



Istanbul Women's And Women's
Organizations Association

CIVIL SOCIETY'S CONCERNS AND RECOMMENDATIONS REGARDING DISCRIMINATORY POLICIES OF THE FRENCH GOVERNMENT TOWARDS MUSLIMS IN FRANCE

Report submitted to: European Commission Against Racism and
Intolerance (ECRI)

Date: 23 June 2021

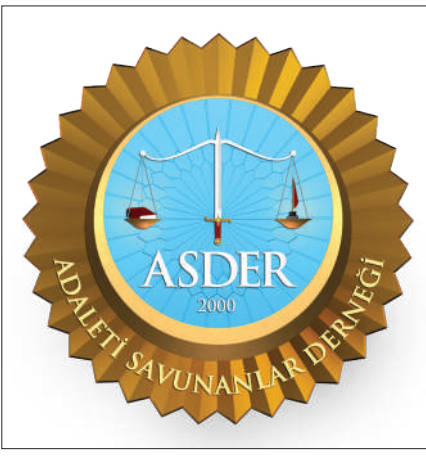
NGOs that have signed the report: (in alphabetical order)

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Adaleti Savunanlar Derneği
(ASDER)



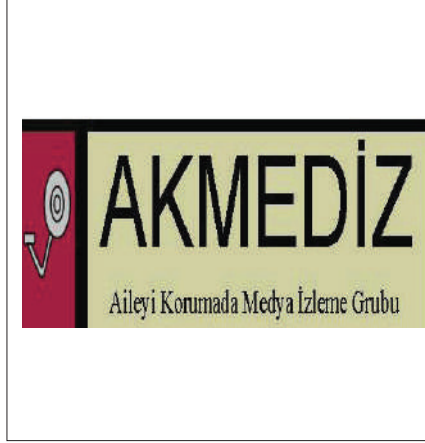
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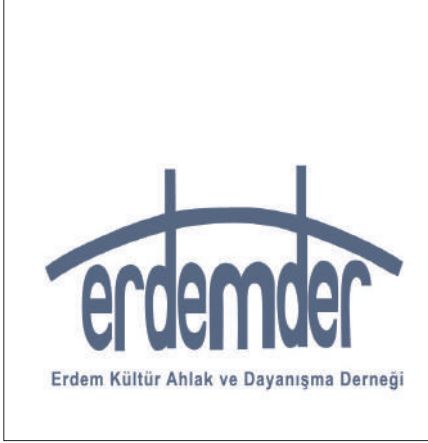
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Dost Eli Konya Gıda Bankası
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Longed Values Children And Youth Foundation



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Mavi Haliç Gençlik ve Spor Kulübü Derneği (MAVİ HALİÇ)



Mutlu Yuva Derneği



Nil Eğitim ve Yardımlaşma Derneği
(NEYAD)



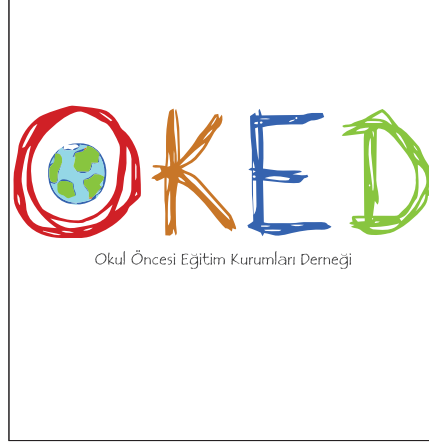
Nilüfer Hatun Aile Kültür
Sanat Eğitim Derneği



Nisan Girişim Grubu



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Kültür Derneği



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Derneği (OKED)



Parwarish Organization



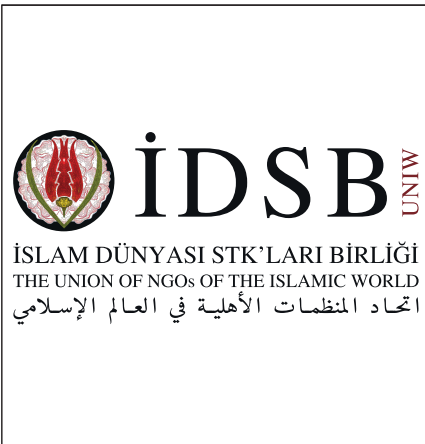
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Umut Çatısı Spor Kulübü Derneği



Women And Democracy Association



Women Education and Culture Foundation



Vizyoner Kadınlar Derneği (VİKADER)



Yek Adım Eğitim ve Dayanışma Derneği (YEKAD)



Yeniden Okumalar Derneđi
(YENİDER)

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Summary

In his speech on 2 October 2020, the French President Emmanuel Macron claimed that “Islam is a religion that is currently experiencing a crisis all over the world” and that Islam must “structure itself” in France “so that it is a partner of the Republic.”¹ His statement is certainly not the only instance of anti-Muslim conduct in France. The repeated attacks on mosques, violent attacks on Muslim women, closing of Muslim places of worship, schools, and associations, and suppression of Muslims’ religious, political, cultural, and social spheres in general demonstrate that intolerance and discrimination against Muslims are entrenched in France. Furthermore, such intolerance and discrimination is increasingly legitimized and used as political tools by the politicians. This approach has been further crystallized by the so-called bill for “Strengthening Republican Principles” which threatens religious, political, academic, and cultural rights and freedoms of Muslims through criminal and administrative measures.

The European Commission against Racism and Intolerance (ECRI), a body of the Council of Europe, has put forward various measures to be taken by States with Muslim minorities in its General Policy Recommendation No. 5 published in 2000. In its final report of the 4th Monitoring cycle, ECRI concluded that Muslims in France constituted a “vulnerable/target group” and specifically warned the French Government to eradicate discrimination and intolerance against Muslims. However, let alone improve the situation Muslims, discriminatory and racist policies of the French Government have become widespread.

Following these developments with concern, we, as non-governmental organizations from different countries of the world, have prepared this report in response to the policies of the French Government. We herein present our assessments and recommendations within the framework of human rights, equality, democratic values, and the rule of law.

¹ <https://www.diplomatie.gouv.fr/en/coming-to-france/france-facts/secularism-and-religious-freedom-in-france-63815/article/fight-against-separatism-the-republic-in-action-speech-by-emmanuel-macron>

Keywords

Council of Europe (CoE): The Council of Europe was established in 1949 to form a closer union among its members in order to protect the common values of human rights, democracy, and rule of law. The Council of Europe has 47 Member States and its headquarters are in Strasbourg, France.

European Commission against Racism and Intolerance (ECRI): ECRI is a specialized Council of Europe body that monitors racism, intolerance, and discrimination. ECRI drafts reports and presents recommendations to Member States within its scope of work.

Council of Europe Commissioner for Human Rights: The Commissioner for Human Rights is tasked with ensuring respect for human rights, identifying human rights issues in and facilitating the work of other responsible institutions in the field of human rights.

European Convention on Human Rights (ECHR): The ECHR was adopted by the Council of Europe in 1950. The Convention, which guarantees human rights at the international level, ensures the protection of human rights and freedoms in Europe.

European Court of the Human Rights (ECtHR): The ECtHR is an international court established in 1959 under the European Convention on Human Rights. Individuals, groups of individuals, or Contracting Parties to the ECHR may apply to the Court Contracting Party, arguing a violation of the European Convention on Human Rights or its additional protocols. The Court's judgments are binding. It is located in Strasbourg, France.

European Network Against Racism (ENAR): ENAR is the only anti-racist network in Europe that combines advocacy for racial equality and facilitates cooperation between anti-racist civil society actors in Europe. It was established in 1998 to advocate for legislative changes at the European level and to ensure progress with regard to racial equality in all Member States of the European Union.



Pictured is 10-year-old Emira Yıldırım who is among at least 14 children questioned by the French police under the suspicion of “defending terrorism,” in response to the killing of the teacher Samuel Paty.²

Credit: Andrea Mantovani for the New York Times

² <https://www.nytimes.com/2020/11/23/world/europe/france-extremism-children.html>

I. Introduction

The Preamble to the Universal Declaration of Human Rights (UDHR) adopted by the United Nations General Assembly on 10 December 1948 states that:

“The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”

The UDHR embodies the basic motive of promoting respect emanating from human rights and freedoms and sets out the common ideal criteria for all peoples and nations. The Declaration provides for the following:

“Article 1- All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 18- Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

In addition to the UDHR that incorporates human rights and freedoms of all individuals regardless of race, language, and religion, European States have adopted the European Convention on Human Rights (ECHR) to:

- create a closer unity among its members and ensure the protection and promotion of human rights and fundamental freedoms;
- reaffirm their deep commitment to these fundamental freedoms, which are based on a common understanding and mutual respect for human rights, which form the basis of peace and justice in the world;
- ensure that some of the rights included in the Universal Declaration of Human Rights.

The provisions of the ECHR guarantee the human rights and freedoms of all individuals in Europe and are binding for its Contracting Parties.

“Freedom of thought, conscience and religion” is set out in Article 9 of the ECHR:

“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or

private, to manifest his religion or belief, in worship, teaching, practice and observance.”

The prohibition of discrimination is stipulated in Article 14 of the ECHR which states that:

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

In these two instruments, which aim to ensure the protection of rights and freedoms politically and legally and make a sustainable contribution to their development, freedom of religion and the prohibition of discrimination are recognized as human rights and accordingly, must be protected.

Based on the aforementioned instruments, this report authored by civil society, is written from a human rights perspective and aims to draw attention to the discriminatory and racist policies of the French Government, which amplify and contribute to hostility to French Muslims in France.

II. Islamophobia in France and Anti-Muslim Policies of the French Government

Europe has sacrificed millions to wars and conflicts based on religion and race. Organizations such as the Council of Europe and the European Union have been established to develop a culture of coexistence, democracy, and non-violence in Europe. European States have strived to guarantee fundamental rights and freedoms via human rights instruments. This approach is manifest in the judgments of the European Court of the Human Rights (ECtHR) and the Court of Justice of the European Union. The afore-mentioned institutions have recognized tolerance, pluralism, freedom of religion and conscience, as well as the prohibition of discrimination based on race or religion as integral to a democratic society and the European public order.

However, Muslims in Europe are increasingly denied these guarantees. Racism, discrimination, and hostility to Muslims in Europe go beyond individual cases; they are structuralized by government policies and are used as political tools. The abusive language adopted by political representatives as well as the media normalize and amplify hostility to Muslims. In the networked society of our day, conduct that fuels hatred affects the whole

society. Furthermore, discriminatory policies of governments permeate through areas such as education, employment, and social and religious life, which exclude Muslims from the public sphere and facilitate marginalization of Muslims by disproportionately limiting their fundamental rights and freedoms. This is the case in France where discriminatory and hostile policies are increasingly endangering Muslims.

According to 2017 data, Muslims (approximately 6 million) make up about 9% of France's population and constitute the largest Muslim minority in Europe.³ A significant part of this population, which grew with the waves of migration at the beginning of the 20th century, settled in housing projects in low-income suburbs (*banlieues*) of metropolitan areas and continue to live there.⁴ By the 21st century, as revealed by the 2005 riots in the *banlieues* of Paris, amongst others, these areas had been ghettoized due to years of state violence and socio-economic inequalities. As highlighted by the United Nations Special Rapporteur on Freedom of Religion or Belief, the prominent features of the suburban population are poverty, high unemployment rates and tendency to radicalization among Muslim youth, and a general sense of disconnection from the French society.⁵ The gravity of these issues are better understood considering that Muslims are a fairly young population.⁶ If a minority with economic disadvantages grows up being subjected to systematic discrimination and violence, this may lead to an affinity with predisposition to marginal thoughts and movements in the future. On the other hand, let alone taking steps to eradicate Muslims' problems, the French State has doubled down on its anti-Muslim stance that dominates some segments of society and politics by adopting discriminatory policies against Muslims. These policies have increasingly become extremely intrusive, especially with the measures taken during the state of emergency from 2015 to 2017 and its aftermath.

The acceleration of anti-Islamic State policies in France is also closely related to the cartoons published by Charlie Hebdo magazine attacking the Prophet of Islam, which has been at the center of controversies surrounding hostility to Muslims since 2011. Charlie Hebdo has published cartoons attacking the Prophet Muhammad, to whom 1.6 billion Muslims worldwide

³ <https://www.pewresearch.org/fact-tank/2017/11/29/5-facts-about-the-muslim-population-in-europe/>

⁴ <http://www.senat.fr/rap/r15-757/r15-7572.html#toc13>

⁵ UN Special Rapporteur on freedom of religion or belief, Addendum 2 to the Report Civil and on Political Rights, Including the Question of Religious Intolerance, E/CN.4/2006/5/Add.4, 8 March 2006, para. 54.

⁶ <http://www.senat.fr/rap/r15-757/r15-7572.html#toc13>

are bound with respect and love and whose words, actions, and endorsements are part of Islam. The magazine has also disclosed the cartoons to the press and has given interviews on the matter so that they would circulate in different countries of the world. The fact that the Prophet of Islam was depicted in cartoons with the intention to humiliate and mock Him has caused deep sadness, confusion, and anger in Muslim societies.⁷ Interviews given before and after the publishing of the cartoons and the promotion campaigns demonstrate that the religion of Islam and its Prophet were clearly targeted. Indeed, publicly humiliating Muslims' religious values and disseminating such speech through various communication channels have caused deep within Muslim societies.

The cartoons, which had long been debated in the public opinion, have also had an impact on radical groups. On 7 January 2015, Charlie Hebdo was targeted by an armed attack, in which 12 were killed and 11 were injured. Upon the beginning of the trials for the attacks on 2 September 2020, Charlie Hebdo republished the cartoons. On 25 September 2020, two people were stabbed in front of the former offices of Charlie Hebdo.⁸ First and foremost, we unequivocally condemn the attack and the killings. In no way can terrorism be justified or excused. Nevertheless, as will be discussed below, in order to effectively combat marginalization, it is imperative to understand the causal relationship between these attacks and the social, economic, and political conditions that perpetuate them. Yet, measures taken by the French Government in the name of "counter-terrorism" have led to further marginalization and stigmatization of disadvantaged groups.

France's anti-terrorism policies, particularly since 2015, directly target the beliefs and lives of Muslims rather than combating radicals that represent neither Islam nor Muslims.⁹ Following a series of terrorist attacks that killed dozens of people on 13 November 2015, France declared a state of emergency, which was extended six times and lasted two years. Throughout the state of emergency, the government extensively used its exceptional powers to take unjustified and intrusive measures against Muslims' places of worship, organizational works, and private

⁷ <https://www.cbsnews.com/pictures/protests-break-out-around-the-world-against-charlie-hebdo/>

⁸ <https://www.nytimes.com/2020/09/26/world/europe/paris-suspect-said-attack-was-aimed-at-paper-that-mocked-islams-prophet.html?>

⁹ Collectif Contre L'islamophobie en France (CCIF), "Islamophobia in France: Report into the year 2019" (2020), p. 13-14, <https://web.archive.org/web/20201126182527/https://www.islamophobie.net/en/rapport-2020/>.

lives.¹⁰ During this period, more than two dozen mosques and Muslim associations were closed and 4,469 searches against Muslims were carried out.¹¹ The Law on “Strengthening Internal Security and the Fight Against Terrorism” (SILT), adopted at the end of the state of emergency, granted the government exceptional powers such as closing places of worship, which are considered a “hotbed” of radicalization; thus, making the state of emergency permanent for Muslims.¹²

Muslims in France have been targeted as a group by counterterrorism measures taken during and after the 2015 – 2017 state of emergency. UN Special Rapporteur on the Promotion and Protection of Fundamental Rights while Countering Terrorism addressed this issue extensively in her 2019 report and concluded that Muslims have been treated as a “suspect group” in both political discourse and legal practice.¹³ In this context, an especially important assessment of the Special Rapporteur is that in the context of “anti-radicalization” policies, the French Government tends to equate Islam with terrorism. The Special Rapporteur further underlined the danger of this trend, noting that Muslims have been directly targeted and subjected to discriminatory measures, which leads to their marginalization in the society. According to the Special Rapporteur, this approach violates both international law and French law. Notably, the Special Rapporteur expressed that counter-terrorism measures curtail the exercise of religion and cultural lives of Muslims, both in legal and practical terms.¹⁴

These discriminatory policies of the French Government have become particularly hostile to Muslims following the killing of Samuel Paty on 6 October 2020¹⁵ and the deadly stabbings at a church in the city of Nice¹⁶. The French Government’s response to these attacks has, again,

¹⁰ Amnesty International, “Upturned Lives: The Disproportionate Impact of France’s State of Emergency” (2016), <https://www.amnesty.nl/content/uploads/2016/02/eur2133642016final.pdf?x86382>.

¹¹ <https://www.interieur.gouv.fr/Archives/Archives-des-actualites/2017-Actualites/Bilan-de-l-etat-d-urgence>

¹² <https://www.interieur.gouv.fr/Archives/Archives-des-actualites/2017-Actualites/Bilan-de-l-etat-d-urgence>

¹³ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Visit to France, 8 May 2019, A/HRC/40/52/Add.4, para. 49.

¹⁴ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Visit to France, 8 May 2019, A/HRC/40/52/Add.4, paras. 49-50.

¹⁵ Samuel Paty was a middle school teacher who showed Charlie Hebdo cartoons of Prophet Muhammad to his students. BBC, “France teacher attack: Seven charged over Samuel Paty’s killing” (22 October 2020), <https://www.bbc.com/news/world-europe-54632353>.

¹⁶ BBC, “Nice attack: Grief and anger in France after church stabbings” (30 October 2020), <https://www.bbc.com/news/world-europe-54745251>.

been in the form of disproportionate security measures. A very alarming example is the interrogation or detention of at least 14 children in the city of Albertville in November 2020. Police officers with assault rifles and wearing balaclavas, raided homes of children, confiscated computers and cellphones, and took photos of books and wall ornaments with Quranic verses.¹⁷ Following the raids, the police detained four 10-year-old children- who had simply expressed their opposition against the cartoons in response to a school questionnaire on the cartoons attacking Prophet Mohammad- for at least 10 hours under the suspicion of “defending terrorism.”¹⁸

In his plan to combat “Islamist separatism,” announced on 2 October 2020, President Macron claimed that “Islam is a religion that is currently experiencing a crisis all over the world” and that “everywhere there’s a crisis of Islam.”¹⁹ President Macron further argued that Islam must be structured “so that it is a partner of the Republic.”²⁰ Following the announcement of this plan, the French Government continued to crack down on various spheres of Muslims’ lives and in particular, religious life. According to President Macron, as of 2 October 2020, 15 mosques, 4 schools, and 13 foundations have been shut down through the comprehensive “anti-radicalization” efforts spanning all public services, conducted in a “highly confidential” way, and hundreds of millions of euros have been seized as result of hundreds of searches since 2017.²¹ In this context, the Minister of the Interior declared plans to close almost 80 mosques and Islamic schools²² and stated that 76 of 2,600 mosques in France had been labeled as “potential threat[s] to France’s Republican values and security.”²³ Furthermore, on 18 November 2020, the French Government issued an ultimatum to the French Muslim Council

¹⁷ <https://www.nytimes.com/2020/11/23/world/europe/france-extremism-children.html>

¹⁸ <https://www.aa.com.tr/en/europe/france-4-children-terrorized-by-police-for-11-hours/2035384>

¹⁹ <https://www.diplomatie.gouv.fr/en/coming-to-france/france-facts/secularism-and-religious-freedom-in-france-63815/article/fight-against-separatism-the-republic-in-action-speech-by-emmanuel-macron>

²⁰ <https://www.diplomatie.gouv.fr/en/coming-to-france/france-facts/secularism-and-religious-freedom-in-france-63815/article/fight-against-separatism-the-republic-in-action-speech-by-emmanuel-macron>

²¹ <https://www.elysee.fr/front/pdf/elysee-module-16114-fr.pdf>

²² Rory Sullivan, “France could close almost 80 mosques after deporting dozens of migrants in ‘crackdown on separatism’” (3 December 2020), <https://www.independent.co.uk/news/world/europe/france-mosques-closing-macron-b1765646.html>.

²³ France 24, “France to investigate dozens of mosques suspected of radicalisation” (3 December 2020), <https://www.france24.com/en/europe/20201203-france-to-investigate-dozens-of-mosques-suspected-of-radicalisation>

(“*Conseil Français du Culte Musulman*” - CFCM) to prepare a “Charter of Republican values.”²⁴ The Government has even targeted Muslims’ dietary restrictions. Speaking to the French TV Channel BFMTV on 20 October, 2020, the Minister of Interior expressed that he felt uncomfortable about and “shocked by the presence of special aisles for halal food products in grocery stores” and that there should not be special aisles for halal food products in grocery stores.²⁵ Aside from these intrusive government policies, attacks on Muslims and Muslim places of living and worship occur frequently in France.²⁶

Most recently, as part of the plan to “structure Islam” and to combat “Islamic Separatism,” the French Government drafted the so-called bill for “Strengthening Republican Principles” which was adopted by the French National Assembly on 16 February 2021 and is to be reviewed by the French Senate.²⁷ The proposed bill targets Muslims’ religious, political, academic, and cultural lives through criminal and administrative measures. In addition to outcry from French Muslims and civil society,²⁸ the bill has been denounced by the French National Consultative Commission of Human Rights (*Commission nationale consultative des droits de l’Homme*)²⁹ as unconstitutional and by the UN Special Rapporteur on freedom of religion or belief in his recent report, “Countering Islamophobia/Anti-Muslim Hatred to Eliminate Discrimination and Intolerance Based on Religion or Belief” to likely violate the freedom of religion³⁰.

The law threatens Muslims’ freedom of religion by scrutinizing places of worship, schools, and associations that serve religious communities.³¹ Notably, the law creates overly broad and

²⁴ <https://www.lefigaro.fr/politique/islam-macron-donne-15-jours-au-cfcm-pour-s-entendre-sur-une-charte-des-valeurs-republicaines-20201118>

²⁵ For the original speech see <https://twitter.com/BFMTV/status/1318656054721470465>. “Halal food” is often used by French politicians in populist rhetoric. For instance, Marine Le Pen exploited the distribution of “halal meat” for her election campaign in 2012. ECRI, 5th Monitoring cycle France Country Report, para. 22.

²⁶ See Léonard Faytre: Islamophobia in France: National Report 2019, in: Enes Bayraklı & Farid Hafez, European Islamophobia Report 2019, Istanbul, SETA, 2020, p. 292-296.

²⁷ <https://www.assemblee-nationale.fr/15/pdf/ta/ta0565.pdf>.

²⁸ TRT World, “Protest in French capital against anti-Muslim bill” (14 February 2021), <https://www.trtworld.com/europe/protest-in-french-capital-against-anti-muslim-bill-44170>.

²⁹ Commission nationale consultative des droits de l’Homme (CNCDH), “Le respect des libertés fondamentales doit être au cœur du respect des Principes de la République” (4 February 2021), https://www.cncdh.fr/sites/default/files/21.02.04_cp_avis_pjl_principes_de_la_republique.pdf.

³⁰ UN Special Rapporteur on freedom of religion or belief, Countering Islamophobia/Anti-Muslim Hatred to Eliminate Discrimination and Intolerance Based on Religion or Belief, A/HRC/46/30, 25 February 2021.

³¹ UN Special Rapporteur on freedom of religion or belief, Countering Islamophobia/Anti-Muslim Hatred to Eliminate Discrimination and Intolerance Based on Religion or Belief, A/HRC/46/30, 25 February 2021, para. 25.

vague criminal offences such as “separatism” and “condoning terrorism.”³² These offences are accompanied by administrative measures provided in the bill, which grant authorities the right to shut down any places of worship found to spread “ideas or theories that could lead to discrimination against other groups.”³³ A particularly severe measure is the attribution to an association “acts committed by its members and directly related to the activities of that association” and subsequent halting of the association’s activities,³⁴ which goes against basic principles of criminal law. This is all the more dangerous given the existing pressure on Muslims’ right to association, as noted by the UN Special Rapporteur on freedom of religion.³⁵ In general, the law suffers from vagueness, with regard to measures like forcing religious and political associations to sign a contract respecting “Republican values.”³⁶ Such measures are likely to perpetuate the French society’s “wariness” of Muslims, which has been flagged by ECRI to take the form of doubting Muslims’ “capacity to ‘integrate’ and to ‘respect French values’.”³⁷

III. Assessments of Council of Europe Bodies Regarding the Status of Muslims in Europe and France

Extensive research and reports of various international organizations such as United Nations (UN), Council of Europe³⁸ and European Union (EU)³⁹ and Organization for Security

³² <https://www.nytimes.com/2021/02/16/world/europe/france-law-islamist-extremism.html>

³³ <https://www.euronews.com/2021/02/16/here-s-what-you-need-to-know-about-france-s-controversial-separatism-law>

³⁴ <https://www.euronews.com/2021/02/16/here-s-what-you-need-to-know-about-france-s-controversial-separatism-law>.

³⁵ “Restrictions on ability of Muslim communities to establish and maintain appropriate charitable or humanitarian institutions have dramatically increased in recent years.” UN Special Rapporteur on freedom of religion or belief, Countering Islamophobia/Anti-Muslim Hatred to Eliminate Discrimination and Intolerance Based on Religion or Belief, A/HRC/46/30, 25 February 2021, para. 30.

³⁶ <https://apnews.com/article/polygamy-radicalism-secularism-elections-france-cbee2c916aa8c35380562277f0025c2b>

³⁷ ECRI, Report on France (fourth monitoring cycle), 15 June 2010, para. 89, <https://rm.coe.int/fourth-report-on-france/16808b572b>.

³⁸ For an assessment of recent history, see <https://www.coe.int/en/web/portal/-/ultra-nationalism-anti-semitism-anti-muslim-hatred-anti-racism-commission-raises-alarm-over-situation-in-europe>. Various instruments of the Council of Europe on this issue will be considered to below.

³⁹ EU Fundamental Rights Agency (FRA), “Muslims in the European Union: Discrimination and Islamophobia”, https://fra.europa.eu/sites/default/files/fra_uploads/eumc-2006-muslims-in-the-eu-discrimination-and-islamophobia_en.pdf

and Cooperation in Europe (OSCE)⁴⁰ reveal the systematic discrimination, Islamophobia, and hostility aimed at Muslims in France. European Commission Against Racism and Intolerance (ECRI) has noted the intolerance and discrimination that Muslims were subjected to even before the serious increase of hostility against Muslims in Europe following the September 11 attacks. Accordingly, ECRI has outlined various measures to be taken by states that have a Muslim minority in their country with its General Policy Recommendation No. 5, issued in 2000.⁴¹

Islamophobia has also been addressed by the Parliamentary Assembly of the Council of Europe in its 2010 Resolution and Recommendation “Islam, Islamism and Islamophobia in Europe,” which call for measures to be taken in this regard.⁴² The Council of Europe Commissioner for Human Rights has highlighted that exposure to harassment, assault, and hate crimes is part of the daily lives of Muslims in Europe in his comprehensive 2011 report.⁴³ Furthermore, a particularly worrying development in recent years is the increase in far-right terrorist attacks against Muslims.⁴⁴ These problems not only exist in France, but are also further fueled by the discriminatory policies of the French Government as well as the aggressive rhetoric of some politicians.

In contrast to the anti-Muslim stance in France, the vast majority of Muslims in France express their allegiance to the country. According to 2020 statistics, 81 percent of Muslims living in France view French secularism positively, and similar to the statistics of the general French population, 90 percent express that they “love their country” and 82 percent are “proud to be French.”⁴⁵ Unfortunately, discrimination and attacks against Muslims demonstrate that

⁴⁰ OSCE, “Understanding Anti-Muslim Hate Crimes: Addressing the Security Needs of Muslim Communities”, <https://www.osce.org/files/f/documents/9/0/448696.pdf>, p.

⁴¹ ECRI, General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, CRI(2000)21, 16 March 2000.

⁴² Resolution 1743 (2010) of the Parliamentary Assembly of the Council of Europe on Islam, Islamism and Islamophobia in Europe. <http://www.assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-En.asp?fileid=17880&lang=en>; Recommendation 1927 (2010) of the Parliamentary Assembly of the Council of Europe on Islam, Islamism and Islamophobia in Europe. <https://pace.coe.int/en/files/17881/html>

⁴³ Council of Europe Commissioner for Human Rights, Human rights in Europe: no grounds for complacency, 2011, p. 36-39, <https://rm.coe.int/human-rights-in-europe-no-grounds-for-complacency-compilation-of-viewp/16808d2513>.

⁴⁴ Europol’s 2019 report, <https://www.europol.europa.eu/activities-services/main-reports/european-union-terrorism-situation-and-trend-report-te-sat-2020>

⁴⁵ http://www.ipsos.com/sites/default/files/ct/news/documents/2020-01/nous_francais_musulmans-dp-pdf.pdf

the allegiance of the general French Muslim population to France is not reciprocated.

One of the main tasks of ECRI is to provide all the Council of Europe Member States with concrete and practical advice on how to solve the problems of discrimination and intolerance in their countries. Within this scope, ECRI's main activity is to conduct periodic country monitoring. In its report upon monitoring, ECRI identifies the status and development of discrimination and intolerance in the relevant country and provides recommendations.⁴⁶ These reports are crucial in understanding the status of Muslims in the respective countries and are referred to by the European Court of Human Rights.⁴⁷

Discrimination and intolerance against Muslims in France have been on ECRI's monitoring agenda since 1998.⁴⁸ A key theme in ECRI's reports is the role the French Government plays in the targeting of Muslims. Notably, in its 2010 Report on the 4th Monitoring Cycle, ECRI considered Muslims in France as a “vulnerable/target group” and especially warned the French Government to focus on the status of Muslims.⁴⁹ According to ECRI, the main issues were discriminatory regulations and practices against Muslim women wearing Islamic headscarves⁵⁰ and the discriminatory policies concerning Muslims' right to practice their religion, such as the authorities' resistance to issue permits for construction of mosques or allocation of cemeteries⁵¹.

Another vital finding of ECRI in this regard is the impact of political discourse on xenophobia in the French society in general and on hostility to Muslims in particular. In its first monitoring report published in 1998, ECRI noted that the French National Front (*Front*

⁴⁶Committee of Ministers of the Council of Europe, Resolution Res(2002)8 on the statute of the European Commission against Racism and Intolerance, para. 11, <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680973356>.

⁴⁷ See, among others, ECtHR, *Féret v. Belgium* (application no. 15615/07), 16 July 2009.

⁴⁸ See ECRI, First report on France, <https://rm.coe.int/first-report-on-france/16808b5725>; ECRI, Third report on France, <https://rm.coe.int/third-report-on-france/16808b5729>; ECRI, Report on France (fourth monitoring cycle), <https://rm.coe.int/fourth-report-on-france/16808b572b>; ECRI, Report on France (fifth monitoring cycle), <https://rm.coe.int/fifth-report-on-france/16808b572d>.

⁴⁹ ECRI, Report on France (fourth monitoring cycle), paras. 88 et seq.

⁵⁰ ECRI, Report on France (fifth monitoring cycle), paras. 68-72; ECRI, Report on France (fourth monitoring cycle), paras. 61, 93; ECRI, Third report on France, para. 79.

⁵¹ ECRI, Third report on France, para. 124; ECRI, Report on France (fourth monitoring cycle), para. 91. This issue was also addressed in the report of the UN Special Rapporteur on freedom of religion or belief on a visit to France. UN Special Rapporteur on freedom of religion or belief, Addendum 2 to the Report Civil and on Political Rights, Including the Question of Religious Intolerance, E/CN.4/2006/5/Add.4, 8 March 2006, para. 41.

national), one of the most influential far-right political parties in Europe, propagates a racist and xenophobic ideology.⁵² ECRI further concluded that since the 4th monitoring cycle, discrimination and intolerance directed at Muslims in France had been fueled by this political discourse. Accordingly, ECRI found that Muslims were regularly stigmatized by politicians and that hostile and derogatory rhetoric against Muslims escalated during election campaigns.⁵³ The cases highlighted by ECRI are: Marine Le Pen's abuse of "halal meat" distribution for the election campaign is not condemned,⁵⁴ attempts by the UMP party ("*Union pour un mouvement Populaire*," now *Les Républicains*) to create a "French Islam,"⁵⁵ and the call for Islam to be banned in France by the mayor of the city of Venelles⁵⁶. These cases are examples of the French Government's most recent policies regarding Muslims.

ECRI's monitoring has demonstrated that discrimination and intolerance against Muslims in France do not merely constitute a matter between individuals or social segments/groups, but is perpetuated by State policies and political actors. As seen in examples mentioned above, Islamophobia and anti-Muslim discrimination highlighted in ECRI reports are carried out by the current French Government as well; thus signaling a shift in the adoption of such conduct by the right-wing to the center and therefore having much broader impact on society. Accordingly, the French State has a direct obligation to cease and prevent all discriminatory and hostile policies against Muslims, during which it must be closely scrutinized.

IV. Relevant Human Rights Principles and Standards

A. European Human Rights Law

According to Article 1 of ECRI Statute, ECRI is tasked with combating racism, racial discrimination, xenophobia, antisemitism, and all forms of intolerance in light of the European Convention on Human Rights (ECHR) and the jurisprudence of the European Court of human rights (ECtHR), which interprets and implements the ECHR.⁵⁷ In addition to France's

⁵² ECRI, First report on France, p. 5.

⁵³ ECRI, Report on France (fifth monitoring cycle), para. 22; ECRI, Report on France (fourth monitoring cycle), para. 75.

⁵⁴ ECRI, Report on France (fifth monitoring cycle), paras. 22, 38.

⁵⁵ ECRI, Report on France (fifth monitoring cycle), para. 22.

⁵⁶ ECRI, Report on France (fifth monitoring cycle), para. 26.

⁵⁷ ECRI Statute, para. 1.

obligations under the ECHR, ECHR principles and standards are of particular importance to ECRI's cooperation with the ECtHR.⁵⁸

Tolerance, open-mindedness, and freedom of thought, conscience and religion are the main pillars of the European public order. Freedom of thought, conscience and religion also ensures pluralism, which is integral to a democratic society. The main mechanism that guarantees these values is the ECHR, which recognizes freedom of religion as a human right (Article 9). Furthermore, one of the fundamental values of a democratic society is freedom of expression. However, it must be borne in mind that just as this right is enshrined in Article 10 of the ECHR, it may also be limited under the same provision.⁵⁹

It is crucial to address the boundaries of freedom of expression in the context of religious values as attacks on the holiest values of Islam are carried out under the guise of this right. However, as set out in the ECHR and implemented by the ECtHR, freedom of expression is not absolute and it may not be abused. Significantly, the Convention imposes duties and responsibilities on individuals that exercise their right to freedom of expression. This right may be subject to limitations and sanctions to protect the rights of others, morals, national security, public order, and to prevent crime in a democratic society.

In this context, attacks that evoke intolerance towards religions cannot be advocated under freedom of expression. The ECtHR has acknowledged that Islamophobic statements violate fundamental values of the ECHR and that these statements cannot be protected by the Convention.⁶⁰ In particular, attacks on Muslims that associate all members of the Islamic faith with a terrorist attack were found by the ECtHR to be incompatible with the prohibition of discrimination and the notions of tolerance and social peace, which underlie the Convention.

⁵⁸ ECRI, "Annual Report 2019" (March 2020), para. 63, <https://rm.coe.int/ecri-annual-report-2019/16809ca3e1>.

⁵⁹ Article 10 of the ECHR on freedom of expression is as follows:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary for a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

⁶⁰ ECtHR, *Perinçek v. Switzerland* (Application no. 27510/08), 17 December 2013, para. 47.

Accordingly, freedom of expressions may not be invoked to justify such attacks.⁶¹ Similarly, the ECtHR has found the punishment of a publisher of a book containing insults to the Prophet of Islam to be compatible with the Convention.⁶² Although shocking, provocative, and even offensive views are protected under the right to freedom of expression, the ECtHR has ruled that since derogatory statements targeting the Prophet of Islam can be interpreted as unfair attacks against Muslims, States may accordingly take measures.⁶³

When the publication of cartoons of the Prophet of Islam especially by the organs of state and persons representing the state is assessed in line with these principles, it is no doubt that resorting to violence cannot be excused; however, there can be sanctions for these cartoons. Therefore, supporting Charlie Hebdo cartoons by not only drawing or publishing them as individuals, but also projecting them even onto state buildings are attacks aimed at mocking, and they should not be considered as a part of freedom of expression.

As France's policies are put into question in the context of freedom of thought, conscience and religion, the State's duty of neutrality and impartiality comes into play. The duty of neutrality and impartiality prohibit State policies that target specific religions or religious groups.⁶⁴ Furthermore, States cannot question the validity of a religious belief or the manifestation thereof.⁶⁵ The duty of neutrality and impartiality also preclude States from using derogatory statements about a particular religion or belief or their members as, in such a case, the freedom of religion is implicated.⁶⁶ Accordingly, the French authorities targeting Islam or Muslims, dictating how Muslims should manifest their religion and questioning their motivations to do so, and attempting to "structure" Islam through criminal and administrative measures are not permissible go against neutrality and impartiality and therefore, violate Article 9 of the ECHR.

⁶¹ ECtHR, *Norwood v. United Kingdom* (Application no. 23131/03), 16 November 2004. The same principle was reiterated in the Grand Chamber judgment of *S.A.S v. France*. *S.A.S v. France* [GC] (Application no. 43835/11), 1 July 2014, para. 149.

⁶² ECtHR, *İ.A. v. Turkey* (Application no. 42571/98), 13 September 2005.

⁶³ *İ.A. v. Turkey*, para. 29.

⁶⁴ ECtHR, *Bulgarian Orthodox Church "Holy Synod" and others v. Bulgaria* (Application nos. 412/03 and 35677/04), 22 January 2009, para. 139.

⁶⁵ ECtHR, *Eweida and Others v. United Kingdom* (Application nos. 48420/10 and 3 others), 15 January 2013, para. 81.

⁶⁶ ECtHR, *Leela Förderkreis e.V. and Others v. Germany* (Application no. 58911/00, 6 November 2008, paras. 84, 97.

B. ECRI's Approach

ECRI's General Policy Recommendation No. 5 provides measures that Council of Europe Member States with Muslim minorities should take to protect Muslims from intolerance and discrimination. These measures may be summarized as follows:

- Take the necessary steps to eliminate intolerance and discrimination against Muslims in all areas by investigating the extent thereof;
- Ensure the right of Muslims to worship in accordance with the requirements of their faith and in all dimensions of social life;
- Make the necessary educational arrangements to develop a multi-cultural life and to eliminate stereotypes and bias against Muslims;
- Provide guidance to the media and advertising sectors to prevent reinforcement of stereotypes and bias against Muslims;
- Communicate with Muslims in relation to these measures.

It follows from the measures set out in General Policy Recommendation No. 5 that Member States should to effectively combat all forms of anti-Muslim conduct. In addition to enacting laws that would prevent and sanction discrimination and hate crimes, Member States are also expected to the eliminate discrimination regarding access to opportunities such as education and employment.⁶⁷

A significant measure foreseen by ECRI is related to educational efforts. Generally, Member States are expected to achieve cultural pluralism through education in schools and universities. In particular, the history curriculum should not depict Muslims as enemies or a threat by falsifying historical facts.⁶⁸ Concrete steps to be taken in this regard will prevent the transfer of racism and xenophobia to future generations. In this context, French education policies should be reviewed in line with the recommendations of ECRI, education professionals should receive training in line with these considerations, and control and audit processes should be established to prevent provocative educational methods.⁶⁹

⁶⁷ Directorate of Youth and Sport of the Council of Europe, Islamophobia and Its Consequences on Young People, p. 33, <https://rm.coe.int/16807037e1>.

⁶⁸ ECRI, General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, p. 4

⁶⁹ ECRI, General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, p. 5.

Finally, it must be noted that ECRI General Policy Recommendation No. 5 specifically addresses the condition of Muslim women in Europe. In the General Policy Recommendation, ECRI notes that Muslim women are subjected to multiple discrimination (discrimination based on both gender and religion) and accordingly recommends that States “pay particular attention to the situation of Muslim women.”⁷⁰ Similarly, the Parliamentary Assembly of the Council of Europe has drawn attention to the vulnerability of Muslim Women in its Resolution “Multiple discrimination against Muslim women in Europe” and has expressed that “[i]n the Council of Europe member States where Islam is not the religion of the majority of the population, Muslim women are often victims of stereotyping, since their religious beliefs are seen as the only defining element of their identity. ... All too often, political debate and legislative action concerning Muslim women is concentrated on the issues of the headscarf, and even more the integral veil, instead of focusing on non-discrimination and equal opportunities.”⁷¹

“Muslim women are disproportionately targeted in Islamophobic hate crimes, experiencing 90% of such incidents in the Netherlands and 81% in France.”⁷²

Finally, ECRI’s General Policy Recommendation No. 5 recommends that prejudiced conduct that associates Islam with extremism should be combated. In order to attain sustainable peace in Europe, ECRI must scrutinize such Government policies in accordance within ECHR and ECRI principles and standards.

V. Assessment

Islamophobic and anti-Muslim policies and in particular, laws, are grave human rights violations and undermine fundamental democratic values. As explained above, Muslims in France are a vulnerable and marginalized group who have been subject to ongoing discrimination. The recent draft bill for “Reinforcing respect for the principles of the Republic,” which aims to “restructure” Islam through the regulation of personal, religious, social, professional, and political lives of Muslims is incompatible with the values of the Council of

⁷⁰ ECRI, General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, p. 4.

⁷¹ PACE, “Multiple discrimination against Muslim women in Europe: for equal opportunities,” Resolution 1887 (2012), adopted by the Assembly on 26 June 2012 (22nd Sitting), para. 1, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18921&lang=en>.

⁷² UN Special Rapporteur on freedom of religion or belief, Countering Islamophobia/Anti-Muslim Hatred to Eliminate Discrimination and Intolerance Based on Religion or Belief, A/HRC/46/30, 25 February 2021, para. 49

Europe and constitutes a violation of fundamental rights and freedoms, as acknowledged by ECtHR.

It goes without saying that no act of killing, injuring or harming of people can be defended. Any efforts to combat terrorism must incorporate inclusive discourse and policies, with a focus on social peace to eradicate the sources of terrorism. Excluding certain groups and disregarding their voice and values result in further marginalization. Such marginalization may, in turn, cause some individuals, who are prone to manipulation or have psychological problems, to resort to violence and terrorist acts.⁷³

The relationship between exclusionary government policies and radicalization has been addressed by the Council of Europe. Underlining the fact that Muslims are subject to social exclusion, stigmatization, discrimination, and stereotyping in many Council of Europe Member States, the Parliamentary Assembly of the Council of Europe (PACE) has proclaimed that radicalism against Muslim communities and “Islamic” extremism reinforce each other.⁷⁴ Significantly, the Commissioner for Human Rights of the Council of Europe has observed that Muslims are disproportionately impacted by the “US-inspired ‘war on terror’” and has warned States not to combat Islam instead of terrorism.⁷⁵ The Commissioner for Human Rights has advised that such policies would enable far-right political movements to further their xenophobic propaganda, let alone eliminate the actual causes of terrorism.⁷⁶ Accordingly, the Commissioner has proposed that the circumstances exploited by radicals should be identified and eliminated.⁷⁷ Surely, Muslims in Europe are one of the most-discriminated against groups in terms of access to services such as employment, education, and housing.⁷⁸ It is precisely the

⁷³ See, e.g., United Nations Development Programme, *Journey to Extremism in Africa: Drivers, Incentives and the Tipping Point for Recruitment* (2017), <https://journey-to-extremism.undp.org/content/downloads/UNDP-JourneyToExtremism-report-2017-english.pdf>.

⁷⁴ PACE, “Islam, Islamism and Islamophobia in Europe,” Resolution 1743 (2010), adopted on 23 June 2010 (23rd Sitting), para. 1.

⁷⁵ Council of Europe Commissioner for Human Rights, *Human rights in Europe: no grounds for complacency*, p. 36.

⁷⁶ Council of Europe Commissioner for Human Rights, *Human rights in Europe: no grounds for complacency*, p. 36.

⁷⁷ Council of Europe Commissioner for Human Rights, *Human rights in Europe: no grounds for complacency*, p. 32.

⁷⁸ Council of Europe Commissioner for Human Rights, *Human rights in Europe: no grounds for complacency*, p. 38.

negative perception of Muslims in Europe that deny Muslims from fully participating in public life and also reinforces their disadvantages. As pointed out by ECRI member François Sant'Angelo, a significant factor that fuels this perception is the perspective of politicians and the media regarding Muslims.⁷⁹

Individuals who are stigmatized and subject to social exclusion, and who may also suffer from psychological problems may be prone to manipulation and therefore, may resort to religious extremism or terror. Indeed, various studies conducted at different times indicate that there are thousands of militants from European countries who have joined the terrorist organization DAESH. Speaking to BBC on 26 September 2014, Gilles de Kerchove, European Union's Counter-Terrorism Coordinator, stated that the number of Europeans joining the war alongside “Islamist” militants in Syria and Iraq exceeded 3,000.⁸⁰

Despite these realities, provocative policies such as projecting cartoons that insult the Prophet Muhammad on government buildings in response the killing of Samuel Paty⁸¹ are direct attacks on sacred Islamic values which are central to Muslims’ identities. As much as freedom of expression is the fundamental building block of democratic societies, it is not absolute. Freedom of expression may not be abused to express hate speech. Discourses that marginalize vulnerable minorities are not acceptable.

Far from avoiding a provocative approach, plans of President Macron to restructure Islam, his rhetoric that Muslims in France should be “more French,” and the associated governmental measures are incompatible with both *laïcité* (French secularism), a foundational principle of the French State, and the principle of state neutrality and impartiality with regard to religion under the ECHR. States may not structure religions. 1.6 billion Muslims perform their religion as per the Holy Book Qur'an and the Sunnah (teachings) of the Prophet Muhammad. There are extremists and radicals who also happen to be Muslims, just as in all faiths and ideologies. As outlined in ECRI General Policy Recommendation No. 5, Islam cannot be equated with any

⁷⁹ François Sant'Angelo, “The council of Europe and the work against Islamophobia: Existing instruments and standards” in: Council of Europe, *Islamophobia and Its Consequences on Young People*, 2006, p. 33-34, <https://rm.coe.int/16807037e1>.

⁸⁰ BBC, “More than 3,000' Europeans with IS, says EU chief” (26 September 2014), <https://www.bbc.com/news/av/world-29373908>

⁸¹ Anthony Cuthbertson, “Charlie Hebdo Muhammad cartoons projected onto government buildings in defiance of Islamist terrorists” (23 October 2020), <https://www.independent.co.uk/news/world/europe/charlie-hebdo-cartoons-muhammad-samuel-paty-teacher-france-b1224820.html>.

kind of extremism that condones violence. In this context, it should be emphasized that anti-Islam conduct and government policies have been recognized as very concerning developments by the ECtHR. With regard to the French law “prohibiting the concealment of one’s face in public places” which aims to ban the wearing of garments like the burqa and niqab in public, the ECtHR has emphasized that “Islamophobic remarks marked the debate” during the adoption process of the said law. The ECtHR has also underlined that such laws could further contribute to the “consolidation of the stereotypes that affect certain categories of the population” and that the State risks further encourage intolerance, contrary to its duty to promote tolerance.⁸² In this context, the ECtHR has ruled that “general, vehement attack[s]” on specific religious groups are incompatible with the fundamental values of Council of Europe Member States, namely tolerance, social peace, and non-discrimination, and are not protected under the right to freedom of expression.⁸³ Accordingly, the French government’s policies and laws that target Muslims are in violation of the ECHR.

Combating extremism and terrorism is both a natural right and a duty of Governments, which many all over the world are exercising. However, extremism and terrorism cannot be eradicated solely through security measures. An effective fight against extremism and terrorism requires a strong justice system that strikes the right balance between security and freedom and respects human rights. Furthermore, the adoption of anti-terrorism laws must be grounded in the rule of law. Terrorism can only be prevented through the protection human rights and freedoms. Thus, as stated by the UN Special Rapporteur on the Development and Protection of Fundamental Rights while Countering Terrorism, French authorities should prevent stigmatization and stereotyping of Muslim communities whose fundamental rights and freedoms are violated by anti-terrorism and anti-radicalization measures, while also working in “genuine partnership” with Muslims.⁸⁴

Accordingly, the arbitrary closing or banning of Muslim organizations and places of worship by the French Government will not contribute to the fight against radicalization. On

⁸² ECtHR, *S.A.S v. France* [GC] (Application no. 43835/11), 1 July 2014, para. 149.

⁸³ ECtHR, *S.A.S v. France* [GC] (Application no. 43835/11), 1 July 2014, para. 149.

⁸⁴ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Visit to France, 8 May 2019, A/HRC/40/52/Add.4, paras. 50, 57.

the contrary, it will further marginalize Muslims. As French Senator Nathalie Goulet has put it so well, radicalization mostly happens in prisons, not mosques; “all young radicalised people have in common is their weak understanding of the religion.”⁸⁵ Therefore, the French Government’s unlawful and disproportionate interferences with Muslim places of worship undermine the very institutions that can help prevent and eradicate radicalization.

The latest developments in France demonstrate that Muslims’ right to access to remedies and freedom of associations, which would ensure their representation, are also increasingly restricted. In October 2020, the NGO “Collective Against Islamophobia in France” (*Collectif contre l’islamophobie en France* - CCIF) was forced to dissolve itself due to the threats it received from the Ministry of Internal Affairs, despite the fact that there was no legal basis to shut down the organization.⁸⁶ Forcing the arbitrary closure of a legitimate non-governmental organization that documents discrimination and attacks against Muslims,⁸⁷ provides legal support to Muslim victims,⁸⁸ and does work like submitting shadow reports to institutions such as OSCE⁸⁹ and ENAR,⁹⁰ not only goes against the French Government’s efforts to eliminate hostility to Muslims, but also prevents Muslims from exercising their right to organize and to peacefully rectify their victimization. In fact, putting such restrictions on civil society may further marginalize and radicalize certain individuals, which France aims to eradicate.

⁸⁵ Karen Allen, “French Muslims fear state aims to control their faith” (23 August 2016) <https://www.bbc.com/news/world-europe-37155043>.

⁸⁶ <https://www.euronews.com/2020/10/19/france-beheading-minister-wants-to-dissolve-islamic-ngos-after-murder-of-teacher-samuel-pa>; <https://www.islamophobie.net/les-nombreuses-contre-verites-sur-le-ccif/>. Although the Collective Against Islamophobia had already dissolved itself on 27 November 2020, the Council of Ministers of France dissolved the NGO on 2 December 2020. Le Figaro, “Le CCIF officiellement dissout par le Conseil des ministres” (2 December 2020), <https://www.lefigaro.fr/flash-actu/dissolution-du-ccif-par-le-conseil-des-ministres-20201202>.

⁸⁷ See, e.g., Collectif Contre L’islamophobie en France (CCIF), “Islamophobia in France: Report into the year 2019” (2020), p. 41-46, <https://web.archive.org/web/20201126182527/https://www.islamophobie.net/en/rapport-2020/>. CCIF’s online platform “HATEMETER” (“Hate Meter”) was funded by the EU Commission and aimed to combat anti-Islamic content on social media. The platform is an online instrument designed to help researchers and actors on the ground (such as NGO operators, researchers, moderators) to analyze and combat anti-Muslim speech online. CCIF, “Islamophobia in France: Report into the year 2019,” p. 48.

⁸⁸ <https://web.archive.org/web/20200726105407/http://www.islamophobie.net/en/notre-action/>.

⁸⁹ Collectif Contre L’Islamophobie en France, Contribution to the Conference on Tolerance and Non-Discrimination, 2010, <https://www.osce.org/files/f/documents/b/6/68920.pdf>.

⁹⁰ Collectif Contre l’Islamophobie en France, “Le racisme et les pratiques discriminatoires qui y sont associées: France,” ENAR Shadow Report 2011-2012, <http://web.archive.org/web/20160303232306/http://cms.horus.be/files/99935/MediaArchive/publications/shadow%20report%202011-12/France%20-%20unedited.pdf>.

When governments target, generalize about, and disproportionately limit the human rights of members of a certain faith under the guise of combatting terrorism, they are actually implementing discriminatory, racist, and hostile policies against that group. Accordingly, hostile policies and rhetoric of politicians, and especially the French President, will likely further the divide between Muslims and the rest of the society. Indeed, since hostility to Islam has become a part of mainstream politics, racist and hateful attacks against Muslims have gained ground. Recent examples are the stabbing of two women wearing headscarves near the Eiffel Tower by people shouting “dirty Arabs” and “this is not your home”⁹¹ and the attack threats directed at mosques in Bordeaux and Beziers⁹².

VI. Conclusion and Recommendations

The positive influence of the Islamic civilization on Europe is a historical reality recognized by the Council of Europe, among others. As noted by the Parliamentary Assembly of the Council of Europe, not only are most Europeans unaware of this influence, but Islam is demonized in the eyes of the public by misleading and faulty policies.⁹³ Although the Parliamentary Assembly has called on Member States to create awareness in this regard as well as to eliminate prejudices and fundamentalism,⁹⁴ unfortunately, the current state of affairs is far from this ideal.

As representatives of Muslims living in different parts of the world, we are striving to build a culture of equality, justice, and coexistence. As non-governmental organizations, we are working towards our democratic rights. As the signees of this report, we reject discrimination based on religion, race or affiliation. The marginalization suffered by Muslims today will be directed at other groups in the future. When intolerance is embedded in daily politics, it divides

⁹¹ <https://www.france24.com/en/live-news/20201022-two-french-women-charged-over-racist-stabbing-of-veiled-muslim-women>.

⁹² <https://fr.reuters.com/article/us-france-security-mosks/mosques-in-two-french-cities-under-police-protection-after-threats-idUSKBN2761EU>.

⁹³ PACE, “Contribution of Islamic Civilization to European Culture,” Recommendation 1162 (1991), 19 September 1991, paras. 4, 6, <https://pace.coe.int/en/files/15196/html>.

⁹⁴ PACE, “Contribution of Islamic Civilization to European Culture,” para. 11.

societies. We believe that the Council of Europe and its bodies are among the most effective institutions that can put a halt to such policies. Hence, as per the right of non-governmental organizations to apply to ECRI under the ECRI Statute⁹⁵ and ECRI's duty to cooperate with civil society,⁹⁶ we present our recommendations on measures to be taken against discriminatory and hostile policies of the French Government against Muslims.

France must be reminded of the fact that “the peaceful coexistence of religions in a pluralistic society is founded upon respect for equality and for non-discrimination between religions in a democratic state with a clear separation between the laws of the State and religious precepts”⁹⁷ and that it must structure policies accordingly. We fear that hostility to Islam and Muslims in Europe, reflected in policies of the French Government, is a threat that will span many countries and longer periods, while paving the way for religious extremism. Therefore, we call on ECRI to urgently take the following steps and any other steps it may deem appropriate to eliminate the aforementioned issues and risks.

Islamophobia and anti-Muslim conduct should be recognized as forms of racism. In addition to eradication of religious discrimination, combating racial discrimination is also of vital importance to Muslims. Islamophobia is indeed a form of racism.⁹⁸ ECRI has considered religious discrimination as a form of racism in the “General Policy Recommendation No. 7 on National Regulations to Combat Racism and Racial Discrimination.”⁹⁹ Recently, the influential “Black Lives Matter” movement has motivated European States to scrutinize anti-Black racism.¹⁰⁰ It must be borne in mind that intolerance and discrimination against Muslims are often intertwined with racism and that a significant proportion of Muslims in France are black, thereby subjecting them to intersectional discrimination. As emphasized above, visibly Muslim

⁹⁵ ECRI Statute, para. 6(4).

⁹⁶ ECRI Statute, para. 13.

⁹⁷ ECRI, General Policy Recommendation No. 5: Combating intolerance and discrimination against Muslims, p. 3.

⁹⁸ Ed. Narzanin Massoumi, Tom Mills, David Miller, *What is Islamophobia? Racism, Social Movements and the State*, London: Pluto Press, 2017.

⁹⁹ “‘racism’” shall mean the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons or the notion of the superiority of a person or a group of persons.” ECRI, General Policy Recommendation No. 7: National Legislation to Combat Racism and Racial Discrimination, CRI(2003)8 REV, para. 1(a).

¹⁰⁰ https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/black-lives-matter-europes-anti-racism-moment-european-policy-centre-keynote-address-16-july-2020_en

women in particular suffer from discrimination. Therefore, anti-Muslim discrimination, as recognized in European Union law, should also be adopted by ECRI as a form of racism.¹⁰¹

ECRI must go beyond relying on government sources and incorporate civil society input in assessing hate crimes and hate speech-based attacks. As reflected in the final report of the 5th monitoring cycle, the French Government did not improve its policies to combat hate speech and discrimination against Muslims. Yet, ECRI merely made use of official statistics showing that attacks on Muslims had decreased in comparison to the previous monitoring cycle. Therefore, hostile and discriminatory conduct and policies affecting Muslims were not examined.¹⁰² This is very problematic as in reality, the number of hate crimes is much higher than that of the reported hate crimes.¹⁰³ The European Network Against Racism (ENAR) has demonstrated that Muslim women in particular are hesitant to report attacks or discrimination.¹⁰⁴ Accordingly, we recommend that ECRI not confine itself to official sources, but build stronger relations with civil society (particularly Muslim civil rights organizations) in France and adopt a shadow reporting system like that of the UN Treaty Bodies. In this context, shadow reporting to ENAR is a good example.¹⁰⁵

ECRI must call on the French Government to halt its anti-Muslim policies and to take concrete steps to eliminate intolerance and discrimination against Muslims. In particular, ECRI must recognize Muslims in France as a vulnerable group in the final report of the 6th monitoring cycle. First and foremost, ECRI must demand that the French Government immediately cease all hostile or discriminatory policies concerning Muslims, in particular those

¹⁰¹ See OIC Independent Permanent Human Rights Commission, “Islamophobia: A Human Rights Violation and a Contemporary Manifestation of Racism” (İstanbul Declaration), October 18, 2019, https://www.oic-iphrc.org/en/data/docs/seminars/3_3_9401.pdf.

¹⁰² ECRI, “Conclusions on the Implementation of the Recommendations in Respect of France Subject to Interim Follow-Up” (5 March 2019), <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7d>.

¹⁰³ OSCE, “Hate crimes against Muslims,” (22 February 2018), p. 3, https://www.osce.org/files/f/documents/1/6/373441_1.pdf; OSCE, “Understanding Anti-Muslim Hate Crimes Addressing the Security Needs of Muslim Communities,” (15 May 2020), p. 2, <https://www.osce.org/files/f/documents/9/0/448696.pdf>.

¹⁰⁴ “In the case of hate crime, cases are not often registered as proper complaints (France).” European Network Against Racism (ENAR), “Forgotten Women: The impact of Islamophobia on Muslim Women” (2016), p. 9, https://www.enar-eu.org/IMG/pdf/forgottenwomenpublication_lr_final_with_latest_corrections.pdf.

¹⁰⁵ “ENAR’s yearly shadow reports on racism in Europe have provided evidence of discrimination and stigmatisation of Muslims and in particular as the result of hate crime, racial profiling, counter-terrorism policies, discriminatory laws preventing access in some areas of life like education and employment, and populist discourses by politicians and in the media.” ENAR, “Forgotten Women: The impact of Islamophobia on Muslim Women,” p. 11.

adopted under the pretext of combating terrorism or extremism. Specifically, ECRI must urge the French Government to withdraw the bill for “Reinforcing Republican Principles.” Second, before the 6th monitoring cycle is concluded, ECRI must provide necessary guidance to the French Government and where appropriate, specify certain measures to be taken (e.g. investigations, research) by the Government in order to eradicate the structural problems that exclude Muslims from professional, political, social, and academic life, as well to effectively combat hate speech and crimes that involve violence, in accordance with the French Government’s obligation to ensure tolerance and pluralism. Regrettably, ECRI did not consider hate speech and crimes against Muslims in France as a pressing issue in the final report of the 5th monitoring cycle. The Government’s response to hostile, intolerant, and discriminatory policies and conduct affecting Muslims in France were not assessed in the follow-up report to the final report of the 5th monitoring cycle either, unlike other groups subject to similar treatment, which were in fact, addressed by the French Government.¹⁰⁶ In this context, we welcome ECRI’s plans to update its general recommendations on combating intolerance and discrimination against Muslims in its “Roadmap to Effective Equality,” published in 2019.¹⁰⁷ Accordingly, we recommend that ECRI include the following in the final report of the 6th monitoring cycle regarding France:

- the need to immediately and effectively address increasing threats against Muslims;
- concrete steps to be taken to cease and prevent all anti-Muslim policies and conduct, respectively;
- recognize Muslims in France as a vulnerable group, just as it had done at the end of the 4th monitoring cycle.

Finally, **ECRI must ensure diverse participation of Muslim civil society in all its activities.** Sufficient representation and active participation of Muslim communities in decision-making processes is crucial. Recent developments in France clearly demonstrate that Muslims’ right to organize and to participate in civil society, which enable representation and

¹⁰⁶ ECRI, “Conclusions on the Implementation of the Recommendations in Respect of France Subject to Interim Follow-Up” (5 March 2019), <https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7d>.

¹⁰⁷ ECRI, “Roadmap to Effective Equality” (27 September 2019), para. 8, <https://rm.coe.int/ecri-roadmap-final-version-/168097e13d>.

recourse to remedies, have been severely restricted. Rather than eradicating radicalism, this approach may actually further marginalize some individuals and therefore, act as a catalyst in their radicalization. In this regard, we recommend that ECRI strengthen the “Working Group on Combating Intolerance and Discrimination against Muslims,”¹⁰⁸ increase communication and cooperation with civil society and ensure that Muslim communities can effectively and meaningfully participate in ECRI’s work relating to Muslims. Finally, it must be noted that cooperation with other human rights bodies is essential to ECRI’s activities. Accordingly, we welcome the “Special Representative on Anti-Semitic, Anti-Muslim and other forms of religious intolerance and hate crimes”¹⁰⁹ appointed by the Secretary-General of the Council of Europe and look forward to ECRI’s cooperation and coordination with the Special Representative to eradicate intolerance and discrimination against Muslims in France and beyond.

We respectfully submit our evaluations to ECRI, which is dedicated to the protection and promotion of human rights, equality, democratic values, and the rule of law.

¹⁰⁸ <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/-/ecri-working-group-holds-consultations-with-civil-society-organisations-about-anti-muslim-racism>

¹⁰⁹ <https://rm.coe.int/07102020-mandate-srsg-on-antisemitic-and-anti-muslim-hatred-and-hate-c/16809fdc58>