



NEWS REPORT

Update of flash reports n°:	494-FR – 66, 57-FR – 71 and 524-FR 72
Date:	7 April 2011
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Title:	Prime Minister enacts ministerial instructions for implementation of Law no 2010-1192 of 11 October 2010 prohibiting garments hiding the face in public space
Country:	France
Context	
Issue at stake:	On 2 March 2011 the Prime Minister issued the Ministerial Circular no 5518/SG for the implementation of this legislation, in perspective of its entry into force on 11 April 2011
Ground of discrimination:	Religion/belief, origin
Source:	Legislation – implementing measures
Field:	Public areas
Legislative provisions	Law no 2010-1192 of 11 October 2010 Ministerial Circular no 5518/SG

Content

Political development: The number of women wearing the integral veil was estimated at about 1900 according to a study of the Ministry of the Interior carried on in July 2009.

The increasing presence of women wearing the integral veil in public space has resulted in a vivid public debate. On June 2009, the National Assembly put in place a mapping regarding the practice of the integral veil on the national territory at the request of the President of the National Assembly. The mission was chaired by André Guérin from the communist party.

In the meantime the Senate issued a comparative study on the present state of legislation forbidding the Islamic veil in European countries (see Flash report FR 54).

Further to these reports, the Government had decided on the adoption of a legislation imposing penal sanctions for the wearing of a garment that covers the face in public places, or for forcing a person to do so.

The law was voted in first reading by the National Assembly on 13 July 2010: 335 votes in favour of the bill, one vote against. The opposition has either voted for the bill (20 Members of Parliament) or abstained from voting. The one vote against the bill is that of Daniel Garrigue who is a member of the *UMP* majority (right wing party).

The text voted by the National Assembly on 19 May 2010 was transmitted to the Senate who adopted it without amendment in second reading on 14 September 2010. All senators present from all parties, i.e. 246 Senators, voted in favour of the Law and one against, i.e. Ms Anne-Marie Payet from the *Group Union Centriste*.

Both the president of the National Assembly and the president of the Senate submitted the legislation to the Constitutional Council for review of its conformity to the Constitution.

Conclusions: Article 1 of the Law prohibits dissimulation of one's face in public space.

Article 2, paragraph 1 defines public space as public street and places open to the public or dedicated to public service, such as shopping centers, theaters, restaurants and museums. Article 2, paragraph 2 creates exceptions for clothes prescribed by law or regulation, such as mandatory uniforms like police helmets, motorbike helmets, if it is justified by health or professional requirements, such as persons working in a nuclear facility or firemen, or if the outfit is worn in the context of sport activities, feasts or theatrical manifestations.

Sanctions on individuals wearing the garment face lighter sanctions than those found to have imposed the wearing to a third person.

Article 3 indicates that violation of the requirement not to wear such a garment is a criminal contravention sanctioned by a fine of 150€ and /or a training on the values of the French Republic. The latter will come into force six months after the promulgation it is the same in France of the law after a massive awareness raising campaign. As regards persons imposing the wearing of a garment through authority, duress and violence, Article 4 creates Article 225-4-10 of the Penal Code, which imposes a one year prison sentence and a fine of 30 000€. The sentence doubles if pressure is exercised on someone under 18 years of age.

Article 6 states that this legislation applies to the entire territory of the Republic and Article 7 that a report on its implementation will be presented to Parliament by Government within 18 months from its enactment.

In October 2010, the Constitutional Council concluded to the conformity of the law to article 10 of the Declaration of Rights of the Citizen protecting freedom of conscience. In consideration of the danger to public safety of practices that do not conform of minimal requirements of social life, and considering that such practice put women in position of inferiority incompatible with constitutional principles of equality and freedom, the Council considered that the legislation insures a proportionate balance between the safeguard of public safety, of public order and of the protection of the freedom and equality of women.

However, the prohibition to cover the face in public places cannot apply to places of worship opened to the public without violating freedom of religious expression.

The Prime minister's ministerial instruction expands on the philosophical foundation of the law and takes the opportunity to issue a statement on the implementation of the principle of secularism in France with sentences such as: "Covering one's face is a violation of the minimal requirements of life in society, putting persons in a situation of exclusion and inferiority that is incompatible with the principles of freedom, equality and human dignity as affirmed by the French Republic"; "Life in the Republic must be lived with an uncovered face" ("*La République se vit à visage découvert*"). The circular states the intention to initiate a communication campaign addressed to the general public and clearly instructs all authorities of the state to actively implement the repression measures against the wearing of the integral veil by pursuing the prescribed contravention and imposing the fine of 150 € on the person wearing the veil and the offence provided by Article 4 of the law and Article 225-4-10 of the Penal Code as regards the person exercising authority towards a minor or an adult in order to impose the wearing of the garment covering the face. According to this instruction, all garments preventing identification of a person correspond to the definition of the garment prohibited by the law.

However in public places, the person must definitely remove the garment. The instruction indicates that public places can be defined as public areas (seating in a car is not considered as being in a public place), premises which are in free access, even if they are conditioned upon payment of an entrance fee, shops, airports, train stations, public transports and premises affected to the public service and those where a public service mission is implemented. There is an exception for places of worship.

However, public authority can request a person to identify him or herself in a car for instance, and remove the facial garment only for control purposes.

In order to facilitate the implementation of the law, the ministerial instruction however precisely describes the attitude that public officers should adopt when they enforce the prohibition. They are requested to invite the person to remove the garment and uncover his or her face, and cannot force a person to remove the garment. In case of refusal, the person will not have access to the requested public service. In addition, the public agent is requested to call for the assistance of police forces that will control the contravention and proceed to the actions necessary to insure that the person leaves the premises.

Internet link source and additional information:

National Assembly Mission of information on the wearing of the integral veil on the National territory:

http://www.assemblee-nationale.fr/13/dossiers/voile_integral.asp

Senate comparative law report on the wearing of the burka in public places:

http://www.senat.fr/lc/lc201/lc201_mono.html



National Assembly legislative file:

http://www.assemblee-nationale.fr/13/dossiers/dissimulation_visage_espace_public.asp

Draft proposal: <http://www.assemblee-nationale.fr/13/projets/pl2520.asp>

Law:

<http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022911670>

Decision of the Constitutional Council:

<http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2010/2010-613-dc/decision-n-2010-613-dc-du-07-octobre-2010.49711.html>

Prime minister's ministerial instruction no 5518/SG of 2 March 2011:

<http://www.la-croix.com/Circulaire-sur-l-interdiction-de-la-burqa/documents/2457271/1306>