AMNESTY INTERNATIONAL PUBLIC STATEMENT

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FRANCE: RULES EXCLUDE MUSLIM WOMEN BASKETBALL PLAYERS FROM COMPETITIONS

On the occasion of the forthcoming General Assembly of the French Basketball Federation on 14 October 2023, Amnesty International has called on the French Basketball Federation and the French Ministry of Sport, Olympic and Paralympic Games to ensure that rules regarding the wearing of sports head coverings in competitions comply with international human rights law and do not discriminate against and violate the rights of Muslim women players who wear headgear in France.

The French Basketball Federation’s (hereinafter “FFBB”) Official Rules outline what can and cannot be worn by players (see Rule 4.4.2) with an additional “Note” that specifies:

“Regarding accessories covering the head, these are considered by the Federation as ‘inappropriate for the game’, are therefore prohibited and the player must not be allowed to participate in the meeting in the same way (...)”.  

According to the activists and players wearing religious headgear who Amnesty International spoke to, Rule 4.4.2 and the connected interpretation contained in the “Note” is “generally” not being applied in practice, although this entirely depends on individual referees’ inclination. During the past months, two cases were reported in the media where players wearing headgear were banned from taking part in matches, highlighting the issue as a concern, in June 2022 and January 2023. The “Note” accompanying Rule 4.4.2 has resulted in its interpretation to the detriment of these players and has the potential to affect many others.

In December 2022, the FFBB introduced a new article 9.3 to the General Sports Regulations, which expressly bans “the wearing of any equipment with a religious or political connotation in competitions”. Non-compliance with article 9.3 could result in disciplinary proceedings for the player and those who allow them to be worn.

The article affects players, coaches and referees wearing headscarves. For example, in a testimony accompanying the petition addressed to the FFBB by the Basketball Pour Toutes (Basketball for All) activist collective, 22-year-old player Hélène, shared:

“Since the summer of 2022, I’ve been going to matches every weekend with a knot in my stomach, not knowing whether I’ll be able to play. I have to give up my passion because I’m being forced to choose between my fundamental freedoms and playing sport. This season, I won’t be able to take part in any official matches because referees are being forced to apply rules of which they disapprove. Hundreds of Muslim sportswomen who decide to wear their headgear suffer the same humiliation and invisibility every weekend. Clubs are losing members, teams are being forced to fold for lack of players, and the entire women’s league is suffering the consequences.”

Players shall not wear equipment (objects) that may cause injury to other players. The following are not permitted: Finger, hand, wrist, elbow or forearm guards, helmets, casts or braces made of leather, plastic, pliable (soft) plastic, metal or any other hard substance, even if covered with soft padding. Objects that could cut or cause abrasions (fingernails must be closely cut). Hair accessories and jewellery. The following are permitted: Shoulder, upper arm, thigh or lower leg protective equipment if sufficiently padded. Arm and leg compression sleeves; Headgear. It shall not cover any part of the face entirely or partially (eyes, nose, lips etc.) and shall not be dangerous to the player wearing it and/or to other players. The headgear shall not have opening/closing elements around the face and/or neck and shall not have any parts extruding from its surface. Knee braces, Protector for an injured nose, even if made of a hard material. Non-coloured transparent mouth guard. Spectacles, if they do not pose a danger to other players. Wristbands and headbands, maximum of 10 cm wide textile material. Taping of arms, shoulders, legs etc. Ankle braces. All players on the team must have all their arm and leg compression sleeves, headgear, wristbands, headbands and taping of the same solid colour. FFBB, Règlement Officiel de Basketball, 25 March 2022, www.ffbb.com/sites/default/files/dm_reglement_jeu/la_reglement_officiel_du_basketball__version_francaise__.pdf, Rule 4.4.2. 

FFBB, Règlement Officiel de Basketball.


2 “No to Article 9.3: Yes to basketball for all” petition, 4 October 2023, www.change.org/p/no-to-article-9-3-yes-to-basketball-for-all.
Muslims in Europe are more likely to be targets and victims of hate crimes than Muslim men according to a 2016 report by the European Network Against Racism (ENAR), which also found that racist violence against Muslims is mainly committed in public places, such as public transport, streets, markets and shops, or in the workplace and includes insults, spitting at women who wear face veils or headscarves or pulling their clothing off. Many Muslims and those perceived to be Muslim also experience persistent discrimination based on their first or last names, and their skin colour or physical appearance in all areas of life, especially when they look for work or housing. Muslims in Europe have been racialized and discriminated against on ethnic grounds, in addition to discrimination faced on the basis of their religious practice and belief. People belonging to Muslim communities or perceived as such have become increasingly homogenized under one racialized category. It is within this context that discrimination against Muslims can amount to racial discrimination. The EU Racial Equality Directive defines indirect discrimination as occurring “where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin 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.” In this regard, while the “Note” interpreting the FFBB’s Rule 4.4.2 refers to “accessories covering the head”, its impact is felt by Muslim women players who wear or wish to wear the hijab, indirectly discriminating against them and contributing to the demonisation of such religious headwear and the “othering” of those who wear it.

It is important to note the International Basketball Federation (“FIBA”) in no way restricts the wearing of the hijab and other religious headgear in basketball and its introduction by FIBA has in fact been hailed as a victory for those advocating for such inclusion and Muslim women players’ human rights. The “Note” accompanying Rule 4.4.2 in the FFBB’s Rules allows for the rule itself to be interpreted in a way which discriminates against Muslim women players. Article 9.3 of the General Sports Regulations is also in contradiction with the basketball principles of the Ethical Charter of Basketball, including “respect, equality and against all forms of discrimination”.

HEADGEAR BANS VIOLATE MUSLIM WOMEN PLAYERS’ HUMAN RIGHTS

Prohibitions on the wearing of religious headscarves in public spaces violate Muslim women’s rights under international human rights laws and standards, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which France has ratified. France is also bound by international human rights law, specifically the Convention on the Elimination of All Forms of Discrimination Against

Amnesty International is deeply concerned that the application of rule 9.3 will result in multiple violations of Muslim women’s human rights, including constituting direct racial, gender and religious discrimination against Muslim women players who wear headgear or wish to do so.

FFBB MUST REVISE RULES AND PRACTICES THAT DISCRIMINATE AGAINST MUSLIM WOMEN PLAYERS AND REFRAIN FROM ADOPTING SUCH RULES IN THE FUTURE

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Women, to counter gender-based stereotypes, which obliges France to take steps to end negative gender stereotypes relating to women and men, or to specific groups of women and promote the values of gender equality and non-discrimination.\textsuperscript{14}

Further, as a State Party to the International Convention on the Elimination of All Forms of Racial Discrimination, France is obliged to, “engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation”, “not to sponsor, defend or support racial discrimination by any persons or organizations” and “take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”\textsuperscript{15}

Under international law, state neutrality and secularism are not legitimate reasons for imposing restrictions on the rights to freedom of expression and religion or belief, including through general bans on religious and cultural symbols. Any restrictions must be justified by demonstrable facts, not presumptions, speculation or prejudice.\textsuperscript{16}

In addition, in his 2021 report “Countering Islamophobia/anti-Muslim hatred to eliminate discrimination and intolerance based on religion or belief", the Special Rapporteur on freedom of religion or belief highlighted the intersectional nature of discrimination and hostility experienced by Muslim women who “may face a ‘triple penalty’ as women, minority ethnic and Muslim.”\textsuperscript{17} Bans on religious clothing are discriminatory and undermine efforts to make women’s sports more inclusive. They do not only result in Muslim women players who wear headgear being banned from competing, but also create a “chilling effect” whereby Muslim women and girls who wish to play sports, including those from marginalised groups, are sent a clear signal that they cannot do so freely.

Rule 4.4.2 of the FFB’s Official Rules can be interpreted in a way that results in the banning of players who wear headgear from matches and competitions. This rule combined with article 9.3 of the latest version of the General Sports Regulations, has a clear negative impact on Muslim women players’ ability to exercise a range of their human rights, from the right to equality, private and family life, bodily autonomy, the right to practice religion and express one’s identity, to access to public spaces, participation in sports and leisure activities, education, employment and other forms of public life.

**RECENT NEGATIVE DEVELOPMENTS AFFECTING MUSLIM WOMEN AND GIRLS IN THE CONTEXT OF ANTI-MUSLIM RACISM AND GENDERED ISLAMOPHOBIA IN FRANCE**

For the last 20 years, French authorities have embarked on a continuity of harmful lawmaking and regulation of Muslim girls and women’s clothing, fueled by prejudice against them, and anchoring gendered discrimination towards Muslim women and girls, and those perceived as Muslim.\textsuperscript{18} Notably in 2004, France passed a law “governing, in application of the principle of secularism, the wearing of signs or dress expressing religious affiliation in public schools”; which, as Amnesty International has emphasized, discriminates against Muslim girls, and those perceived as Muslim, on grounds of their race, religion and gender in their enjoyment to their rights to freedom of expression, religion and belief and in their access to education.\textsuperscript{19}

\textsuperscript{14} Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 18 December 1979, Article 5; CEDAW Committee, General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, UN Doc. CEDAW/C/CG/35, 2017, para 30(iii).

\textsuperscript{15} International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), 21 December 1965, Article 2.1.

\textsuperscript{16} See, for example the case of Leyla Şahin v. Turkey before the ECtHR where Judge Tulkens in her dissenting opinion argued that “only indisputable facts and reasons whose legitimacy is beyond doubt — not mere worries or fears — are capable of justifying interference with a right guaranteed by the [European] Convention." (Leyla Şahin v. Turkey, Application no. 447/498).

\textsuperscript{17} UN Special Rapporteur on freedom of religion or belief, Countering Islamophobia/anti-Muslim hatred to eliminate discrimination and intolerance based on religion or belief (UN Doc. A/HRC/46/93), 13 April 2021; OHCHR, UN expert says anti-Muslim hatred rites to epidemic proportions, urges States to act, 4 March 2021.

\textsuperscript{18} The following laws, regulations and court decisions have all narrowed the possibility for Muslim women to dress as they please. The following list does not account for various other attempts of restricting Muslim women’s rights, which did not stand the test of parliamentary debate or court.

Law n° 2004-228 du 15 mars 2004 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, 2004, which led to the ban of headscarves in public schools, www.legifrance.gouv.fr/loda/id/JORFTEXT000000417977; Law n° 2010-1199 du 11 octobre 2010 interditant la dissimulation du visage dans l'espace public, www.legifrance.gouv.fr/loda/id/JORFTEXT000000417977; Modification of article L 1321-2-1 of the labour code by law n° 2016-1088 du 8 août 2016 relative to the modernisation of the dialogue social and to the secularisation of the working environment, 2016, forsee a chilling effect whereby Muslim women and girls who wish to play sports, including those from marginalised groups, are sent a clear signal that they cannot do so freely.

In recent years and months, Amnesty International has observed an increase in the introduction of discriminatory laws, policies, practices and discourses by the French authorities purporting to implement aspects of the 2004 law. For instance, on 24 September 2023, French Minister of Sports and Olympic and Paralympic Games Amélie Oudéa-Castéra announced while speaking to the broadcaster France 3 that during the Olympics and Paralympics to begin in June 2024 in Paris, “representatives of our delegations, in our French teams, will not wear the headscarf.”20 The announcement was strongly criticised by the United Nations, which stressed that “restrictions on expressions of religions or beliefs, such as attire choices, are only acceptable under really specific circumstances … that address legitimate concerns of public safety, public order, or public health or morals in a necessary and proportionate fashion.”21

On 31 August 2023, just before children in France were to restart school after the summer holidays, the official Bulletin of the French Ministry of Education published guidance addressed to school principals and inspectors introducing a ban on wearing abaya and qamis.22 The guidance also foresaw that in cases where pupils did not comply with the ban, the school personnel should enter in a dialogue with the pupil and their families. If the dialogue were to fail, disciplinary proceedings should systematically be initiated by school principals (knowing that, according to the French code of education, disciplinary proceedings can lead to the child being expelled from school).23

Earlier in 2023, France’s highest administrative court, the Conseil d’État ruled that the French Football Federation (FFF) does not need to change its discriminatory policy that effectively prohibits Muslim women players who wear headgear from participating in competitive football matches. Amnesty International believes that this decision is not compliant with international human rights law and standards, is harmful to Muslim women players, and it entrenches both racism and gender discrimination in French football.24 The decision of permitting the ban on headgear to allow “smooth conduct and to avoid clashes and confrontation” ignores the fact that potential “clashes and confrontation” the FFF anticipates would most likely be caused individuals and groups motivated by anti-Muslim racism and effectively punishes those who would be at the receiving end of such potential violence in the name of preventing it. Muslim headscarves and face coverings have long been instrumentalized and stereotyped to demonize Muslim women and homogenize the diverse significance they may represent to those who wear them or would wish to wear them but fear to do so or are legally prevented from doing so in public. The latest decision of Conseil d’État is yet another example of France’s institutions enforcing negative stereotypical assumptions and tropes about Muslim communities and gender roles through a decision that only panders to those who hold racist, anti-Muslim and Islamophobic opinions about what Muslim women should or should not wear.

In this context, Amnesty International believes that it is crucial for the FFBB and other authorities in France to refrain from using the Conseil d’état decision of 29 June to introduce rules that further violate Muslim women players’ human rights and/or interpret the existing ones to the detriment of their human rights and their full and equal participation in sports in France.

MEANINGFUL CONSULTATION AND PARTICIPATION OF MUSLIM WOMEN PLAYERS IN DECISIONS THAT AFFECT THEM

A group of Muslim women basketball players and their supporters shared with Amnesty International that they have consistently faced obstacles in regional general assembly meetings they have attended when trying to raise the human rights impact of the existing harmful practices and policies of the FFBB on them and raise awareness of the human rights violations of a ban on wearing headgear on the players.25

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25 Meeting with Amnesty International, 30 June 2023, online; Transcript of Île-de-France Basketball Ligue debate on the International Women’s Day, 8 March 2023; Transcript of General Assembly of Yvelines Basketball committee, 10 June 2023.
Amnesty International would like to stress that Muslim women players and their supporters, like everyone else, have the right to participate in public life under several international human rights law instruments and standards that France is bound by including under the International Covenant on Civil and Political Rights.\(^\text{26}\)

Amnesty International calls on the FFBB and relevant French authorities to ensure consultation with and meaningful participation of Muslim women players and athletes, in particular those who wear religious headgear, in the discussions about rules, as well as any other relevant laws or regulatory frameworks that concern them, including Muslim women from marginalized groups and those facing discrimination on the basis of, for example, disability, race, ethnicity, socio-economic circumstances or migrant status.

**AMNESTY INTERNATIONAL’S RECOMMENDATIONS**

Amnesty International is appealing to the FFBB and the Ministry of Sport, Olympic and Paralympic Games to comply with their international human rights obligations in their roles as a French state institution and Government by removing harmful rules such as the “Note” accompanying Rule 4.4.2 of French Basketball Federation’s rules and article 9.3 in the General Sports Regulations. On the contrary, Amnesty International calls on the FFBB and the French authorities to refrain from introducing rules and practices that discriminate against Muslim women players wearing headgear and to take the opportunity of the next FFBB General Assembly in October to clarify with clubs, players and all relevant actors that – in line with the FIBA Rules – the wearing of headgear by players is not prohibited and it does not violate Rule 4.4.2.

Amnesty International also calls on the FFBB and the Minister to meaningfully engage with players directly affected by such rules, laws, policies and practices, that is Muslim women and girls who wear the hijab or wish to do so. Amnesty International urges the FFBB and the Minister to listen to these players, take into account their concerns with regard to decisions impacting them and ensure their meaningful participation in any discussion about any such rules and proposals. We also call on the French authorities to refrain from discriminating against Muslim women athletes in the practice of sports, including the upcoming Olympic and Paralympic Games, and to end harmful stereotyping discourses that entrench and legitimise Islamophobia.

On 9 October 2023, Amnesty International sent letters to the President of the FFBB, Mr. Jean-Pierre Siutat and the Minister of Sport, Olympics and Paralympic Games, Ms Amélie Oudéa-Castéra to express the organisation’s concerns about the violations of Muslim sportswomen’s human rights.

\(^{26}\) International Covenant on Civil and Political Rights (ICCPR), Article 25, 26.