevertheless perceived as targeting Muslim

* János Tamás Czigle: PhD candidate, Pázmány Péter Catholic University, Budapest.

1 Burkini is a full-body swimsuit which leaves the face uncovered. Coastal French cities introduced a temporary ban on such clothing, since they were considered to be symbols of 'islamic extremism', and found incompatible with the French secularism.

2 Migration as a threat to contemporary Europe. Protected femininity and illusive security, *Milena Rosa v. Presentin*, IAPSS World Conference 2017, Budapest.

3 SannaVeikkola, *Whose interests does the burqa ban serve? An analysis of the effects of the ban on full-face veils on radicalization and terrorism in France*, Master's Thesis, University of Tampere School of Management Degree programme in Politics, 2017.

headscarves⁴ and veils.⁵ Even the debates and regulations frequently use the ‘burqa-ban’ expression, referring to the fact, that these specific clothes are the main source of concern. Public safety and public order are often invoked as a legitimate restrictive aim on behalf of national legislative bodies, as well as public health concerns. These justification seemingly constitute efficient rebuttals against claims of religious discrimination.

The West-Islam dichotomy has been shaped by the dynamics of history and geopolitical interests in the past 1400 years. In the 20th and 21st Century allied forces of the ‘West’ performed military interventions in countries like Afghanistan, Iraq and Syria. Meanwhile, on a global scale, domestic cultural narratives of the alleged clash of civilizations are also taking shape.⁶

26.2 RELIGION IN THE CONTEMPORARY CONTEXT; SECURITY THREATS

While Member States of the European Union demonstrate rather diverse attitudes towards the relationship of Church and State,⁷ a common pattern can be observed: religious clothing of Islamic origin, which cover the entire body of the women wearing them, including their face are getting banned in an increasing number of Member States by means of general bans governing public spaces. The more stringent regulations are introduced by states with secular traditions on religious clothes worn in public, while others take a more lenient approach. There is no consensus on the place for religion in society. At the same time, islamophobia and political polarization are becoming decisive factors, as a result of both public and private sectors experiencing a resurgence of the exercise of religious freedom via clothes.⁸

These restrictions are not considered by the competent legislative bodies to be instances of religious discrimination. Instead, according to the reasoning underlying the same, they are aimed at eliminating possible threats to public security and public order in the general social interest. They also claim to serve the purposes of integration, since

4 Erica Howard, ‘Banning Islamic veils: Is gender equality a valid argument?’, *International Journal of Discrimination and the Law*, Vol. 12, No. 3, 2012, pp. 147-165.

5 A plain scarf without any religious affiliation is also an item of fashion or used out of practical reasons against the cold for example. The main difference is that in these cases the wearers usually do not raise any concern when asked to remove them.

6 Stefano Bonino, ‘The British state ‘security syndrome’ and Muslim diversity: challenges for liberal democracy in the age of terror’, *Contemporary Islam*, Vol. 10, No. 2, 2016, pp. 223-247.

7 Countries such as France have a strong secular tradition, declared on a constitutional level, where the state and church are strongly separated. Poland stands in a diametrical opposition to it, since it has an official State-Church system, similarly to the United Kingdom. Latvia represents an ‘exotic’ approach, since as one of the least religious countries in the world, it does not consider religion to be a matter requiring strong legislative regulation.

8 Raphael Xenidis, ‘Shaking the normative foundations of EU equality law: evolution and hierarchy between market integration and human rights rationales’, *European Regulatory Private Law Project*, EUI LAW; 2017/04, <http://cadmus.eui.eu/handle/1814/45489>.

such clothing is often considered to be incompatible with the Western way of life, promoting the value of gender equality.⁹

Religion can be an integral part of a person's identity. It is not something which can be 'left at home'. It accompanies people wherever they go, be it a park, public office or workplace. While there is an evident diversity amongst the Member States, as a part of the common European heritage, both the practice of and the abstinence from religion is accepted, but ultimately it cannot result in intolerance towards national/community traditions or disrespect for the historical past.¹⁰ The European Union has been considered as the main promoter of human rights on a global scale, of which religious freedom was one of the first right to be acknowledged. Everyone has the right to have religious beliefs – *forum internum* – but publicly expressing such beliefs – *forum externum* – may be restricted in cases such as public security and public order. The exercise of religious freedom at the workplace is also a contentious issue.

National courts have different stances towards state neutrality and interpret the concept of public service in different ways. There is no common European standard on the permissibility of religious symbols – clothes or other – in public institutions such as state schools or the courtroom.¹¹ The European Court of Human Rights – hereinafter referred as ECtHR – has been faced with an increasing number of religious symbol cases. In particular, Muslim women¹² and Sikh men brought claims of discrimination based on religion. Even though the religious consideration itself is denied, the importance of guarding and promoting national identity – in which religion itself plays a pivotal role – is nevertheless stressed openly. An obvious example presented itself recently when the municipal government of Bavaria passed legislation requiring all public institutions (including the police, schools, government offices etc.) to place a cross above their entrance. Although the cross is the most prominent symbol of Christianity, this piece of legislation it was considered to form part of Bavarian identity.¹³ Generally speaking, the religious zeal of minority groups tends to provoke the reaffirmation of Christian identity in many nations. In absence of a common European approach, national authorities enjoy

9 Integration itself is not perceived the same way in the Member States, for example the French model follows the course of cultural assimilation, while others are satisfied with a more superficial result.

10 J.H.H. Weiler, 'State and Nation. Church, Mosque and Synagogue – the Trailer', *International Journal of Constitutional Law*, No. 2010/2, pp. 162-163.

11 Anna Sledzinska-Simon, 'Is there a place for the Islamic veil in the workplace? Managerial prerogatives and the duty of reasonable accommodation in the EU anti-discrimination governance', published on 5 September 2016, via Springerlink.com.

12 It is considered to be a religious requirement for women to hide their bodies in line with the Quran. There are 4 main types of such clothes: *Hijab*: The lightest version, basically a headscarf, which leaves the face visible. *Burka*: A dress covering the face and the body, leaving the eyes visible. *Niqab*: A dress covering the body and the head, but leaving the face visible. *Chador*: A full body and face covering dress.

13 Similar claims were made in the *Lautsi v. Italy* case, where an Italian state school placed a cross in the classrooms. This was found to be a symbol of identity, consequently, it did not violate the negative aspect of the religious freedom of students *i.e.* the right not to be affected by religious ideas or freedom from being forced to follow a certain faith.

JÁNOS TAMÁS CZIGLE

a broad margin of appreciation regarding the principles governing public service and the permissibility of religious clothing at work.

The ongoing migration crisis has contributed to religious clothing being negatively perceived. Now, certain countries have bans against the wearing of Muslim female clothing in public places. France enacted the first law (Law 2010-1192) followed by Belgium (2011) another country with a significant Muslim minority. Austria introduced a ban on the full face veil in 2017, while Denmark and Germany have also accepted partial bans.¹⁴ Similar restrictions may be found in Australia, Chad, Afghanistan, Canada, and certain parts of Italy, Russia¹⁵ and China.

The United Kingdom has not enacted similar restrictions yet. This can be mainly attributed to its equality culture, which forms a dominant part of its national tradition and cultural context. For safety purposes at construction sites, legislation was nevertheless passed against turbans, and issues emerged in relation to the wearing crosses at work (*Eweida and Others v. United Kingdom, Ladele v. London Borough of Islington*), and clashes between religious observance and the employer's business interests. However, these cases predominantly centered on private relationships, although public safety concerns were also considered.

Apart from Islam, the Sikh religion has given rise to freedom of religion issues as well, since this faith requires men to wear a turban during their day to day lives, which must not be removed. This can naturally cause problems at security checks, at the airport for example or when entering guarded public institutions.¹⁶ The reasoning behind these bans are similar: covering the face and the body hinders identification, it may conceal weapons, leading to potential harm. Finally, such symbols are sometimes also associated with religious extremism.¹⁷

Christianity can demand the wearing of specific clothes as well, of which the clothing of nuns and monks are the most evident. Yet these practices have not faced such severe restrictions as they are more culturally entrenched; consequently legislatures naturally tend to be more lenient.

14 Other examples include Bulgaria (2016) and the Netherlands (2016).

15 Interestingly, in Russia there is also a positive obligation for women to wear modest and traditional attire, which involves the headscarf. In Grozny state, entrance to official buildings requires women to wear such garment.

16 Most recently, the Canadian Minister of Innovation, a follower of Sikh religion, was denied boarding a flight, as he refused to take off his turban which was specifically requested at an airport check.

17 In some unique cases it makes communication impossible as well, for example for lip reading deaf people. See more at: 'Wearing of religious dress and symbols', Reflections by the Executive Committee of the Inter-Faith Network for the UK, <https://www.interfaith.org.uk>.

26.3 RELIGIOUS FREEDOM AS A FUNDAMENTAL RIGHT IN THE EUROPEAN UNION

26.3.1 *Religious Freedom and the Public Sector*

Non-discrimination on the grounds of religious beliefs is a fundamental right, declared by the Charter of Fundamental Rights of the EU, a primary source of European Law. This right is further enshrined in Directive 2000/78/EC, the general framework for equal treatment in employment and occupation in both the private and the public sector. Certain restrictions on expressing beliefs in a way which could collide with other rights are foreseen under Article 9¹⁸ of the European Convention on Human Rights (hereinafter referred as ECHR). Such restriction must also be considered also in light of other fundamental principles enshrined in the founding treaties of the European Union.¹⁹ While one's right for religious manifestation may be restricted, such restrictions must comply with a stringent three-part test:²⁰ they must be prescribed by law, they must pursue a specific legitimate aim in line with international law and must also be truly necessary and proportionate in a democratic society. These legitimate purposes include the protection of such rights and public interests as national or public safety, public order, health and morals. However, it must be pointed out that these justifications must be interpreted narrowly.²¹ This way, a balance maybe struck between the rights of an individual and other competing societal aims.²²

In the public sphere and its relationships with private persons one party is usually a state official or the state itself, for example public schools, embassies, courtrooms or other institutions. Consequently, the most decisive factor in the approach to religious expression depends on the state's relationship with the church and the former's approach to the role of religion(s), the importance of national identity, derived from its fundamental political and constitutional background. The degree, to which national identity concerns may be considered as necessary and proportionate must be established by the Court of Justice of the European Union (CJEU), to define whether certain measures are excessive or not. The quality of a public service *i.e.* certain posts which involve the exercise of public authority either directly or indirectly may imply higher standards, than other

18 "Freedom to manifest ones religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

19 Sledzinska-Simon 2016.

20 See more at: Amnesty International: 'Women's right to choose their dress, free of coercion' https://www.amnesty.nl/content/uploads/2017/02/womens_right_to_dress_boerkaverbod_3.pdf?x68187.

21 Religious freedom as a human right can only be understood to its fullest in the European sphere of thought, extending it to the worldwide stage would be somewhat misleading. Soft law sources on migration such as the latest Stockholm Program also highlight, that migration as a phenomenon works 'both ways'. Member States provide rights to migrants, meanwhile, migrants' obligations are receiving more and more emphasis.

22 Peter Cumper & Tom Lewis, 'Taking religion seriously?- Human Rights and Hijab in Europe – some problems of adjudication', *Journal of Law and Religion*, Vol. 24, No. 2, 2005, pp. 599-627.

JÁNOS TAMÁS CZIGLE

non-public positions, including state neutrality in religious matters (France, Belgium etc.). Therefore, every issue brought before the ECtHR or the CJEU must be assessed on a case by case basis, taking existing jurisprudence into consideration.

26.3.2 *Schools, Safety and State Neutrality; Religious Symbols in the Public Space*

School is an important place of self-expression for students, and – albeit less voiced – for teachers as well. Every educational institution has a written or unwritten code regarding clothing, in some schools uniforms are still used, and educational laws can lay down further requirements. Clothes limiting free movement during physical education lessons can pose a danger and result in potential harm to both the wearer and the classmates. As such, they need to be removed as stated in the *Dogru v. France* case by the ECtHR, where young Muslim female students wearing headscarves, unwilling to comply with the rule were expelled. France as a secular state, emphasizing its constitutional value of *laïcité* had a right to impose such rules according to the reasoning. This right was further entrenched in the Law 2004-228 on secularism and conspicuous religious symbols in schools, *which only allows discreet, inconspicuous symbols*, thereby excluding various headscarves, the Sikh turban, and the Jewish kippah as well.²³ This approach was also confirmed in the *Aktas v. France* case, where expelling students was found to be justified

There are a number of cases related to this subject. In *Karaduman v. Turkey* a student was denied the diploma of Ankara University since she refused to provide a photograph of herself without a headscarf, which went against school rules. In *Sahin v. Turkey* another student was not allowed to participate in classes and to take exams wearing the headscarf in line with the secular approach of Turkey and respective university rules. In *Kurtulmus v. Turkey* a university professor was prohibited from wearing an Islamic headscarf when performing her duties. The Court has acknowledged the domestic lawmaker's authority to protect the values of the democracy and plural society, as such, the respective national legislation was found to be covered by Turkey's margin of appreciation. Similar claims were made in *Dahlab v. Switzerland* where an elementary school teacher was required to remove her headscarf while teaching, as it was considered to be incompatible with state educational rules, posing a danger to the religious freedom of young, susceptible students. In *Köse and 93 Others v. Turkey*, the prohibition of students from wearing an Islamic headscarf in a religious secondary school was found not to be in breach of the ECHR. As a common element, we may say that as long as state/university rules require neutrality from every student, without taking their respective religions into consideration, in line with national traditions, the ECtHR will not find a violation of religious freedom.

²³ Fatima Osman, 'Legislative prohibitions on wearing a headscarf: Are they justified?', *Potchefstroom Electronic Law Journal*, Vol. 17, No. 4, 2014, p. 1318. <http://www.saflii.org/za/journals/PER/2014/39.pdf>.

26 RELIGIOUS GARMENT AS PUBLIC SECURITY RISK IN THE EUROPEAN UNION

Religious clothing maybe perceived as intimidating by many. In *Ahmet Arslan and Others v. Turkey* members of a religious group wore a certain religious garment in public and appeared in court the same way wearing a turban, tunic, trousers and a stick. While such clothing may be considered unusual, the Court could not find any evidence that this appearance threatened the public order or represented forceful proselytism, putting pressure on the passers-by. The Court declared, that wearing such clothes in public establishments may require a different approach, but wearing them in public spaces did not amount to a violation of Article 9 of ECHR.

In the *S.A.S v. France* case the ECtHR recognized the importance of public safety, hence the Court upheld the French burqa ban. The applicant, a practicing Muslim woman complained that this regulation violated of her freedom of religious expression under enshrined in six different articles of the ECHR (Article 3 protecting inhuman and degrading treatment, Article 8 on privacy, Article 9 guaranteeing freedom of religion and belief, Article 10 foreseeing the freedom of expression and Article 14 on non-discrimination). She claimed that she wore these clothes free of coercion, of her own conviction, faith and culture. The French authorities defended the regulation by referring to public safety, *i.e.* the necessity to be able to identify persons, the equality between men and women – from the perspective of which these specific items of clothing may be perceived as degrading–, the protection of dignity, and lastly, the protection of minimum requirements of life in society. The Court rejected the claims of public safety, recalling that while requiring individuals to reveal their face for identification is a relevant argument for identification checks and other contexts, a blanket ban would presuppose a general threat to public safety, which was not proven by French authorities. The ban could not be justified with reference to human dignity either, since wearing a face veil can be an expression of cultural and religious identity. Similarly, gender equality, a fundamental value in itself, was not jeopardized by the garment. The only argument accepted was the conditions of ‘living together’ as a legitimate aim. A state must balance between certain rights of its citizens, which sometimes require restrictions, but those must be proportionate.²⁴

The state also enjoys a broad margin of appreciation, to determine what it considers to be of value and importance with respect to public safety and the public order. This imposed ban in France, while it evidently restricts Muslim women in their choice of clothing, meets the objective and reasonable justification criterion. The ECtHR specifically declared in *Balçacemi and Oussar v. Belgium*, that the ban on clothes that partially or fully cover the face in public was justified under the European Convention on Human Rights, since it was ‘necessary in a democratic society’, aiming to protect ‘the rights and freedoms of others’ while guaranteeing the conditions of ‘living together’. Similarly to

24 Many employers in the public and private sectors have made modifications to the uniforms of the staff. In the UK rules governing religious clothing in the Armed Forces permit the wearing of the Sikh turban or the Jewish yarmulke. From a road safety perspective, claims of discrimination arose for compelling Sikh motorcyclists to wear crash-helmets instead of Turbans but they were – naturally – rapidly dismissed.

JÁNOS TAMÁS CZIGLE

S.A.S., the Court declared, that the rules of ‘living together’ are meant to guarantee the values of a democratic society. This mixed regulation of criminal law and administrative law was found to be compatible with the ECHR. In *Dakir v. Belgium*, a ban was challenged on the municipal level, and the same reasoning was presented, namely, such restrictions can be introduced by a state, in its margin of appreciation when determining the rules of living together.

26.3.3 Security Checks and Identification

In public spaces, such as airports and borders, travelling is contingent upon agreement to surveillance and identity checks. Identities are recorded, risk profiled, and assessed in order to distinguish ‘legitimate screened travelers’ from ‘suspect identities’.²⁵ Terror attacks raised the necessity for heightened security checks and surveillance at the airports. Thus, passengers perceived as possible threats are repeatedly questioned, stopped and detained. These passengers are predominantly of Muslim or Sikh origin which raises the question of xenophobia and islamophobia.²⁶

Those claiming harassment felt that their Muslim identity based on their name, country of birth, clothing and appearance could be the underlying reason behind such measures. Further legislation was put in place, extensively criticized by academics and legal experts alike due to their controversial nature.²⁷ On the other hand, it is evident, that the more clothes a person wears the easier it is to conceal items, which could be used to harm others. It is also clear, that identification is impossible when a person’s face is covered, for this reason, photos on identification papers must be taken in a way that serves their original purpose.

The controversial nature of this issue was demonstrated in the *Mann Singh v. France* case. Mr. Mann Singh was requested to remove his turban in order to make an official photograph of him for a new driver’s license, since the previous one was stolen. According to French rules, a person should be ‘bareheaded and facing forward’, and the fact that previously he had a driving license wearing a turban in the photo was not considered to be a legitimate reason for doing so this time as well. While the ECtHR acknowledged, that this measure interfered with Mr. Singh’s freedom of religion, it also stated that the restriction laid down by the national law served the legitimate aim of public safety. That is,

25 Gillian Fuller & Ross Harley, *Aviopolis: A Book about Airports*, London: Blackdog, 2004.

26 Khaled A. Beydoun, ‘Muslim bans and the (re)making of political islamophobia’, *University of Illinois Law Review*, Vol. 2017, pp. 1735- 1737.

27 Balji Nagra & Paula Maurutto, ‘Crossing Borders and Managing Radicalized identities: Experiences of Security and Surveillance Among Young Canadian Muslims’, *Canadian Journal of Sociology/Cahiers Canadiens de Sociologie*, Vol. 41, No. 2, 2016, p. 2.

26 RELIGIOUS GARMENT AS PUBLIC SECURITY RISK IN THE EUROPEAN UNION

it was necessary for authorities to be able to identify a person driving a vehicle, therefore, similar regulations lie within a nation's margin of appreciation.²⁸ The issue was brought before the UN Human Rights Committee, which interpreted the case in opposition to the jurisprudence of the ECtHR. As per Article 18 of the ICCPR, it concluded that prohibiting a member of the Sikh religion to wear the turban in a photograph for an identity document would have required a well-established argument on how the measure would promote public order and public safety.

Public security concerns were also raised in *Phull v. France*, where a Sikh man was obliged to remove his turban at an airport security check. In *El Morsli v. France*, a woman was not allowed to enter the French consulate in Marrakesh, since she refused to remove her face covering veil. Ms. El Morsli was willing to remove her veil, but only in a presence of a woman, and claimed the violation of Articles 2, 8, 9 and 14 of the ECHR. Both of these cases are related to security checks, which are elements of public safety, therefore the Court could not find any violation of the ECHR. In all of these cases the Court held that the applications were inadmissible and manifestly ill-founded. The social interest for travel security and identification outweighed one's right to religious expression.

26.3.4 *Wearing of Religious Clothing in the Courtroom*

Courtrooms can require certain dress codes, and parties present are required to follow them (for example witnesses and the representatives of the state as well). Issues may arise from religious symbols displayed by Courts for instance in *Barik Edidi v. Spain*, where a hijab wearing lawyer was requested to cover her head with the official cap (biretta) only. The applicant's complaint of a breach of Article 6 ECHR on the right to fair trial was dismissed and was declared to be unfounded.²⁹

In *Hamidovic v. Bosnia and Herzegovina* a witness was expelled from the courtroom during a criminal trial, and fined for contempt of court as he refused to remove his skull-cap. The Court found that this action was a clear violation of Article 9 ECHR, since there was no indication of the applicant being disrespectful and such a restriction was not indispensable. The Court also highlighted, that the case needs to be distinguished from those cases, where public officials wear such garments. In *Lachiri v. Belgium* the Court found a similar violation of Article 9 ECHR, when the applicant was excluded from the Courtroom on account of refusing to remove her headscarf. Her action was not found to

28 Interestingly, one could argue, that in this case the photograph should have been taken with the turban on, since Sikh men are obliged to wear it at all times and without the turban, the person would be harder to identify with his unusual appearance on the photo.

29 Another question could also arise relating to testifying, *i.e.* can a witness be heard wearing face covering garments, such as a *burqa*? Many judges claim that seeing the face of a witness greatly contributes to the validity of the claims, covering it would possibly lead to improper conclusions.

JÁNOS TAMÁS CZIGLE

be incompatible with the values of a democratic society, or disrespectful towards the judicial proceedings, instead, it formed part of expressing her religious beliefs.³⁰

26.4 CONCLUSION

Both the ECtHR and the CJEU have a formidable task when interpreting the ECHR in a continent of multiple religions and systems of beliefs.³¹ Although restrictive measures against religious clothing are introduced as part of a blanket ban on all clothes hindering identification, it is also clear to see, that effectively the most targeted group is Muslim women.

The regulation of the public sphere seems to have gradually spilled over to private relationships. The CJEU decided two cases – the *Achbita* and *Bougnaoui* cases – related to the dismissal of Muslim women from work, based on their unwillingness to remove their headscarf during working hours. The private undertaking in the *Achbita* case based the dismissal on the corporate's devotion to neutrality against any kind of religious or philosophical, political belief. Here the CJEU decided, that such a rule did not constitute direct discrimination, while even indirect discrimination could be dismissed, if it can be established, that the internal rule was applied in a proportionate way, and was part of a genuine determining occupational requirement.³²

Wearing religious clothing is a clear expression of self-identity, making integration to the customs and rules of receiving countries virtually impossible. In France, citizenship was denied from a Muslim woman, who, owing to her religious beliefs, refused to shake hands with those men who were about to give her the official documentations. Her religious did not allow her to make such a gesture. As the rules of providing French citizenship status demand the handshake, she did not become a citizen. She brought her case to the French Court of Cassation, which found, that such clear sign of refusal to adapt to traditions and national customs clearly demonstrate her refusal to respect the French national identity, making integration impossible.

By contrast, in Sweden, the equality ombudsman sued a company, as a woman's job interview was cut short, when it became clear that she would not shake the interviewer's hand for religious reasons. This was followed by a number of similar incidents, where for example a man lost his job for refusing to shake the hand of female colleagues, or when a

30 In the United States, cases from religious symbols such as the crib, menorah or cross in public areas or religious clothes worn has also increased in number. Swearing on the Bible or God may offend atheists or non-Christians. See more at: 'Religious Symbols and Religious Garb in the Courtroom: Personal Values and Public Judgments', *Fordham Law Review*, Vol. 66, No. 4, 1998.

31 Cumper & Lewis 2005, pp. 599-627.

32 In certain circumstances general determining requirements can be easily identified, for example when requiring food industry employees to wear a hair net or delivery boys to wear helmets and so on.

former politician of the Green party decided to resign after declining to shake a reporter's hand.

Political and legal tides are shifting in the European Union as a reaction to the socio-economical issues unearthed by the ongoing migration crisis. It seems that the heated debates regarding headscarves are spilling over to more and more countries as the values of pluralism and multiculturalism are getting questioned, often resulting in national and social backlash. One could even argue, that the Union has started to retract to its original preference of market related concerns over human-rights driven justifications, causing the equality boost experienced thanks to the legislation of the early 2000's to come to a halt.³³ The broad margin of appreciation afforded under the ECHR allows State Parties to effectively target certain groups in order to serve the public order and safety as defined case by case, and nation by nation.

33 Xenidis 2017.

