European Court of Human Rights

Application N° 38506/23 – F.D. and I.M. v France
and 3 other applications

Third Party intervention by the Human Rights Centre of Ghent University[1]

In this intervention, the Human Rights Centre of Ghent University, joined by prof. Stéphanie Hennette-Vauchez (Université Paris Nanterre) wants to draw the attention of the Court to three themes that we consider to be of particular salience to the case of F.D. and I.M. v France.

In the **first** place (section 1) we point out that the most recent restriction of religious freedom by the Conseil d'Etat is not in line with other such restrictions as have been previously tolerated by your Court as pertaining to the state's margin of appreciation. Instead, it is an **unprecedented rights-restrictive interpretation, that the Court should approach with caution**.

Next, we argue (section 2) that whenever a rights-restrictive measure has a **particular impact on a marginalized minority**, the Court needs to **carefully scrutinize the invoked aim of the measure as well as its proportionality.** We make several **suggestions** in this regard that respect the Court's chosen subsidiary role as they are **based on process-based review.**

Finally, we draw the attention of the Court to the **disproportionate impact of the measure at issue in this case on women and girls who wear a hijab**. We support our argument with evidence that other types of religious expressions are widely tolerated on the football field. We ask the Court to examine the case as a matter of indirect intersectional and gender discrimination.

[1] For this intervention, the team consisted of Dr. Cathérine Van de Graaf, Prof. Eva Brems and Prof. Stéphanie Hennette-Vauchez (Université Paris-Nanterre).

1. The neutrality of private individuals and French *laïcité*

Your Court has ruled that bans on religious dress that apply to "simple citizens"[2] constitute a disproportionate infringement on religious freedom. In that light the present case calls for critical scrutiny. The requirement of religious (as well as philosophical, political…) neutrality at stake in *F.D. and I.M. v. France* may, at first sight, appear to be but one of numerous comparable ones that have blossomed and multiplied over the past 20 years in French law. We submit that, rather, ***the neutrality rule elaborated by the Fédération française de football (FFF) is a decidedly different kind of restriction to religious freedom. In our view, it should therefore not automatically fall within the margin of appreciation this Court has recognized to State traditions of laïcité and religious neutrality.***

1.1. 'Individual' neutrality in French law before the present case

Far from being associated with the historical « republican tradition » of *laïcité* – which is often considered to date back to the 1879-1901 laws on school *laïcité* as well as the 1905 Act on the separation of Churches and the State[3] –, requirements of religious neutrality weighing on private individuals are a recent development of French law. The only obligations of religious neutrality that stemmed from the principle of *laïcité* as it was understood and interpreted at the end of the 19th century and for most of the 20th century were obligations which weighed in public authorities only. Civil servants and public agents[4], as well as official buildings as embodiments of the State[5], were subjected to strict rules of religious neutrality. Private individuals, by contrast, retained both their freedom of expression and freedom of religion[6] – only subject to those limitations called for by the preservation of public order (*ordre public*), to the extent that significant and proven risks thereto could be established.

Against that historical background, several legal reforms which have taken place since the beginning of the 21st century have altered this understanding of *laïcité*, by reading it as a principle susceptible of generating obligations of religious neutrality weighing on private

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[2] ECHR, 23 February 2010, *Ahmet Arslan and others v. Turkey,* n° 41135/98, §48 : « Dans son évaluation des circonstances de l'affaire, la Cour relève d'abord que les requérants sont de simples citoyens : ils ne sont aucunement des représentants de l'Etat dans l'exercice d'une fonction publique ; ils n'ont adhéré à aucun statut qui procurerait à ses titulaires la qualité de détenteur de l'autorité de l'Etat. Ils ne peuvent donc être soumis, en raison d'un statut officiel, à une obligation de discrétion dans l'expression publique de leurs convictions religieuses. Il en résulte que la jurisprudence de la Cour relative aux fonctionnaires (par exemple, mutatis mutandis, Vogt c. Allemagne, 26 September 1995, § 53, série A no 323, et Rekvényi c. Hongrie [GC], no 25390/94, § 43, CEDH 1999-III) ou en particulier aux enseignants (Dahlab c. Suisse (déc.), no 42393/98, CEDH 2001-V, Kurtulmuş c. Turquie (déc.), no 65500/01, CEDH 2006-II) ne peut s'appliquer en l'espèce ».

[3] See, among other references : Gwénaële Calvès*, La laïcité*, La Découverte, 2022 ; Stéphanie Hennette Vauchez, *Laïcité*, Anamosa, 2023.

[4] CE, 8 December 1948, *Dlle Pasteau*, n° 91406 ; 3 mai 1950, *Dlle Jamet*, n° 98284 ; CE, avis, 3 mai 2000, *Mlle Marteaux,* n° 217017 ; and now a legislative principle : Art. L. 121-2 Code général de la fonction publique.

[5] CE, 27 July 2005, Cne de Ste Anne, n°259806 and Art. 28 of the Law of 9 December 1905.

[6] Art. 10 of the 1789 Declaration on the Rights of Man and the Citizen: « No one may be disturbed on account of his opinions, even religious ones, as long as the manifestation of such opinions does not interfere with the established ordre public » ; article 1 of the 1958 Constitution : « France shall be an indivisible, secular, democratic and social Republic. It shall ensure the equality of all citizens before the law, without distinction of origin, race or religion. *It shall respect all beliefs*. It shall be organised on a decentralised basis » (emphasis added).

individuals. The 2004 Act prohibiting public school students from wearing religious signs and garb through which they conspicuously manifest their religious beliefs was the first law to concretize this new interpretation of *laïcité*. Subsequent developments include the 2010 Act prohibiting the concealment of the face on public space (also known as the "burqa ban") and the 2016 Act allowing private companies to implement religious neutrality policies in their bylaws. Contrary to the 2004 Act, none of these later developments explicitly refer to the principle of *laïcité* – but it loomed large in the making of both these legislative interventions. More recently, the 2021 Act *confortant les principes de la République* subjected all employees of private companies who are contractually associated with public services to an obligation of "neutrality and *laïcité*" – regardless of their employment contracts being governed by private (civil) law.

Until the Conseil d'Etat's ruling in this case, French case-law accepted obligations of religious neutrality weighing on private individuals only when these were based on a special legislative Act. Concretely, the Conseil d'Etat has judicially amended or struck down administrative measures subjecting categories of individuals other than public school students to religious neutrality inside and around schools, or prohibiting specific forms of swimwear in swimming pools as well as any kind of religious accommodation in public school canteens[7]. French courts have clarified that the constitutional principle of *laïcité* is not synonym of individuals' religious neutrality. In fact, Article 1 of the 1905 Act on the separation of Churches and the State – the Act that is often considered to be the source of the French republican tradition of *laïcité* – makes it an obligation of the Republic to "guarantee" the "freedom of worship, limited only by [the following rules] in the interest of public order". Against this background, recent bans and restrictions should be read as exceptions to a liberal rule rather than as the rule itself; "the political or religious expressions of users of a public service can never be prohibited as such, but only insofar as and insofar as they have the effect of compromising the normal operation of the public service or infringing the rights of third parties"[8].

Among the existing legislative Acts authorizing restrictions to the expression of religious beliefs in the name of "*laïcité*" or "neutrality", two have been considered by your Court as compatible with requirements under the European Convention on Human Rights, due to the necessary leeway awarded to national decision-makers in matters pertaining to the relationship between the State and religions[9], the imperatives of *laïcité* in schools and the ensuing margin

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[7] For rules of neutrality applying beyond public school students : Conseil d'Etat, Etude demandée par le Défenseur des droits, 19 December 2013 ; for menus in public school canteens : Conseil d'Etat, 11 December 2020, n°426483 ; for swimwear in municipal swimming pools : Conseil d'Etat, réf., 21 June 2022, n°464648 (surely the ruling ultimately declared the city of Grenoble decision to allow burkinis illegal. However, this is due to the high court insisted that operators of public services (here, swimming pools) were allowed, "in order to satisfy the general interest in ensuring that the greatest possible number of users have effective access to the public service", to "take account of certain specific features of the public concerned". In particular, the Conseil d'Etat ruled that "the principles of *laïcité* and neutrality of the public service do not in themselves prevent such specific features from corresponding to religious convictions". it also ruled that the "adaptations" granted by the impugned bylaws were framed in such form that they ran the risk of hindering the "smooth running of the service").

[8] Clément Malverti, conclusions sur CE, 29 juin 2023, *Association Alliance citoyenne et autres*, n°458088.

[9] ECHR, (dec), 30 June 2009, *Aktas v. France*, n° 43563/08 : « Lorsque se trouvent en jeu des questions sur les rapports entre l'Etat et les religions, sur lesquelles de profondes divergences peuvent raisonnablement exister dans une société démocratique, il y a lieu d'accorder une importance particulière au rôle du décideur national »

of appreciation[10], as well as the preservation of the rights of others[11]: the 2004 Act for public schools (all signs that conspicuously express religious beliefs), the 2010 Act for public spaces (‘burqa ban’). At the same time, and precisely because they have until recently been barred by national jurisdictions, your Court has not yet ruled on any individual neutrality requirement not based on a legislative Act. We argue that the Court should be very reticent to uphold any such requirement.

1.2. An unprecedented rights-restrictive interpretation

In the present case, however, the impugned rule of neutrality has not been authorized by the legislator. It therefore constitutes the first and only case in which such a broad infringement on religious freedom – one that results in prohibiting private individuals engaging in sports practice as licensees of an official sports federation– results from the internal rule of a private organization. Surely, the Conseil d’Etat has relied on the legal fact that the Fédération française de football is not merely a private entity, but also one that has been conferred a mission of public service – that of organizing official competitions. As a result, the Conseil d’Etat views those decisions made by sports federations in relation to their public service mission as decisions expressing public law prerogatives (*prerogatives de puissance publique*) – and therefore, as administrative acts that only administrative courts can review[12]. Contrary to the opinion of its own rapporteur public, the Conseil d’Etat has thus ruled that the impugned rule of neutrality decided by the FFF to be applicable to all licensees could be upheld on the grounds that it was necessary to both the smooth operation of the public service endowed to the FFF and the preservation of the rights and freedoms of others[13]. While at first sight, this rule – and its upholding by the Conseil d’Etat – merely seems to align the public service of soccer competitions and games with the public service of education, the legal reality is deeply different. In the latter case (public schools), it is the legislator who has determined the rule; whereas in the former (FFF), it is a private entity. Surely, it is only by insisting that the said entity had a mission of public service that the Conseil d’Etat upheld the rule. Notwithstanding, no other public service is validly governed by a rule of religious neutrality pursuant only to vague considerations such as the “smooth operation” of the said service or the rights and freedoms of others[14]. In other words, ***the normative outcome is truly a novelty: the reference***

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[10] les impératifs de la laïcité dans l'espace public scolaire », « Eu égard à la marge d'appréciation qui doit être laissée aux Etats membres dans l'établissement des délicats rapports entre l'État et les églises, la liberté religieuse ainsi reconnue et telle que limitée par les impératifs de la laïcité paraît légitime au regard des valeurs sous-jacentes à la Convention » : ECHR, 4 December 2008, *Dogru* and *Kervanci v. France*, n° 31645/04 and 27058/05.

[11] ECHR, GC, 1 July 2014, *SAS v. France*, n°*43835/11*, §121 : “the Court finds, by contrast, that under certain conditions the “respect for the minimum requirements of life in society” referred to by the Government – or of “living together”, as stated in the explanatory memorandum accompanying the bill (see paragraph 25 above) – can be linked to the legitimate aim of the “protection of the rights and freedoms of others”.

[12] CE, 15 March 2023, *Ligue de Billard d’Ile-de-France et autres,* n° 466632.

[13] CE, 29 June 2023, n° 458088, 459547, 463408.

[14] CE, 29 June 2023, n° 458088, 459547, 463408 : pt 12 : « l’interdiction du “port de signe ou tenue manifestant ostensiblement une appartenance politique, philosophique, religieuse ou syndicale”, limitée aux temps et lieux des matchs de football, *apparaît nécessaire pour assurer leur bon déroulement* en prévenant notamment tout affrontement ou confrontation sans lien avec le sport. Dès lors, la Fédération française de football pouvait légalement, au titre du pouvoir réglementaire qui lui est délégué

to laïcité is not only very broad in that it serves a general restrictions of licensees' religious freedom, it is also extremely remote – for it rests on a far-fetched necessity of smooth operation of an all-encompassing mission of public service and very much at odds with other existing comparable restrictions on religious neutrality under French law, for which vague references to the public service do not suffice and legislative interventions were deemed necessary.

1.3. Context matters

We respectfully submit that the present case offers an opportunity to the Court to halt this problematic expansion of understandings of *laïcité* that contradict the right to religious freedom and in particular, the right "to manifest [one's] religion or belief, in worship, teaching, practice and observance", "either alone or in community with others and in public or private" (Article 9 ECHR). We also submit that it is all the more ***crucial to define the limits applicable to bans on religious expression*** that have come to constitute one of the most active forms of legal echo to the political rise of Islamophobia. Your Court has already expressed concern for this phenomenon – such as in its 2014 *SAS v. France* ruling, when it emphasized "that a State which enters into a legislative process of this kind takes the risk of contributing to the consolidation of the stereotypes which affect certain categories of the population and of encouraging the expression of intolerance, when it has a duty, on the contrary, to promote tolerance"[15]. In fact, the specific timeline of the emergence of anxieties related to the expression of religion in sports, strengthens this necessity. For here again, there is no tradition of legal rules prescribing religious neutrality in sports in French law; rather, the issue only emerged recently in reaction, first, to the 2012 International Football Association Board's decision to allow the wearing of the hijab during official competitions and, second, to the post-2015 terrorist attacks that grieved France all-round anxiety towards signs of religious radicalization. In other words, it is respectfully submitted that, rather than it has to do with the French republican and constitutional tradition of *laïcité*, the present case echoes the broader problematic of Islamophobia that France is not sole to experience.

2. Aim and proportionality

The rule that is at stake in the present case came about in a context characterized by Islamophobia. As explained above, it is not a regular application of the French tradition of *laïcité*, but a novel expansion of it, that strongly reduces individual freedom, especially for Muslim women and girls who choose to wear a hijab. It was approved by the Conseil d'Etat against the advice of its rapporteur public, who formulated a stern warning against engaging in this type of interpretation which in his view risks leading to developments that would be 'profoundly contradict the liberal requirement to preserve the autonomy of the person, i.e. the

pour le bon déroulement des compétitions dont elle a la charge, édicter une telle interdiction, qui est adaptée et proportionnée » (emphasis added).

[15] ECHR, GC, 1 July 2014, *SAS v. France*, n°*43835/11*, §149.

right for each individual to choose and to express freely the truth that orients their life, as long as they do not infringe on the rights of others'.[16] Testifying to the strongly polarised environment in which the judgment was issued, the Conseil d'Etat issued a press release denouncing the massive expressions of hate against its institution and its rapporteur public, as a result of the latter recommending to quash the ban on religious sings in football.[17]
Whenever a rights-restrictive measure has a particular impact on a marginalized minority, a human rights court needs to be particularly alert and equip itself with the tools that allow it to carefully scrutinize the invoked aim of the measure as well as its proportionality.

2.1. **Legitimate aim**

We submit that one of the tools to be used by your Court in examining cases that particularly affect marginalized minorities, is the thorough scrutiny of the invoked aims of the restrictive measure, and the pertinence of the restrictive measure with regard to these aims.
The stated aim behind the rule banning religious signs from French football fields, is the need to ensure "that the matches run smoothly, in particular by preventing any confrontation or confrontation unrelated to sport". We submit that it would be appropriate for your Court to consider to what extent a concrete risk of such conflicts occurring has been established. An illusory or hypothetical risk that lies outside the power of the individual cannot be used to curtail an individual's rights. ***The need to concrete establish the existence and seriousness of the problem that is addressed by a restrictive measure*** was aptly expressed by Judges Spanó and Karakaş in their concurring opinion in *Belcacemi and Oussar v. Belgium,*[18] where they stated that "an aim which is invoked as a basis for restricting human rights and which is in fact based on an ephemeral majority conception of what is proper and good, without the majority being required to define concretely the harm or evils which clearly need to be remedied, cannot in principle form the basis for justifiable restrictions on the rights guaranteed by the Convention in a democratic society" (own translation and underlining). When it comes to hijabs in football, the fact that FIFA lifted its ban on headgear for players in 2015 – precisely on account of its discriminatory impact on Muslim women and girls – is significant to suggest that the need for such a ban is not widely shared and may not be easy to establish.
Before accepting that a ban on religious signs in a sports context, we therefore submit that it is vital for the Court to rely on evidence that suggests that there is a serious problem of persons wearing such signs causing confrontations during matches. Self-evidently, any conflicts caused by islamophobia or other types of hatred cannot be ascribed those who are targeted thereby.

[16] CE Nos 458088, 459547 en 463408, Conclusions de M. Clément Malverti, Rapporteur public, p 28.
[17] Conseil d'Etat (Fr), Communiqué de presse, 'Le Conseil d'Etat dénonce les attaques ayant visé la jurisdiction administrative et tout particulièrement un rapporteur public', op www.conseil-etat.fr/actualites.
[18] ECtHR,11 July 2017, No. 37798/13, Belcacemi and Oussar v Belgium (concurring opinion Judges Spano and Karakaş).

2.2. Proportionality

In addition, we submit that – especially in examining cases that particularly affect marginalized minorities – it is important for your Court to carefully scrutinize the proportionality assessment undertaken by the relevant national authorities.

One element in this regard is the question ***whether the national authorities who adopted the restrictive measure, have adequately considered alternative measures that do not interfere with individual freedoms or that do so to lesser extent***.

When it comes to football, it is important to note that this is a game that is riddled by small altercations and – quite often – even violent conflicts between players.[19] For such instances, an intervention by the referee is always deemed sufficient. If players behave in a way that is considered unacceptable within the framework of the rules of the game, the referee has the possibility to intervene and respond immediately and preventively or punitively suspend that player from the next game. To deal with further consequences or suspensions from future games in order to avoid similar confrontations from occurring, the disciplinary committee of the respective foundation will come in. In these instances, even when there is an established pattern of certain players engaging in confrontational behaviour over and over again, they are not permanently excluded from participating in football competitions. Yet, this is the effect of a measure that preventively bans religious signs to avoid confrontations: *hijabi* women are pre-emptively banned from participating in football games. It is unclear why such a far-reaching and pre-emptive ban is adopted given that a less restrictive alternative was not difficult to find. If the aim behind the measure is indeed to avoid conflicts on the football field, a suitable means to achieve this aim is available to the referee in the Rules of the Game.[20] Under the umbrella of subsidiarity, your Court's process-based less restrictive means test would require that national authorities investigate and justify why the existing regulation in place to ensure the smooth running of football games would not be sufficient in the case at hand. It is important to mention that in all cases where a confrontation is instigated by a prejudiced player or other third party, the referee should remove this actor from the field rather than the player who is subjected to it. If not, they would fail their obligation equally included under Article 1 in the Statutes of the French Football Federation to "prevent any discrimination or attack on the dignity of a person which and must implement means to prevent any discrimination or attack on the dignity of a person due in particular to their sex or orientation sexual orientation, ethnic origin, social condition, physical appearance, beliefs or opinions".

Similarly, the Court's process-based review under the umbrella of the principle of subsidiarity, implies the need to assess the quality of the human rights reasoning by the relevant domestic decision makers – including both administrative and legislative processes as well as procedures before domestic courts. Such assessment pertains in particular to the way in which the domestic

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[19] For instance, French players like Eric Cantona behaved aggressively repeatedly (even towards spectators) and never obtained anything close to permanent ban from football.

[20] The FIFA Rules of the Game include that referees will take action against players using offensive, insulting or abusive language and/or action(s) or that act in a provocative, derisory or inflammatory way. The International Football Association Board, Laws of the Game 23/24. https://downloads.theifab.com/downloads/laws-of-the-game-2024-25?l=en (last accessed 7 October 2024).

authorities have taken account of criteria developed in your Court's case law. In this respect, we want to highlight two salient features that pertain to the case at hand and that we consider highly relevant for your Court's process-based review on this matter. One is the fact that the case radically departs from prior case law; the other is the fact that it does not follow the advice of the Rapporteur Public. In both cases, the issue to be considered is whether the judgment offers evidence of adequate engagement with the rights protected under the Convention.

On the first matter, your Court has found that sufficient explanation needs to be provided by domestic courts when reversing prior judgments that award compensation (*Taliadorou and Stylianou*, nos. 39627/05 and 39631/05, § 58). *A fortiori,* sufficient explanation certainly needs to be provided when domestic courts depart entirely from their prior case law (as set out by the Rapporteur Public to the Conseil d'Etat and explained *supra*) and where this leads to a lowering of the standard of protection of Convention rights. We respectfully invite the Court to examine whether the Conseil d'Etat has adequately explained its turn towards a radically more rights-restrictive interpretation.

On the second matter, we note the striking contrast between the Conseil d'Etat one-sentence finding that 'the ban appears necessary'[21] and the extensive motivation by which the Rapporteur Public supports his conclusion that the ban on religious signs for players should be annulled. Given that the latter makes several references to the case law of the European Court of Human Rights, would a qualitative review not require the Conseil d'Etat to engage with the substance of the Rapporteur's arguments, or at least to explain how its own interpretation of the Convention leads to the opposite outcome?

3. Intersectionality and gender-based discrimination

In our view, the present case mandates careful consideration under both article 9 ECHR, and article 14 in conjunction with article 8 ECHR.[22] More specifically, we respectfully invite the Court to examine this case not only under the freedom of religion and discrimination on grounds of religion, but in addition to pay appropriate attention to the dimension of gender discrimination, that we consider to be particularly prominent.

In law, intersectionality was thematized first in the field of anti-discrimination law, and – originating from the US – the original model of an intersectional subject was a Black woman.

At a time when intersectionality is becoming an increasingly important theme in international human rights law,[23] we submit that in many parts of Europe, the archetypal intersectional

[21] CE, Nos 458088, 459547 en 463408, Para. 14:' l'interdiction du « port de signe ou tenue manifestant ostensiblement une appartenance politique, philosophique, religieuse ou syndicale », limitée aux temps et lieux des matchs de football, apparaît nécessaire pour assurer leur bon déroulement en prévenant notamment tout affrontement ou confrontation sans lien avec le sport.'

[22] For an argument about the human rights salience of participation in sports under article 8 ECHR, see the HRC's third party intervention in Obesnikova v Bulgaria, Application no. 20839/22 (available a thttps://hrc.ugent.be/wp-content/uploads/2024/02/Final-TPI.pdf)

[23] E.g. S. Atrey, 'Beyond Universality: An Intersectional Justification of Human Rights', in S. Atrey and P. Dunne (ed.), Intersectionality and Human Rights Law (2020) Oxford: Hart Publishing; CEDAW, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against

subject is a *hijabi*, i.e. a Muslim woman – often of color, often with a migration background – who wears a headscarf.

It is manifest that bans on religious dress and symbols affect in particular the intersectional group of Muslim women and girls who wear a headscarf. Legal analyses often foreground the religion component of this intersection, backgrounding gender as well as ethnicity. We submit that **in the specific case of a ban on religious dress and signs that are 'worn' on the football field, the gender component is particularly salient.**

Such a ban seems to rest on the assumption that the presence of expressions of religion on the football field is problematic as such. At the same time, an implicit choice is made – in the formulation of the rule, as well as in its implementation - to not ban any and all expressions of religion, but to focus on some of them, including dress and signs that are 'worn'. This focus affects Islamic headscarves worn by girls and women who play (mostly amateur) football, yet does not affect other religious signs, that are frequently displayed by (overwhelmingly male) football players.

As a matter of fact, religious signs are prominently present on football fields – in France as well as across Europe and the world –, including in games at the highest levels. Many players – mainly Christian and Muslim men – pray to their God, or make signs of gratitude to their God, on the football field. They do this for example when they enter the field, or when they scored a goal, or instead when their team is having a difficult time. They do this amongst others by making a sign of the cross, kneeling, folding their hands and looking down, or instead raising their hands upwards and looking up. World famous football heroes such as Lionel Messi and Neymar (both of whom have played for the Frenche Ligue 1 club PSG) are known for their frequent expressions of religiosity on the football field. Numerous players moreover display religious tattoos, some of which are very visible during the game. These include top players of the French national football team, such as Olivier Giroud en Antoine Griezmann. In the annex, we present examples of expressions of religiosity on the football field by players in the French Ligue 1 and the French national team. These were not difficult to find, as they are very common. This is to be expected, because religious expression is of fundamental importance to humans, hence its recognition as a human right.

These religious signs that are common in professional -mainly male- football are seen by a much broader audience than the signs -mainly headscarves- that are banned. This is because audiences of male football games tend to be much larger, and because of the fact that these games are frequently broadcast on television. In addition, the potential impact of these signs is much stronger, as the professional male football players who display them are heroes and role models to broad segments of society. **We submit that the credibility of the 'need' to ban religious signs on the football field is undermined by the fact that the religious signs that reach the widest audiences and are likely to have the most impact, are not banned.**

In addition, **we submit that the disproportionate prejudicial impact of a ban on religious dress and signs that are worn on the football field has on female football players, is indirect discrimination on the ground of gender. We submit that it would be appropriate for the**

Women. CEDAW, Alyne da Silva Pimentel Texeira v. Brazil, 25 July 2011, no 17/2008, § 7.7; Cécilia Kell v. Canada, 28 February 2012, no 19/2008, § 10.2; R. P. B. v. The Philippines, 21 February 2014, no 34/2011, § 8.3.

Court to name the gender component, and to find discrimination at the intersection of gender and religion.

We submit that the disproportionate prejudicial impact on Muslim women and girls who wear a headscarf cannot be reasonably justified. Any argument that religious dress such as a headscarf is more likely than other religious signs such as praying to lead to 'collision or confrontation' on the football field cannot be accepted. If collisions and confrontations occur, those are rooted in the enormous prevalence in French society of discriminatory prejudice about Islamic headscarves and their wearers. It is self-evident that the fact that a certain group risks being the target of intolerance and discrimination from the public, cannot justify restrictive measures that particularly affect that group. Setting aside those discriminatory attitudes in the public, it is hard to conceive how or why the wearing of religious dress or signs would carry an intrinsic risk for collisions or confrontations, while such risk would be absent from the other religious signs mentioned above, and that are frequently displayed on the football field.