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FRANCE: PRÉFECTURE OF POLICE TRIES TO SUPPRESS WOMEN FOOTBALLERS' PROTEST AGAINST LAWMAKERS' LATEST ATTEMPT TO UNDERMINE MUSLIM WOMEN IN SPORT

An Administrative Tribunal appeal decision issued on 9 February overturned the Paris *Préfecture* of Police's ban on a protest organised by women footballers, confirming that the protest should have been able to proceed as planned. The protest organizers had already called off the event in light of the police ban and the Tribunal's ruling came too late for the protest to take place. The fact that the protest was effectively prevented due to an unlawful ban, which was based on reasoning informed by stigmatising stereotypes, is particularly shameful.

On 2 February, representatives from the campaign group 'Les Hijabeuses' notified the police authorities of the protest due to take place near the *Assemblée Nationale* from 16.30–18.30 on 9 February. This collective of women footballers planned to mobilise against an amendment proposed by the *Sénat* that would reinforce in law an existing French Football Federation (FFF) policy that prohibits women who choose to wear headscarves from participating in competitive matches. If it becomes law, the amendment would expand the scope of the FFF's policy to all competitive sports organised by publicly funded sporting federations.

On the evening of 8 February the *Préfecture* of Police publicly announced its decision to ban the protest due to concerns over public order and the safety of the women protesters.¹ The decision – which the *Préfecture* of Police has not made public in full but has been seen by Amnesty International – unfairly characterized the women's campaign against the draft law as being part of a dispute between proponents of 'political Islam' and religious patriarchy versus those who respect the values of France's republic, including equality between the sexes. The *Préfecture's* decision contextualised the women's campaign within this presumed "major societal divide".² The *Préfecture's* justification also referred to women forced to wear religious headwear in authoritarian countries and warned of alleged public order risks from other unrelated issues, such as previous hostile public reactions to a controversial documentary (see below).³ The *Préfecture* unjustifiably conflated the women's campaign to participate in competitive sports with social disorder and violence.

¹ Préfecture de Police, Cabinet du Préfet, Arrêté no. 2022-00145 portant interdiction d'une manifestation déclarée pour le mercredi 09 février 2022

« Considérant ainsi qu'il y a lieu de craindre que la manifestation déclarée n'attire, outre les personnes qui la soutiennent, des personnes hostiles à la cause défendue et susceptibles d'en découdre avec les premiers ; que l'autorité de police se doit d'interdire un rassemblement si la tenue de celui-ci est de nature à créer un risque sérieux pour la sécurité des manifestants eux-mêmes ou pour le maintien de l'ordre public ; »

² Préfecture de Police, Cabinet du Préfet, Arrêté no. 2022-00145 portant interdiction d'une manifestation déclarée pour le mercredi 09 février 2022

« Considérant par ailleurs que la manifestation déclarée a trait à la revendication du droit au port du voile islamique dit « hijab » lors des compétitions de football, pratique interdite par le règlement de la Fédération officielle de football ; que cette revendication, qui intervient à l'occasion de la discussion au Parlement de la proposition de loi visant à « démocratiser le sport » fait l'objet d'un vif débat et d'un clivage important au sein de la société entre partisans de l'affirmation d'un islam politique, qui prône le port du voile par les femmes, et partisans des valeurs républicaines d'égalité entre les femmes et les hommes et d'émancipation contre toute forme de patriarcat, notamment religieux ; »

³ Préfecture de Police, Cabinet du Préfet, Arrêté no. 2022-00145 portant interdiction d'une manifestation déclarée pour le mercredi 09 février 2022

« Considérant en outre que ce débat est fortement exacerbé dans la période électorale actuelle et dans le contexte international de lutte contre l'obligation faite aux femmes de porter le voile islamique dans certains pays musulmans tels que l'Iran ou l'Afghanistan ; qu'il a tout récemment fait l'objet de réactions d'une grande violence de la part des partisans d'un islam radical, comme en témoignent les menaces de mort reçues par la journaliste présentatrice de l'émission de télévision « Zone Interdite » et par un témoin figurant dans le reportage récent que la chaîne M6 a consacré au danger de l'islam radical, menaces qui ont nécessité leur placement sous protection policière ; »

The reasons offered by the *Préfecture* of Police to justify the ban were not necessary, proportionate or legitimate with respect to the government's obligation to protect the right to peaceful assembly. The 2020 UN Human Rights Committee's General Comment No. 37 on the Right to Freedom of Peaceful Assembly states that "The possibility that a peaceful assembly may provoke adverse or even violent reactions from some members of the public is not sufficient grounds to prohibit or restrict the assembly [para 27] ... States are obliged to take all reasonable measures that do not impose disproportionate burdens upon them to protect all participants and to allow such assemblies to take place in an uninterrupted manner [para 29]."

At 15.30 on Wednesday 9 February, the footballers confirmed on social media that in light of the *Préfecture's* ban they had decided to cancel the protest. Around 17.30 the Administrative Tribunal decision struck down the ban, authorised the protest to proceed, and issued a fine of €1000 to the *Préfecture*. However, by the time the *Préfecture's* unlawful ban was overturned, it had had the direct effect of frustrating the women's right to peaceful assembly and freedom of expression.

PRÉFECTURE'S DISPROPORTIONATE INTERFERENCE WITH THE RIGHT TO PEACEFUL ASSEMBLY

The context and conditions surrounding the women footballers' protest should have compelled the authorities to facilitate their peaceful assembly. The Council of Europe's 2010 Guidelines on Freedom of Peaceful Assembly reaffirm that "The State's duty to protect peaceful assembly is of particular significance where the persons holding, or attempting to hold, the assembly are espousing a view which is unpopular, as this may increase the likelihood of hostile opposition. However, potential disorder arising from hostility directed against those participating in a peaceful assembly must not be used to justify the imposition of restrictions on the peaceful assembly [para 33]."

By framing the women's campaign to play football as being part of a "major societal divide", the *Préfecture* presented Muslim women's visibility and participation in public life – whether via participation in sports or protests – as a threat to France's values. Not only does this stigmatise Muslim women on the basis of their gender and as a religious minority, it also prejudices their freedom of opinion and expression by associating them with controversial issues and beliefs without any credible evidence for such associations.

The *Préfecture's* decision also referred to alleged public order risks due to heightened tensions that followed the recent airing of a controversial television documentary "*Zones Interdites: Face au danger de l'islam radical, les réponses de l'Etat*", which focused on a Muslim community in northern France and has been discussed extensively by politicians in the media. Journalists involved in the production of the documentary were granted police protection after allegedly being subjected to death threats after it aired. The *Préfecture's* claim that the women footballers' protest represented a threat to public order in light of the airing of a contentious television documentary totally unrelated to their campaign is not convincing on its face, but is especially specious considering that '*Les Hijabeuses*' previously participated in a peaceful football match protest outside the *Sénat* on 26 January 2022, three days after the documentary aired.

By citing tensions arising from inflammatory discourse in the aftermath of a television documentary, the *Préfecture* displaces responsibility from politicians and pundits engaging in inflammatory rhetoric and effectively chose instead to punish Muslim women and their allies by restricting their right to organise and peacefully assemble.

BANNING A PROTEST AGAINST A DISCRIMINATORY LEGISLATIVE PROPOSAL

The women footballers' most recent attempt to protest occurred in the context of the ongoing debate on draft legislation that, if adopted, would discriminate against Muslim women who choose to wear a headscarf. On 18 January 2022, a group of *Senateurs* proposed and voted in favour of an amendment to the *proposition de loi visant à démocratiser le sport* [draft bill on democratising access to sport]. This amendment seeks to prohibit the wearing of visible religious symbols in sporting events and competitions organized by state-regulated sports federations and their associate organizations.⁴ In both its stated objective and foreseeable impacts, this amendment will reinforce discriminatory restrictions on Muslim women who choose to wear a headscarf and potentially prohibit them from participating in competitive sports in France by conditioning such participation on unnecessary and disproportionate limitations on their rights to freedom of expression and right to freedom of thought, conscience and religion.

⁴ "Le port de signes religieux ostensibles est interdit pour la participation aux événements sportifs et aux compétitions sportives organisés par les fédérations sportives et les associations affiliées."

The explanatory statement accompanying the *Senateurs'* Amendment makes clear that the objective was to ban women who wear headscarves for cultural or religious reasons from participating in state-organized sporting events and competitions. “*Cet amendement vise à interdire le port du voile dans les compétitions sportives organisées par les fédérations*” [This amendment aims to prohibit the wearing of the veil in competitive sports organized by state-regulated sports federations and their associate organizations].⁵

A mixed committee of *Senateurs* and *Deputés* failed to reach consensus regarding the *Sénat's* amendments to the draft law on 1 February, and the Commission of Cultural Affairs voted to delete the amendment on 3 February. However, it was reintroduced by a group of *Deputés* from the *Les Republicains* party on 4 February and deleted again in the *National Assemblée* on 9 February. The *Sénat* will reexamine the law again on 16 February and will likely attempt to reintroduce the amendment before a final reading at the *Assemblée Nationale*.

It represents the latest attempt by some French legislators to impose discriminatory restrictions on the wearing of religious and cultural dress by Muslim women in public spaces.⁶ The French *Sénat* unsuccessfully attempted to introduce a similar amendment during debates on *le projet de loi confortant le respect des principes de la République* [the law to strengthen respect for the principles of the Republic] in 2021. At that time, the *Assemblée Nationale* rejected the amendment. French lawmakers must stop playing political football with Muslim women's rights and should instead focus on removing discriminatory policies targeting Muslim women – such as the FFF's ongoing prohibition on footballers wearing head coverings. The entrenched cycle of debating whether or not to expand and reinforce existing flagrantly discriminatory policies must end.

Women are already under-represented and discriminated against in sport, in particular in football where women have historically faced multiple barriers to participation and decades of underfunding. The amendment's explanatory note acknowledged that women footballers wearing the headscarf represent “*un phénomène marginal*” [“a marginal phenomenon”]. Such a blunt legal prohibition targeting a minority on the basis of both its gender and religious beliefs is deeply stigmatising. By effectively excluding Muslim women who choose to wear the headscarf from freely participating in competitive sports, this amendment makes an absurd mockery of the stated purpose of the law – to democratise access to participation in sport in France. The amendment directly contradicts other clauses in the draft law, which commit to “fight against all forms of discrimination in sport” while acknowledging the “importance of physical activity and sports in education, culture, regional planning and integration in social life.”⁷ Instead this amendment will reinforce the existing discrimination Muslim women face on the basis of their gender, while further compounding their exclusion from sports on the basis of their religious beliefs.

The French Football Federation (FFF) maintains a ban on footballers wearing head coverings despite FIFA, the global football governing body, overturning its own ban on players wearing head coverings in matches since 2014. The end of the FIFA ban allowed Muslim women and Sikh men to participate in official matches while wearing religious dress as long as the colour of their head covering matched their jerseys. The *Senateurs'* latest amendment to the draft law on democratizing access to sports cites legal uncertainty surrounding the wearing of religious symbols which it says it must

⁵ “Cet amendement vise à interdire le port du voile dans les compétitions sportives organisées par les fédérations.” Proposition de loi Démocratiser le sport en France, Amendement, 18 janvier 2022, senat.fr/amendements/2021-2022/320/Amdt_31.html

⁶ Amnesty International, *Toute interdiction du voile intégral constituerait une violation du droit international relatif aux droits humains* (Index: POL 30/005/2010), 21 April 2010, [amnesty.org/en/documents/pol30/005/2010/fr/](https://www.amnesty.org/en/documents/pol30/005/2010/fr/); Amnesty International, “FRANCE : Le maintien de l'interdiction du burkini menace les droits des femmes”, 25 August 2016, [amnesty.fr/liberte-d-expression/actualites/burkini](https://www.amnesty.org/fr/liberte-d-expression/actualites/burkini)

⁷ Article 1^{er} *ter* L'article L. 1001 du code du sport est ainsi modifié :

1° A Le premier alinéa est ainsi rédigé :

«Les activités physiques et sportives constituent un élément important de l'éducation, de la culture, de l'aménagement du territoire, de l'intégration et de la vie sociale.» ;

3° Le dernier alinéa est complété par les mots : « ainsi que la lutte contre toutes les formes de discrimination dans le sport » ; Proposition de Loi, 20 janvier 2022, https://www.assemblee-nationale.fr/dyn/15/textes/15b4930_proposition-loi

clarify, effectively seeking to make the FFF's discriminatory policy into law and widening its scope to apply in all sports competitions and events organized by state-regulated sports federations and their associate organizations.

The principle of non-discrimination is a peremptory norm of international law and is enshrined in numerous international human rights treaties, including the International Covenant on Civil and Political Rights (Articles 2.2 and 26) and the International Covenant on Economic and Social Rights (Article 2.2). The prohibition against discrimination requires the French authorities to refrain from adopting measures that directly or indirectly discriminate against groups defined by protected characteristics such as religion or belief, ethnic origin, nationality or migration status.