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Credits

Diligent work of many people enabled the production of this final comparative report. National researchers who drafted reports for eight countries: Elsa Mescoli (Belgium), Nina Manojlovic-Karlshøj (Denmark), Marjorie Moya (France), Asmaa Soliman (Germany), Giulia Dessi (Italy), Mariska Jung (the Netherlands), Maimuna Abdullahi (Sweden) and Iman Abouta and Barath Ganesh for Faith Matters (UK). ENAR staff who regularly reviewed the report and offered insightful guidelines and comments, especially Senior Advocacy Officer Julie Pascoët and Policy Assistant Kahina Rabahi. Women (and men) who shared their experience with us hoping that this report will raise awareness and offer solutions to their problems. And others who encouraged, motivated and inspired our work, sometimes even without knowing it.

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FOREWORD



Almost three years ago, shortly after I became Chair of ENAR, Michael Privot, our Director, and myself were lamenting over the lack of collaboration between the European feminist and anti-racism movements on the issue of Islamophobia. We felt strongly that

Islamophobia directed at women was as much a gender issue as it was a racial or religious one and that Muslim women deserved the support of feminists and anti-racists alike. This report is the result of ENAR acting on this observation and I am extremely proud of this accomplishment. The Forgotten Women project is the result of one and half year of research and dialogue in eight European countries bringing to light the very specific – and horrific – experiences of discrimination and hate crime affecting Muslim women.

Despite the data shortage that have made coming up with a methodology quite challenging, the research shows that Muslim women suffer from the same inequalities as other women but additional factors such as perceived religion or ethnicity deepen

these gender gaps. They are also more likely to be the victims of hate crime compared to Muslim men. In both employment discrimination and hate crime, the headscarf acts as a trigger, because it is a visible marker of Muslim and woman identity.

Beyond the findings and recommendations that are crucial for our advocacy, this project has achieved something equally important: it has initiated a dialogue between the anti-racism and feminist movements and has encouraged partnerships between the two. We are very grateful to the European Women's Lobby for agreeing to take part in this project and not shy away from some difficult but important conversations. These were very much needed and have allowed us to show a different angle to the discrimination faced by Muslim women. They also mark, we hope, the start of fruitful future collaborations to eradicate discrimination and racism for all women.

We are deeply indebted to activists, experts and organisations who have partnered with us in this effort and remain grateful for the valuable support of the European Commission, the Open Society Foundations and the Joseph Rowntree Charitable Trust.

Sarah Isal
ENAR Chair

About the project

The project "Forgotten women: the impact of Islamophobia on Muslim women" aims to document the disproportionate impact of Islamophobia on women and to strengthen alliances between the anti-racism and feminist movements in order to better address the intersectional discrimination affecting Muslim women or those perceived as such. Through a unique and innovative joint effort between the anti-racism (ENAR) and feminist movements, this project is a key step in a broader advocacy strategy that aims to encourage the Member States of the European Union to adopt specific national strategies to combat Islamophobia and to demonstrate the need to improve and strengthen the implementation of EU equality laws. It has taken place in eight countries, chosen to get a representative picture of the situation of Muslim women in the European Union: Belgium, Denmark, France, Germany, Italy, the Netherlands, Sweden and the United Kingdom. This European comparative report draws on eight national reports and provides an overview of the legislation, practices, debates and opinions surrounding Muslim women's experience of discrimination in employment and of violence and hate speech

The aims of the project are:

- documenting the disproportionate impact of Islamophobia on Muslim women;
- providing analysis to improve the implementation of equality law in cases of discrimination against Muslim women and women perceived as such;
- countering stereotypes about Muslim women and promoting more positive messages;
- fostering partnerships and strengthening alliances between the anti-racism and feminist movements in order to better address the intersectional discrimination affecting Muslim women (gender, race, class, nationality, migration status and religion);
- disseminating the findings of the research in advocacy settings (European and national), communication activities and lawyers' workshops.

The project is implemented by ENAR. It started in November 2014 and will end in November 2016.

EXECUTIVE SUMMARY

The report “Forgotten women: The impact of Islamophobia on Muslim women” is based on **eight national reports** by researchers commissioned by ENAR in **Belgium, Denmark, France, Germany, Italy, the Netherlands, Sweden and the United Kingdom**. National reports are based on desk research, focus groups and interviews, conducted between December 2014 and December 2015. The report discusses the impact of Islamophobia on Muslim women in the field of employment and hate crime.

Muslim women constitute a diverse group in the countries covered by the report. **Most of the countries do not register self-identified religious affiliation nor do they systematically disaggregate statistical data along racial or religious lines**. Institutional mechanisms also do not offer gender disaggregated data and specific reports that reflect gender issues about most acts of discrimination and/or violence. The research therefore faced a double data challenge, and researchers have used surveys, studies and data available based on proxies such as nationality and migration background. Obviously, correlation between ethnicity and religious affiliation is difficult to determine and often results in problematic estimates. In addition, discrimination happens based on real or perceived belonging to the Muslim community. The intersectional manifestations of Islamophobia are explored, in an attempt to untangle the different combinations of discrimination faced by Muslim women based primarily on their religion, gender and ethnicity. Generally, the headscarf, which is both a gender-specific and Muslim-specific visible marker, appears to be a trigger in experiences of discrimination and hate crime.

Muslim women suffer from **the same inequalities as other women** (access to employment, gender pay gap, sticky floor/glass-ceiling, domestic, verbal and physical violence, etc.) **but additional factors such as perceived religion or ethnicity deepen these gender gaps**. The report shows that some media often do not consider Muslim women as having agency and depict a stereotypical binary representation of Muslim women either as oppressed or as dangerous. All national reports show that many news stories related to Muslim women are related to violations of women’s rights, which contributes to constructing negative stereotypes and fails to consider Muslim women as a diverse and heterogeneous group.

Images of Muslim women and Muslim women wearing religious garments in particular, are often used to illustrate news items focused on the danger of an ‘Islamic invasion’, which contributes to considering Muslim women as a threat to European societies.

Public opinion polls reflect the existence of such stereotypical views of Muslim women. These views are reinforced by some political discourse arguing the lack of compatibility between some expressions of Islam with ‘European values’, i.e. fundamental rights, the rule of law and women’s rights in particular. Muslim women are perceived to embody a homogeneous group supporting domestic violence and terrorism, homophobia, gender inequality, traditional gender roles, etc. Such a framing of Muslims as a ‘problem’, with a particular negative attention to women, contributes to creating a fertile ground for discriminatory practices and violence on the ground.

Discrimination in employment occurs both in access to vocational training and employment and in the workplace. All country reports highlight the additional obstacles Muslim women face. This multiple discrimination is a composition of gender, ethnic and religious factors. For example, in the UK, one in eight Pakistani women are asked about marriage and family aspirations in job interviews whereas only one in thirty White women are asked such a question. Discrimination in the labour market is often related to perceptions of ‘Muslimness’, and especially Muslim women and their clothing. This is confirmed by CV testing and victimisation surveys. In the UK, 50% of women wearing the hijab felt they had “missed out on progression opportunities because of religious discrimination and that the wearing of the hijab had been a factor”. In the Netherlands, 11% of Afghani-Dutch Muslim women not wearing a headscarf said they had experienced discrimination on the basis of religion compared to 73% of Afghani-Dutch who do wear a headscarf. For Iraqi-Dutch these figures are 9% versus 45%, for Iranian-Dutch 8% versus 45%, for Somali-Dutch 20% versus 49%, for Moroccan-Dutch 15% versus 39% and for Turkish-Dutch 14% versus 55%. A French testing shows that the difference in positive responses for an interview can go up to 10 points between female applicants with a French sounding name and female applicants with an Arabic sounding name, and is further multiplied by 7 with 71 points difference for female candidates with an

Arabic sounding name wearing the headscarf. In some countries (the Netherlands, Sweden), data show that Black Muslim women are particularly affected by multiple discrimination.

The legislative framework related to discrimination in the labour market is theoretically quite solid. However, the framework is not consistently applied, in particular because of national and regional regulations and practices of some EU countries that tend to exclude Muslim women from employment due to a narrow interpretation of 'secularism' or 'neutrality'. This type of discrimination in law or employment regulations is qualified as 'legal discrimination' by the European Union Agency for Fundamental Rights (FRA) and has been increasingly used by some domestic courts to support the prohibition of religious signs in private employment, especially with the arguments of commercial imperative and neutrality requirement, which might amount to indirect discrimination and might not be considered as an essential occupational requirement under European and international laws. Several positive practices were noted, such as diversity management policies or women's organisations running a mentor network that matches women with refugee and immigrant backgrounds with women who are active in society.

Data from most countries covered suggest that Muslim women are more likely to be victims of hate crime and speech than Muslim men. Muslim women are targeted by threats and hate speech, violence and assault, and online hate. Verbal and physical violence often mix. Racist violence against Muslim women mainly happens in public places such as public transport, streets, markets and shops, or in the workplace. The most common crimes include insults, spitting at women who wear the hijab or pulling their clothing off. Spikes of violence have been noted in France

and the UK after major international incidents, as was the case after the attacks in Paris in November 2015. In the Netherlands, the grassroots initiative *Meld Islamofobie* reported that out of the complaints collected between January and June 2015, 90% involved a Muslim woman as a victim. 98% of the women were identifiable as Muslim because of their dress. 71% of the perpetrators were men, unfamiliar to the victims, signalling a clear gender dynamic between perpetrator and victim. In France, Muslim women, and especially Muslim women wearing the headscarf, account for almost 100% of victims of physical aggressions recorded by the Collective Against Islamophobia in France (CCIF). Tell MAMA (Measuring Anti-Muslim Attacks), a confidential third-party reporting service in the UK, reports that 54% of the off-line victims of threats and verbal abuses were women.

Lack of trust in the police and internalisation of the normality of such violence are among the reasons that prevent Muslim women from reporting cases to the authorities. Other data collection limitations include the difficulty to register a hate crime as an Islamophobic attack or an attack that combines multiple bias indicators (for example gender, religion, ethnicity). **Hate crime legislation** generally offers solid protection from violence on the basis of one's religion or ethnicity. Nevertheless gender is not always included as a possible bias in hate crime incidents, since violence against women is usually not included in hate crime legislation and not always considered in its public manifestations. Some positive practices include awareness raising projects of relevant stakeholders, police departments organising theme days against hate crimes or communication with Muslim communities allowing Muslims to articulate their concerns about hate crime. Muslim women's organisations facilitate discussions about the Muslim woman's position in society, her right to privacy and her ability to defend herself and report hate crime cases.

GLOSSARY

Islamophobia is a specific form of racism that refers to acts of violence and discrimination, as well as racist speech, fuelled by historical abuses and negative stereotyping and leading to exclusion and dehumanisation of Muslims, and all those perceived as such. It is a form of racism in the sense that it is the result of the social construction of a group as a race and to which specificities and stereotypes are attributed, in this case real or perceived religious belonging being used as a proxy for race. Consequently, even those who choose not to practice Islam - but who are perceived as Muslim because of their ethnicity, migration background or the wearing of other religious symbols - are subjected to discrimination.¹ Furthermore, it is explicitly acknowledged that referring to Islamophobia is different from censorship and that critical discussions on religion and religious practices should still be possible.²

Intersectionality is the study of overlapping or intersecting social identities and related systems of oppression, domination, or discrimination. It examines how various categories such as gender, race, ethnicity, class, disability, sexual orientation, religion, age interact on multiple and often simultaneous levels, proposing that each element or trait of a person is inextricably linked to all of the other elements.³ Researcher Kimberlé Crenshaw first defined the term in a 1989 article related to the experiences of Black women: "Discrimination, like traffic through an intersection, may flow into one direction and it may flow into another. If an accident happens at an intersection, it can be caused by cars travelling from any number of directions, and, sometimes, from all of them. Similarly, if a black woman is harmed because she is in the intersection, her injury could result from sex discrimination or race discrimination".⁴ Intersectional discrimination refers to situations where several grounds operate and interact with each other at the same time in such a way that they are inseparable.

Headscarf is a general term that indicates those types of veils that Muslim women wear that cover the hair and head but leave the face uncovered. The most common

Arabic term used to describe such style today is 'hijab'. This is also the most common type of veil worn by Muslim women in Europe.

Niqab is a type of face veil that covers the whole face leaving the area around the eyes clear. Muslim women in Europe who cover their face usually wear the niqab.

Veil is a piece of clothing intended to cover some part of the head or face. There are various types of veils that differently cover hair, ears, neck, and face.

Burqa is a type of female garment covering the full body, often leaving just a mesh screen for eyes. It is very rarely worn by Muslim women in Europe but often incorrectly used in public debates to refer to the niqab.

Feminism includes a range of diverse theoretical conceptions and social movements advocating women's rights in terms of emancipation, liberation and equality.⁵ Its general goal is to establish and achieve equal political, economic, personal and social rights for women, and equality of outcomes in all areas of social, political and personal life.⁶

Discrimination European law makes the distinction between two types of discrimination: direct and indirect. Direct discrimination occurs where one person is treated less favourably than another, in a comparable situation, on ground of protected characteristics. Indirect discrimination applies when people belonging to the same groups suffer from different consequences as the result of apparently neutral provisions, criteria or practices.

Multiple discrimination is a type of discrimination where two or more grounds of discrimination such as gender, religion, ethnicity, class, nationality, etc. might be the basis of discrimination. Generally the term 'multiple discrimination' is seen as umbrella term for several different and occasionally overlapping concepts like 'compound/aggravated' discrimination (discrimination on

1 European Network Against Racism. 2015. *Briefing on Anti-Semitism and Islamophobia in Europe*.
2 European Network Against Racism. 2016. *Forgotten Women - National Report for the Netherlands*.
3 De Francisco, Victoria P., Palczewski, Catherine H. 2014. *Gender in Communication*. Thousand Oaks, California: Sage: 9.
4 Crenshaw, K. 1989. *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*.

5 Hawkesworth, M.E. 2006. *Globalization and Feminist Activism*. Rowman & Littlefield: 25–27; and Beasley, Chris. 1999. *What is Feminism?* New York: Sage: 3–11.
6 Hooks, Bell. 2000. *Feminism Is for Everybody: Passionate politics*. Cambridge, Mass.: South End Press.

the basis of two or more grounds at the same time where one ground adds to discrimination on another ground).

Structural/institutional discrimination occurs when rules, norms, routines, patterns or attitudes and behaviour in institutions such as schools, work places, public authorities and other societal structures represent obstacles to certain people in achieving the same rights and opportunities that are available to the majority of the population. Institutional discrimination can also occur from institutions' inability to counteract structural inequality, for example when cases of unequal conditions are treated as equal. In the first case, a difference is assumed, but in the second, unequal conditions are overlooked.

Secularism (laïcité) and neutrality According to Amnesty International, "Secularism can be defined differently according to the specific historical and political context where it is used. It could, for example, refer to the specific form of organisation of the relations between the state and religious authorities implying the separation between the two. The term neutrality likewise can have different meanings depending on the specific historical and political context where it is used. It could refer, for example, to the state adopting an impartial stance towards all political, religious and philosophical beliefs. In some countries the term could refer to the duty of civil servants and public officials to be impartial towards users of public services. In France, for instance, the neutrality of public servants directly stemming from secularism implies a prohibition on them wearing any form of religious and cultural symbols and dress."⁷

The bias indicator is defined as a negative opinion or assumption, intolerance or hatred against a group sharing common characteristics, or protected characteristics, which can be race or ethnic origin, sexual orientation, gender, age, disability, religion or belief.⁸

Hate crimes are criminal acts committed with a bias motive. It is this motive that makes hate crimes different from other crimes. The term 'hate crime' describes a type of crime, rather than a specific offence within a penal code.⁹

Hate speech is defined as a public expression of hate towards a person or a community because of its race or ethnic origin, sexual orientation, gender, age, disability, religion or belief. There is no common legal definition of it within EU Member States and the prohibited content differs among countries. Some jurisdictions criminalise incitement to hatred or insult. Others recognise hate speech when it denigrates a person's dignity or honour. In some jurisdictions, the concept of hate speech is linked to the historical background of the country.¹⁰

Violence against women is a violation of human rights and a form of discrimination against women and refers to all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.¹¹

Racism is an ideological construct that assigns a certain race and/or ethnic group to a position of power over others on the basis of physical and cultural attributes, as well as economic wealth, involving hierarchical relations where the "superior race exercises domination and control over others".¹²

Sexism is prejudice or discrimination based on a person's sex or gender. Sexism particularly affects women and girls. It is linked to stereotypes and gender roles, and includes the belief that one sex or gender is intrinsically superior to another. Extreme sexism may foster sexual harassment, rape and other forms of sexual violence.¹³

7 Amnesty International. 2012. *Choice and Prejudice: Discrimination against Muslims in Europe*.

8 ENAR. 2014. *Racist Crime in Europe: Shadow Report 2013-14*.

9 Ibid.

10 Ibid.

11 Article 3 of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

12 UN definition of racism - See: <http://www.unesco.org/most/migration/imrdx.pdf>.

13 See: <https://en.wikipedia.org/wiki/Sexism>.

METHODOLOGY

This comparative report was drafted primarily on the basis of eight national reports drafted by national researchers in the frame of the project. It is also based on literature review, analysis of different theories and practical findings. Rooted in intersectional analysis, gender and human rights studies, this comparative report offers a range of empirical data from national researches, other available materials and reports. Additionally, the report draws on interviews conducted by the national researchers with numerous Muslim women, experts and activists in this field. Representatives of governmental institutions, police, equality bodies and civil society organisations were involved and interviewed as well. Findings from round tables and focus groups organised within the scope of the project were included in national reports and some are reflected in this report. More than 200 people have been interviewed and consulted during the course of the drafting of this report. The comparative research was conducted in the period November 2015-April 2016 while research for the national reports was conducted between December 2014 and December 2015.

The general objective of the report is to shed light on the gendered aspect of Islamophobia and also to show how the intersection of different identities and perceptions of these influence the lives of Muslim women. The report focuses on Muslim women's position in the labour market and their experience with Islamophobic speech and violence. These two topics were selected based on ENAR's expertise and the European Union's strong legislative frameworks in these areas, as well as the major implications these two areas have in the structural power relationships of this group. Indeed, the inclusion of migrants and ethnic and religious minorities in their respective majority communities is determined to a large extent by their opportunities to actively participate in gainful and quality employment.¹⁴ Moreover, it is important to recognise that institutional and structural racism, as well as racist beliefs and bias of individuals, contribute greatly to the number of incidents of racist crimes each year. Institutional racism can also result in an absence of appropriate response to racially motivated crimes that encourages potential new

perpetrators and increases the negative consequences suffered by the victims.¹⁵ The results of the national reports and of the desk research carried out during the project mainly exposed discrimination and hate crimes faced by Muslim women visibly identified as such by their garments and only a small number of discrimination cases against Muslim women not wearing specific clothing were captured. This is probably due to a number of reasons, including the fact that most of the available data on discrimination faced by Muslim women are focused on garments as a marker of 'Muslimness'; that Muslim women wearing a visibly Muslim garment are increasingly more likely to report the discrimination they face compared to Muslim women who do not; that Muslim women wearing visible garments are more likely to be connected to various types of organisations (social, cultural, religious) aware of the issue of Islamophobia and therefore more likely to support and encourage them to report; etc.

Intersectional approach

There were methodological difficulties in having an intersectional approach to discrimination faced by Muslim women. Winker and Degele define intersectionality as interactions between the levels of inequality generating from social structures (power relations, dominance), social practices, symbolic representations and identity constructions.¹⁶

Smith and Starl state that intersectional discrimination is based on an indivisible combination of categorisations that actually constitutes a new category in itself. Using the example of a Muslim woman, they state that if a woman is discriminated against as a Muslim woman, it may very well not be possible to show discrimination against her solely on the basis of sex/gender. Similarly, it may not be possible to show discrimination against her based solely on religion. It is only the combination, taken as such, that has been met with discrimination in this case. Neither non-Muslim women nor Muslim men may be facing this instance of discrimination.¹⁷ Gay Moon additionally argues

14 ENAR. 2014. *Racism and Discrimination in Employment in Europe: Shadow Report 2012-13*.

15 ENAR. 2014. *Racist Crime in Europe: Shadow Report 2013-14*.

16 Smith, S. and Starl, K. 2011. *Locating Intersectional Discrimination*.

17 Ibid.

that treatment of such cases is difficult due to absence of a suitable and required comparator.¹⁸

Having this in mind, this report tries to offer insights into the intertwined overlapping of different grounds based on which Muslim women are discriminated against or violently attacked. These grounds are primarily gender and religion, visible mostly in the cases of Muslim women who wear clothing that is linked to Islam. Ast and Spielhaus highlight that “as a religious sign exclusively worn by women, the headscarf appears as the paradigm symbol of intersectionality”.¹⁹ Along with gender and religion, other grounds may also include ‘race’, ethnic origin and citizenship/migration status.

Lack of data

One of the main methodological limitations has been the fact that national and European level institutional mechanisms do not offer gender disaggregated data and specific reports that reflect gender issues about most acts of discrimination and/or violence. “When it comes to gender equality measures, the data and information have many shortcomings and the data collected (...) is not systematically used in other policy frameworks.”²⁰ Having gender disaggregated data is a precondition to having basic information on the position of women (and men) in a specific country, and additional filters which would allow for intersectional analysis and combinations would make statistical data relevant and useful for the drafting of informed policies.

Also, most of the countries do not register self-identified religious affiliation nor do they systematically disaggregate statistical data along religious lines. Therefore if not available, the necessary data have been extrapolated on the basis of national or ethnic origin (of individuals or their parents) which is then used as a proxy. Correlation between ethnicity and religious affiliation is difficult to

determine and often results in problematic estimates.²¹ The country of origin is not always a reliable indicator, as people from ‘Muslim’ majority countries can have a different religious affiliation than Islam. Further, it excludes the various individuals who would no longer self-identify as Muslim, or have changed religion, among second and third generation European nationals, as well as converts. ‘Second’ and ‘third’ generation Muslims are people who were born and raised in Europe. In this respect, Islam can no longer be considered a migration religion. Studies and terminologies that emphasise the migration background of Muslims run the risk of unwillingly contributing to a problematic framing of Islam and Muslims as a ‘racial group’, alien to European culture and population. The lack of data disaggregated by religion and based on self-identification and the usage of different language categories (like *allochtoon/autochtoon*, second/third generations, foreigners, naturalised immigrants, descendants, etc.) make it difficult to find the right language to talk about Muslims in a way that does not already imply that they are in an outsider relationship with the majority population. In addition, discrimination happens based on real or perceived belonging to the Muslim community, hence the actual belonging to this faith does not always enter into account in experiences of discrimination.

Four Member States among the covered countries collect hate crime data disaggregated by bias against Muslims/ Islamophobia (France, the Netherlands, Sweden and recently the UK). There is limited information about the different grounds on which the victims can be attacked, including the gender ground. The official annual reports are usually based on the number of officially reported incidents to the police that are identified as having a bias motivation. However, the actual description of crimes is often not included in the statistics. For this reason, statistics of self-reported incidents of perceived violence are important. Self-reported incidents are recorded in so-called victimisation surveys which gather qualitative and quantitative data about the incidents. However, these are

18 Moon, G. 2008. *Multi-dimensional Discrimination: Justice for the Whole Person*.

19 Ast, F. & Spielhaus, R. 2012. “Tackling Double Victimization of Muslim Women in Europe: the Intersectional Response”. *Mediterranean Journal of Human Rights*.

20 European Women’s Lobby. 2015. *From Words to Actions – 1995-2015 - Review of the Activities of the European Union 20 Years of the Beijing Platform for Action*: 23.

21 Based on polls carried out in Germany, Belgian sociologist Jan Hertogen estimates that 73% of people residing in Europe with a Moroccan background still identify with being a Muslim, while 74% of people with a Turkish background do so (in *Le Soir*, 17 November 2010, p. 7).

not regularly conducted. In all countries covered, these official statistics are not gender disaggregated.

Under-reporting

Another methodological limitation is that official data on employment discrimination, violence against women or racist crime only cover a small proportion of the reality of discrimination and violence. The available statistical official data include only recorded cases. The European Union Agency for Fundamental Rights (FRA) in 2009 stated that 79% of Muslim respondents declared they did not report their most recent experience of discrimination to any competent organisation.²² In Denmark, the Ministry of Justice's Victimisation Survey shows that 7,200 persons declared they were victims of racist violence in 2014, while there are only 245 officially recorded cases that year.²³ In Italy, the Observatory for Security Against Acts of Discrimination (OSCAD) operated by the National Police has never received any claims regarding Muslim women in its four years of activity, although the national report shows Muslim women perceive such cases occur regularly.²⁴ On average 80% of respondents to the FRA survey could not name any anti-discrimination organisation that can offer support or advice to people who have been discriminated against. 59% of the respondents think that "nothing would happen or change" if they report their experience of discrimination.²⁵ In the case of hate crime, cases are not often registered as proper complaints (France), are not recorded as an Islamophobic crime and/or the aggravated factor is not recognised (Germany). Institutionalisation of Muslim women's exclusion in some areas such as education has an impact on the recognition (or lack thereof) of their experiences of discrimination and prevents Muslim women from reporting cases of discrimination by fear of re-victimisation.

Experts in almost all national reports highlight the little consideration and understanding of some judges, prosecutors and police of the complexity of discrimination and violence cases involving Muslim women. There are difficulties in recording intersectionality of discrimination grounds. Islamophobic aggressions or insults sometimes do not fit the preconceived categories or it is not possible to record multiple bias indicators. For example in Denmark, the encoding of cases takes place on the basis of 39 words. The list contains words like 'racist', 'Jew' and 'hate crimes', but the words 'Islam' or 'headscarf' are not included.²⁶ Victims also tend to self-declare their experience of discrimination as based on the ground of religion only, especially in obvious cases related to religious symbols. The single-ground approach implies that some victims "have to compartmentalise their experiences of discrimination and choose one over the other when making claims of discrimination".²⁷

According to the FRA EU-MIDIS report on Muslims 38% of respondents did not see the point of reporting discrimination, as it was just "part of their normal everyday existence".²⁸ This results in the perception that discriminatory incidents are not unlawful or cannot be combated.²⁹ Similarly according to Stockholm's Police hate crime group, many people do not report everyday racist slurs and violence simply because it has become a normal experience for the victims.³⁰

Finally, in the area of employment, under-reporting can be due to fear of losing one's job and relations with management.

22 European Union Agency for Fundamental Rights. 2009. *EU-MIDIS Data in Focus Report: Muslims*.
23 ENAR. 2016. *Forgotten Women - National Report for Denmark*.
24 ENAR. 2016. *Forgotten Women - National Report for Italy*.
25 European Union Agency for Fundamental Rights, 2009.

26 ENAR. 2016. *Forgotten Women - National Report for Denmark*.
27 European Commission Directorate-General for Employment, Social Affairs and Equal Opportunities. *Tackling Multiple Discrimination Practices, Policies and Laws*.
28 European Union Agency for Fundamental Rights. 2009: 3.
29 ENAR. 2016. *Forgotten Women - National Report for the Netherlands*.
30 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

1. INTRODUCTION: A MUSLIM AND A WOMAN IN THE EU: EXPERIENCING MULTIPLE DISCRIMINATION

Discrimination and violence against women and Muslims are still very much present in European societies, fuelled by racism and sexism.

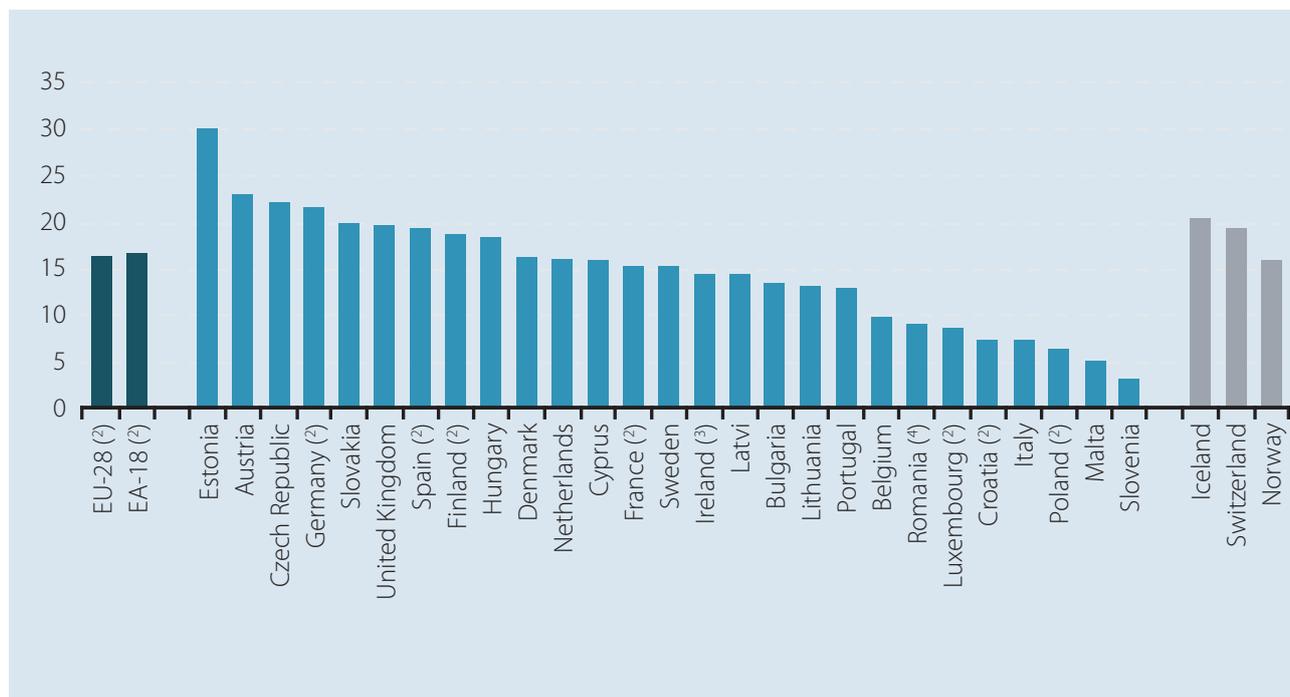
Equality between women and men is a core principle of the EU and its Member States. However, such commitments do not often translate into practice in most areas of life. The 2012 EU-28 Gender Equality Index puts women at just 52.8% of the way towards equality with men, a percentage that has barely shifted in the last decade.³¹

Women are discriminated against with regard to wage gap, pregnancy and motherhood. Along with this they also suffer from a glass-ceiling effect as far as their access to power and visibility and their professional careers are concerned. The European Women's Lobby (EWL) underlines that over a quarter (26.9%) of women in the EU-28 countries experience poverty and social exclusion. Across a range of indicators in the labour market and in social protection, the structural causes of poverty have a disproportionate impact on women.³²

Across the EU, "women are underrepresented in positions of responsibility in all domains. Particularly at the highest levels, women are still largely outnumbered by men in leadership positions in politics and business, as well as in other fields".³³

Several international reports on the status of women in employment show that European societies are far from having solved the question of equality of opportunities and outcomes. As EWL puts it: "Educational choices continue to be highly gendered: in Europe women are 78,3% of graduates in education and training, 75,9% in health and welfare, 25,5% in engineering, manufacturing and construction, 40,2% in science, mathematics and computing. The sectors where women are over-represented are sectors which are less remunerated and less "valued". Moreover, women with low levels of education are highly likely to be unemployed."³⁴

Gender pay gap, 2013³⁵



31 European Institute for Gender Equality. 2012. *Gender Equality Index*.
32 Ibid: 8.

33 Ibid: 20.
34 European Women's Lobby, 2015.
35 Eurostat. 2015. *Statistical Books: Key figures on Europe*.

Employment rate (age group 15–64) by sex, in 2014 (%) ³⁶			
Country	Employment rate (age group 15–64) in %		
	Total	Men	Women
EU-28	64.9	70.1	59.6
Sweden	74.9	76.5	73.1
Germany	73.8	78.1	69.5
Netherlands	73.1	78.1	68.1
Denmark	72.8	75.8	69.8
United Kingdom	71.9	76.8	67.1
France	64.3	67.7	60.9
Belgium	61.9	65.8	57.9
Italy	55.7	64.7	46.8

The FRA Dignity report on violence against women in the EU from 2014 found that more than 30% of all women in the EU reported experiencing sexual or physical violence in their lifetime, mostly from a family member or intimate partner.³⁷ One in 10 women has experienced some form of sexual violence since the age of 15, and one in 20 has been raped. Just over one in five women has experienced physical and/or sexual violence from either a current or previous partner, and just over one in 10 women indicates that they have experienced some form of sexual violence by an adult before they were 15 years old. Yet, as an illustration, only 14% of women reported their most serious incident of intimate partner violence to the police, and 13% reported their most serious incident of non-partner violence to the police.³⁸

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. Amnesty International's report confirms that Muslims in Europe face discrimination in several areas

of life because of their religion, their ethnic origin or their gender, or a combination of these grounds. Discrimination has a negative impact on their lives and affects their exercise of many human rights. It blights their individual prospects, opportunities and self-esteem and can result in isolation, exclusion and stigmatisation.³⁹ According to the FRA EU-MIDIS report, on average one in three Muslim respondents stated that they had experienced discrimination in the past 12 months. They had experienced, on average, eight incidents of discrimination over a 12 month period. Among them, 43% stated that it was combination of ethnic/immigrant origin and religion and belief. The survey's results also showed that in all Member States where Muslim respondents were interviewed, discrimination in employment and private services tend to dominate people's experiences of everyday discrimination.⁴⁰ According to a 2009 Open Society Institute study led in 11 European cities, 81% of non-Muslims state that they have never experienced religious discrimination, while this is shared by only 35% of the Muslim respondents.⁴¹ According to EU-MIDIS, one in ten of all Muslims surveyed was a victim of racially motivated 'in-person crime' (assault, threat or serious harassment) at least once in 12 months. Of those who were victims of in-person crimes, between 53% and 98%, depending on their country of residence, did not report it to the police.⁴²

Most EU countries do not collect data disaggregated by religion in censuses, so it is impossible to know exactly how many Muslims live in Europe. However, research based on proxies, such as country of origin and nationality, have been made and according to Pew Research Center's report in 2010 there were 19 million Muslims living in the European Union, representing 6% of the total population.⁴³ In recent decades, the Muslim share of the population throughout Europe has grown by about 1% a decade, from 4% in 1990 to 6% in 2010. This pattern is expected to continue through 2030, when Muslims are projected to make up 8% of Europe's population.

36 Ibid.

37 European Union Agency for Fundamental Rights. 2014. *Dignity - Violence Against Women - an EU-wide Survey*.

38 Ibid.

39 Amnesty International, 2012.

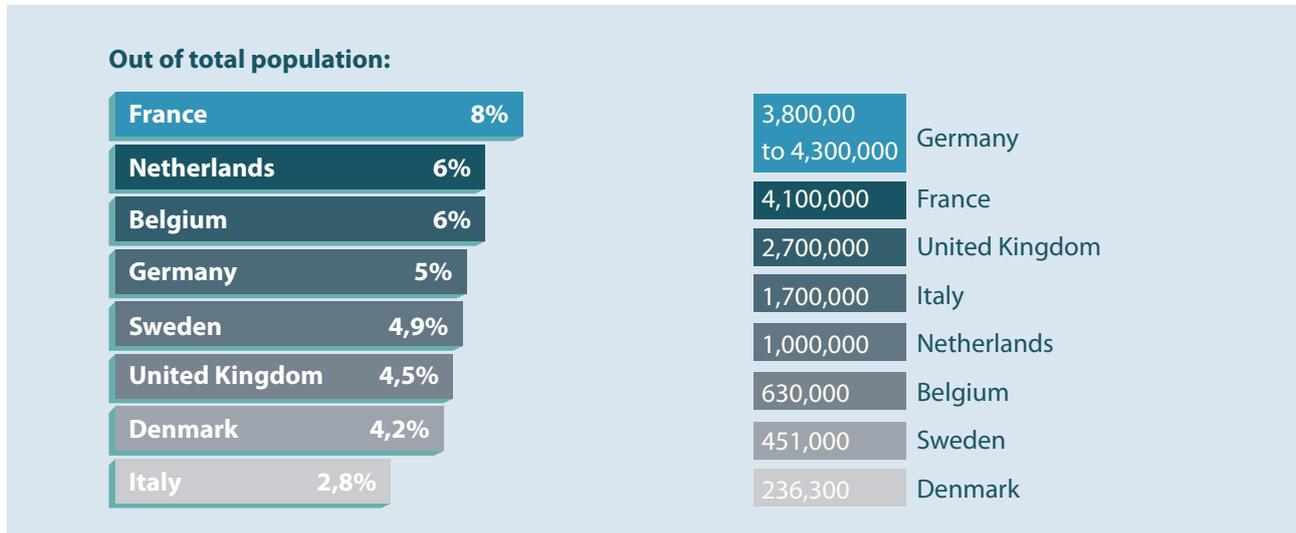
40 European Union Agency for Fundamental Rights, 2009.

41 Open Society Institute. 2009. *Muslims in Europe - A Report on 11 EU Cities*.

42 European Union Agency for Fundamental Rights, 2009.

43 Pew Research Center. 2011. *The Future of the Global Muslim Population, Projections for 2010-2030*.

Estimates of Muslim population in reporting countries⁴⁴



Women (as well as men) with multi-layered identities are more vulnerable to discrimination, violence and violation of their rights. “Not only are women part of every group at risk of poverty, but they are particularly vulnerable when facing other forms of discrimination (such as based on their migration status, ethnic origin, disability, etc.).”⁴⁵ As highlighted by the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee): “The discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status, age, class, caste and sexual orientation and gender identity. Discrimination on the basis of sex or gender may affect women belonging to such groups to a different degree or in different ways to men.”⁴⁶

Muslim women may be discriminated against on the grounds of a combination of several criteria of discrimination. They suffer from the same inequalities as other women but additional factors such as perceived religion or ethnicity deepen these preliminary gender

gaps. Muslim women are often simultaneously struck by a combination of different issues and challenges, be it outside of their communities, but also within them. They face difficulties in finding their place in a society that still hinders them from fulfilling a desired professional and social status.

The FRA EU-MIDIS “Data in focus” report about Muslims in the EU states that among respondents saying that they usually wear traditional or religious clothing in public, different to the type of clothing typically worn in their country of residence, the overwhelming majority (84%) were women.⁴⁷ Discourses and practices around what is presented as the female Islamic dress code and whether it should be visible or not in the ‘public sphere’ are among the main channels through which exclusion of Muslim women happens. One major difficulty that prevents Muslim women from being actually protected from multiple discrimination including on the ground of gender, is that religious symbols worn by some of them are often considered as going against gender equality by influential stakeholders.⁴⁸

⁴⁴ Based on figures provided in the national ‘Forgotten women’ reports.

⁴⁵ European Women’s Lobby, 2015.

⁴⁶ United Nations Committee on the Elimination of Discrimination against Women. *General Recommendation No. 28, para18 on the core obligations of States parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women.*

⁴⁷ European Union Agency for Fundamental Rights, 2009.

⁴⁸ Ast & Spielhaus, 2012.

2. STEREOTYPICAL IMAGE OF MUSLIM WOMEN IN PUBLIC DISCOURSE: SETTING A FERTILE GROUND TO DISCRIMINATION AND VIOLENCE

The image of Muslim women in the media

Women still suffer from a serious lack of visibility in the media. The persistence of gender stereotyping and discrimination in the media impedes the realisation of equality between women and men and reinforces patriarchal views.⁴⁹ Women are largely under-represented in media structures' leadership (32%) and in news subjects (24% of people heard and read about in the news). They are rarely invited as experts as they "continue to be considered as victims or readers or watchers belonging to the general public". Only 4% of the news coverage actually goes against widespread stereotypical portrayal of women.⁵⁰

Muslim women are no exception to this rule. The media coverage rarely presents Muslim women as having agency. Their voices are silenced, they are not given any credit, and they are rarely invited to speak for themselves.⁵¹ In many of the countries covered, like for example Italy, France and Denmark, they mostly appear in media as victims, involved in some incidents or legal procedures. Any social, economic or political participation of Muslim women that differs from the image of a victim or a threat is usually neglected. Positive stories often go unnoticed or are often related to their religious belonging and practices.⁵² The **Swedish** Equality Ombudsman's report on representation of Muslims in Swedish media (*Representationer, stereotyper och nyhetsvärdering. Rapport från medieanalys om representationer av muslimer i svenska nyheter*) concludes that showcasing only Muslim women who are exceptionally talented or successful may also reinforce the idea that they are just exceptions to the rule.⁵³

Muslim presence and diversity is hardly reflected in the composition of TV presenters and journalists and this has an impact on the way Muslims are included in the media and the kind of issues tackled when talking about Muslims. Visibly Muslim women also have difficulties in accessing jobs in the media as their impartiality and neutrality are often questioned, all the more so when related to representative

positions. For example the organisation *Kvinder for Frihed* (Women for Freedom) collected 500 signatures against **Denmark's** first Muslim female TV host Asmaa Abdol-Hamid in 2006, because she was wearing a headscarf in the DR2 TV programme "Adam and Asmaa". The show did not change as a reaction to the pressure though.

Positive practices

Some positive practices are worth noting, both from media and from civil society organisations willing to proactively influence the media landscape. For example, in **Denmark** the newspaper *Politiken* initiated a debate on the opposition and harassment many Muslim women experience as a result of their dress. The newspaper published a series of debate-articles featuring Muslim women's experience of the headscarf⁵⁴. Similar reasons inspired the founder of the blog "Nyans: Muslim" (Nuance: Muslim), founded in 2014 as a platform for voices of Muslim women and men from a broad spectrum in **Sweden**. *Al-Nisa*, an organisation of Muslim women in the **Netherlands**, launched a public campaign which aimed at countering stereotypical images of them entitled "Do you know me?" (*Kent u mij?*).

All national reports and many roundtables' discussions confirm that media tend to show a stereotypical image of Muslim women, especially Muslim women wearing the headscarf. This imagery is fuelled by stereotypes on women and their assumed position in the Islamic tradition.⁵⁵ Muslim women are usually monolithically portrayed as weak and oppressed, without the right or ability to think by themselves or take control of their own lives, or as being brainwashed by patriarchal visions. Paradoxically, Muslim women may also be seen as proselytes willing to spread a certain conception of Islam, as Trojan horses just waiting to impose their views on others. Researcher Laura Navaro in her study "Islamophobia and sexism: Muslim women in Western mass media" states that Muslim women are simultaneously represented as "victims of their own culture and a threat to ours".⁵⁶

49 European Women's Lobby, 2015.

50 Ibid.

51 ENAR. 2016. *Forgotten Women - National Report for France*.

52 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

53 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

54 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

55 ENAR. 2016. *Forgotten Women - National Report for France*.

56 Navaro, L. 2010. "Islamophobia and Sexism: Muslim Women in the Western Mass Media". *Human Architecture: Journal of the Sociology of Self-knowledge*, VIII, 2.

When it comes to Muslim women there is a strong focus in the media on women's oppression/emancipation and the relation to their bodies and the way they dress. National reports show that most news stories related to Muslim women are related to violations of women's rights (including honour killings, forced marriages and female genital mutilation). Journalist Deniz B. Serinci examined **Danish** media coverage of Muslim women, in 1,600 articles among six of the largest national newspapers in the years 1999 to 2013. He concluded that the media largely wrote negatively about Muslim women and in relation to female oppression, social control, headscarves, forced marriages, honour killings and female genital mutilation. The few articles with positive angles of Muslim women are presented as rare exceptions.⁵⁷

Such an approach results in the construction of negative stereotypes such as that of 'the oppressed Muslim woman'⁵⁸ and fails to consider Muslim women as a diverse and heterogeneous group, "in their opinions, appearance, spectrums of faith, occupations, cultures, languages, heritage".⁵⁹

Some media instrumentalise news to 'reiterate' the danger of an 'Islamic invasion', and represent Muslim women as a threat to national traditions and values, such as gender equality or values of secularism. Covers, headlines, images and caricatures used in the media are also used to fuel previously mentioned stereotypes. For example, in **France**, the covers and editorial policies of some newspapers and weekly magazines such as *Le Point*, *L'Express*, or *Valeurs Actuelles* all participate in portraying Muslims as a problem, through the female figure.⁶⁰ In **Italy** some media outlets in particular stand out for their stigmatisation of Muslims, like *la Padania*,⁶¹ *il Giornale*, *Libero*, *Il Foglio* and *Il Tempo*.⁶² In these newspapers, the female figure is put forward as some of their headlines read: "She takes off the headscarf: beaten by her Muslim husband"⁶³ and "Burkini and the death of the West".⁶⁴

Portrayal of Muslim women by media is worrying since it seems that the media is the main source of information about Islam for the broader public. For example a YouGov poll in the **UK** finds that 74 % of the British public claim that they know nothing or next to nothing about Islam and 64 % get their information about Islam through the media.⁶⁵ In **Sweden**, the way media shape people's understanding of the world has been confirmed in one of the State's public inquiry reports "Media Us and Them – Media significance for structural discrimination" (*Mediernas Vi och Dem – Mediernas betydelse för strukturell diskriminering*). This report concludes that the media separates the world into two groups according to an 'us and them' division, which then forms the basis for news evaluation and reporting.⁶⁶



Cover after the publishing of the cartoons of Prophet Muhammad (2006): "Holy Hatred" - Germany

D. T. Deveraux cartoon (2009)

There have also been attacks against high level politicians who are Muslim women or perceived as such. For instance, Najat Vallaud-Belkacem, the French Minister of Education, has been portrayed in the media as a dangerous Islamist activist. Some politicians have also used sexist and racist comments when she was promoted to Minister of education.⁶⁷

57 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

58 Ibid.

59 International Museum of Women's online exhibition.. *Muslima: Muslim Women's Art & Voices - How does the media portray Muslim women*. Accessed on 25 April 2016.

60 ENAR. 2016. *Forgotten Women - National Report for France*.

61 La Padania was the official Northern League newspaper. It was closed down in November 2014.

62 ENAR. 2016. *Forgotten Women - National Report for Italy*.

63 Franchini, F. 2015. "Si toglie il velo: presa a pugni dal marito musulmano". *Ilgiornale.it*, 10 March.

64 Meotti G. 2009. "Il burkini e la morte dell'occidente". *Ilfoglio.it*, 26 May.

65 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

66 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

67 See <http://tempsreel.nouvelobs.com/politique/20140901.OBS7763/racisme-sexisme-najat-vallaud-belkacem-la-cible-ideale.html>.



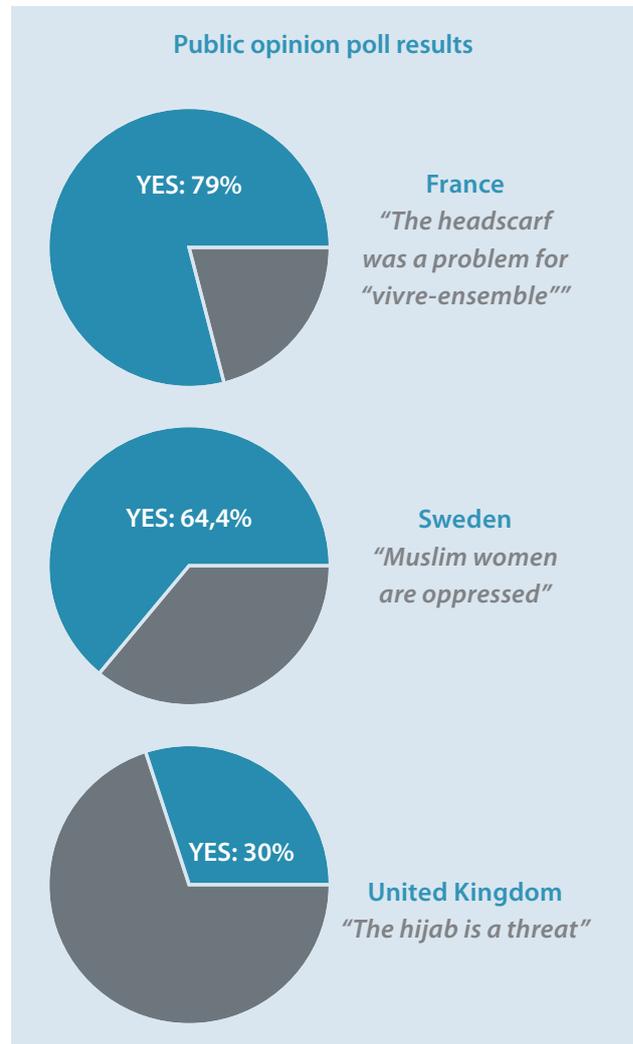
Covers of weekly magazines "Minute" and "Valeurs Actuelles" related to Najat Vallaud-Belkacem (September 2014) - France

Public opinion

Opinion polls also prove the existence of a stereotypical view of Muslim people in all countries covered. These views are reinforced by some influential European intellectuals and politicians who, by declaring a lack of compatibility of some expressions of Islam with 'European values' (i.e. fundamental rights and the rule of law, women's rights, LGBTI people's rights and rights of Jews), contribute (in) directly and/or (un)willingly to reinforcing stereotypical representations of Muslims, women in particular. This is linked to the fact that Muslim women are seen as outsiders trying to import other values, disregarding the universality of human rights. Muslim women are perceived to embody a homogeneous group supporting domestic violence and terrorism, homophobia, gender inequality, traditional gender roles, etc. While no community or society is immune to racism, sexism and violence, finger pointing at an entire group contributes to spreading prejudices and racism.

For example in 2014, 79% of the respondents to a survey in France stated that the headscarf was a problem for "vivre-ensemble" ("living together"), 11 points more than in 2013⁶⁸. According to **Swedish Mångfaldsbarometern** - Diversity survey, 64.4 % of the Swedish population believes Muslim women are oppressed.⁶⁹ The negative attitudes towards Muslim women are related to the

68 ENAR. 2016. *Forgotten Women - National Report for France.*
69 ENAR. 2016. *Forgotten Women - National Report for Sweden.*



type of clothes they wear (83% against the niqab, 65% accept the hijab).⁷⁰In **the UK** Gallup has done extensive research on issues pertaining to Muslim women. They find that 30% of the British public believes that the hijab is a threat and that 16% of the British public would not want a Muslim neighbour. At the same time, 41% of the British public associates the wearing of the hijab with 'confidence' and 37% an enrichment to European culture. Further, 36% of the British public believe that 'loyalty' to the UK did not apply to British Muslims, though 82% British Muslims surveyed did feel that loyalty applied.⁷¹ In **the Netherlands** the Institute for Social Research found that in 2014/2015, 44% of the research participants

70 Ibid.
71 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom.*

believed that the Western-European and Islamic ways of life are incompatible.⁷²

European feminists have split views over Muslim women. The national reports show that mostly older generation feminists see Muslim women as oppressed and Islamic clothing as an instrument of oppression incompatible with gender equality principles. A new generation of feminism has been generally more open to recognising that it is possible to be feminist and Muslim, and/or that as long as wearing of the headscarf or niqab is a personal choice for the individual woman, that should be respected. Beyond what feminist groups may think of the headscarf and what it represents, what is worrying is the fact that the argument of women's rights has been used by some politicians and decision makers to further restrict the rights of a number of Muslim women to access employment, education or other services. Such a strategy has two implications: it consolidates belief in the existence of racial differences and it relativises and even conceals masculine domination in majority societies.⁷³

Public officials and those seeking political office have a particular responsibility not to promote or strengthen stereotypical views which are likely to foster intolerance and discrimination. If they portray Muslim women as a group denying gender equality or violence, they help foster a climate of hostility and suspicion against women perceived as Muslim which can lead to discrimination.⁷⁴

Right and centre-right wing parties seem to be the most committed opponents of Muslim presence. In 2014 a

Global Attitude survey by Pew Center⁷⁵ revealed that negative sentiments against Muslims among Europeans are consistently more common among people on the ideological right. Similarly their political posters often contain such rhetoric, for example in France, Germany and Italy.

However, this political narrative is mainstreamed across the political spectrum, occasionally including the political left as well. Political hate speech can take Islamophobic and sexist forms against Muslim women, often focusing on the headscarf. For example in France some left-wing politicians presenting themselves as humanist, secular and feminist have often been aggressively against the freedom of Muslim women to dress according to their choices and have been at the forefront during debates around the prohibition of the headscarf in different areas of life. In France, current Prime Minister Manuel Valls from the Socialist Party declared, while he was the Minister of Interior: "The headscarf, which prevents women from being who they are, remains for me, and must remain for the Republic an essential fight".⁷⁶ Former right-wing President Nicolas Sarkozy declared that "we don't want women wearing headscarves".⁷⁷



National Front pre-election poster, France

72 ENAR. 2016. *Forgotten Women - National Report for the Netherlands*.

73 Navaro, 2010.

74 Amnesty International, 2012.

75 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

76 Manuel Valls, *Europe 1*, 6 February 2013.

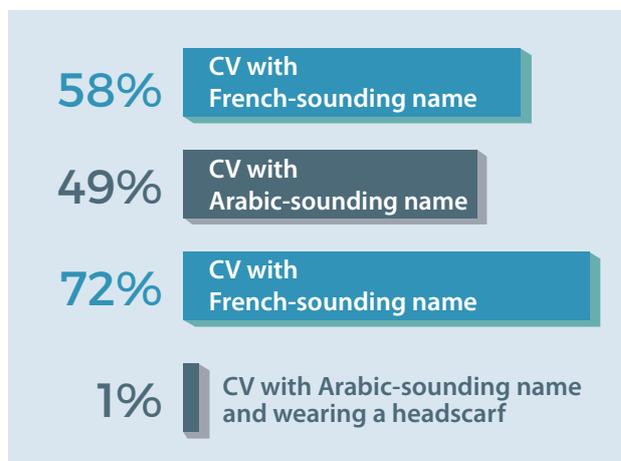
77 Nicolas Sarkozy, *Europe 1*, 19 February 2015.

3. WOMEN IN THE EU LABOUR MARKET: THE SPECIFIC POSITIONING OF MUSLIM WOMEN

Discrimination based on gender and religion

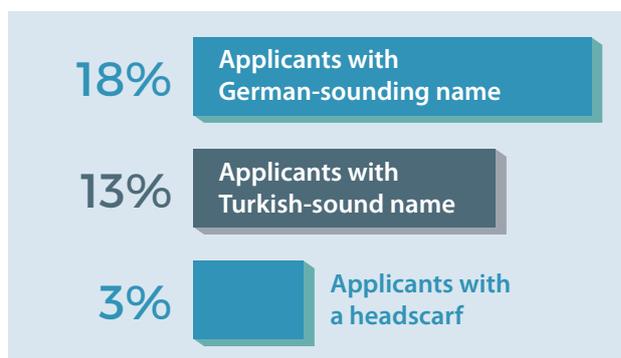
Comparative data from national reports clearly confirm that most of labour discrimination is related to either gender, ethnicity, religion, or a combination of these grounds. Due to lack of data, difficulty to record discrimination on several grounds and lack of harmonisation of equality legislation in some countries, it is often difficult to grasp how the different grounds play a role in discrimination experiences. However, some studies, including CV testings and victimisation surveys offer evidence of the intersectional discrimination faced by Muslim women, especially at the level of access to employment, which appears to be at the core of discrimination experiences of Muslim women, according to the national reports. Muslim women are subject to three types of penalties in employment: gender ‘penalties’, ethnic ‘penalties’, and religious ‘penalties’. In some countries (the Netherlands, Sweden), data show that Black Muslim women (especially Somali) are particularly affected by multiple discrimination.

Several CV testing studies were undertaken in **France**.⁷⁸ First, a study conducted in 2009 demonstrated the existence of a gender penalty. CVs with French sounding names, male and female, obtained the highest positive response rates, but revealed a small but significant discrepancy between men - 27.7% and women - 22.6%. The lowest positive response rates were for women with Senegalese and Moroccan sounding names (8.4%), highlighting an additional ethnic penalty for these women in access to employment. The second study additionally revealed a significant Muslim penalty as the Muslim Senegalese woman got 8% of positive responses compared to 21% for the Christian Senegalese woman. A woman perceived as Muslim therefore has 2.5 times less chance than the one perceived as Christian of being invited to an interview. The last study confirmed previous findings and additionally showed a ‘headscarf penalty’ for Muslim women wearing it. The results of this study showed that the difference in positive responses can go up to 10 points between the applicants with French and Arabic sounding names, but when the headscarf parameter is added, the difference goes up to 71 points difference.



Tisserant P., *Discrimination à l'embauche liée au port de voile: les résultats d'un testing sur CV réalisé en France (2014)*

Similarly in a **UK** Department for Work and Pensions study three closely matched applications were submitted to a number of job adverts in different industries across the UK and proved an ethnic penalty as ethnic minority applicants had to send 74% more applications than their white counterparts to achieve an equal level of success.⁷⁹ A study in **Germany** carried out by Linz University also demonstrated an ethnic penalty. For applicants with German names 18% of the companies responded with an invitation to an interview, while only 13 % responded to applicants with Turkish sounding names. Additionally a ‘headscarf penalty’ was also proven since only 3% of Muslim women wearing a headscarf in the CV photo were invited to an interview.⁸⁰



In the **UK**, researchers Khattab and Johnston⁸¹ provide the most recent and most comprehensive study of Muslim women’s labour market penalties. Finding that most ethnic minorities face penalties, they demonstrate that Muslim penalties are the most acute and add on to ethnic

78 ENAR. 2016. *Forgotten Women - National Report for France*.

79 ENAR. 2016. *Forgotten women - National report for the United Kingdom*.

80 ENAR. 2016. *Forgotten Women - National Report for Germany*.

81 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

penalties. They find clear evidence of a 'Muslim penalty', demonstrating that unlike Hindu Indians who are almost 1.49 times as likely as a White British Christian to access the salariat, Muslim Indians are 0.86 times as likely to acquire such a job. Similarly, White Muslims are approximately 0.72 times as likely as a White Christian or non-religious woman to access the salariat and the odds for Pakistani and Bangladeshi women are significantly worse. In fact, according to them Muslim women with degrees have a lower likelihood of attaining a job commensurate with their qualifications than their White British Christian counterparts.

Similarly in **Belgium**, the University of Ghent published a study in which researchers responded to 376 jobs offers with two identical profiles, the only difference being the candidate's name (a Flemish and a Turkish one). The results show that candidates with a Turkish-sounding name have statistically 50% less chances of getting a positive response than candidates with a Flemish-sounding name.⁸² Situation testing in **Italy** has shown how having an Arabic name compared with candidates having an Italian name decreases by 50% the likelihood of being short-listed for a job interview while submitting the same CV.⁸³

In **the Netherlands**, a victimisation survey showed that 11% of Afghani-Dutch Muslim women not wearing a headscarf said they had experienced discrimination on the basis of religion compared to 73% of Afghani-Dutch who do wear a headscarf. For Iraqi-Dutch these figures are 9% versus 45%, for Iranian-Dutch 8% versus 45%, for Somali-Dutch 20% versus 49%, for Moroccan-Dutch 15% versus 39% and for Turkish-Dutch 14% versus 55%.

The **Danish** study "*Hit twice? Danish evidence of the double-negative effect on the wages of immigrant women*" proved that all immigrant women are affected by substantial gender gaps ('gender penalty'), but that Turkish, African and Pakistani women experience a double-negative effect, due to their ethnic origin but also religion since other immigrant women from Nordic countries and India and Sri-Lanka (countries where Islam is not the main religion) experience no double-negative effect.⁸⁴

Data from the different national contexts show that labour market discrimination against Muslim women happens at various stages in the process of seeking employment, from access to vocational training and internships, to recruitment and selection phase, but also in the workplace.

Access to vocational trainings and internships

Discrimination first appears at the level of vocational training or higher educational institutions. For example in **France**, the Collective Against Islamophobia in France (CCIF) recorded 99 cases of religious discrimination in the fields of higher education and vocational training in 2014 (13% of the total discrimination acts). Muslim women avoid certain professional areas by anticipation of the difficulties. Their choice of college or training seems to be based on a kind of self-exclusion from certain employment sectors, like journalism or law.⁸⁵

In **Belgium** for example, the public organisations involved in vocational training policy and employment, such as *Actiris* in Brussels and *Le Forem* in the Walloon region, as well as temporary work agencies,⁸⁶ often offer Muslim women job positions where according to their knowledge the headscarf will not cause any problems for employers. Moreover, the refusal to accept women can also concern volunteering activities.⁸⁷ In the **Netherlands**, one in three Turkish-Dutch students and one in four Moroccan-Dutch students said they had experienced discrimination when applying for an internship position compared to 2% of *autochtoon* Dutch. In particular, attention has been drawn to Muslim women students who were rejected for an internship position because of their headscarf.⁸⁸

Selection and recruitment

The vast majority of incidents and discrimination occur during the recruitment and selection phase, as evidenced by the CV testings mentioned above. Similarly to women in general, Muslim women are unlawfully asked about their family, pregnancies and children during the recruitment process and interviews. For example, some employers

82 ENAR. 2016. *Forgotten Women - National Report for Belgium*.
83 ENAR. 2016. *Forgotten Women - National Report for Italy*.
84 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

85 ENAR. 2016. *Forgotten Women - National Report for France*.
86 In May 2011 the Brussels Court convicted Adecco (one of the agencies) of discriminatory practices against job seekers of foreign origin.
87 See for example the experience of a social worker: <http://recit-dune-voilee.overblog.com/nadia-hammoudi-t%C3%A9moigne-pour-l-encre-des-voil%C3%A9es>. Accessed on 9 December 2015.
88 ENAR. 2016. *Forgotten Women - National Report for the Netherlands*.

try assessing the 'level of islamisation' of women, or try to evaluate whether this level can be problematic or compatible with the good functioning of their business, service or other. In some cases in **Belgium** this was tested through questions including about the domestic intimacy of women: "Does your husband beat you? Do you pray five times a day? Do you fast during Ramadan?".⁸⁹ Women are also sometimes asked questions that focus on individual behaviour and judge certain choices as only associated to Muslim women who adopt a strict interpretation of Islamic rules: "Do you kiss or shake hands with colleagues?". It seems that "the more strongly one's Muslim identity is proclaimed, the greater the exclusion from the labour market".⁹⁰ This particular form of stereotyping of Muslim women is a reiteration of assumptions about their gender roles, work ethic, and life aspirations or pregnancy. In the **UK**, research shows that one in eight Pakistani women are asked about marriage and family aspirations in job interviews whereas only one in thirty White women are asked such a question.⁹¹

As shown in the CV testings, the headscarf appears to be an additional obstacle in finding a job. In **Belgium**, 44% of employers agree that wearing a headscarf can negatively influence the selection of candidates.⁹²



UNIA, 2016

In the workplace

Discrimination in the workplace includes harassment, insults/discriminatory remarks by colleagues, termination or non-renewal of labour contract on the basis of neutrality requirements or commercial imperatives, but also lack of career progression. For example, a 22 year-old Afghani-Dutch woman from the **Netherlands** testifies "My employer asked me why I started to wear the headscarf, and I replied to her that it would not influence

my ability to work. 'I am still the same Sahar, and I will work in the same way I did before.' She then said that people, customers, would now see that I am Muslim. 'Yes', I told her, 'but I have always been Muslim.'" As a result, her employer terminated her contract.⁸⁹

In **the UK**, 50% of female respondents wearing the hijab felt they had "missed out on progression opportunities because of religious discrimination and that the wearing of the hijab had been a factor".⁹⁴ Additionally, a number of Muslim women have reported suffering discrimination at work or micro-aggressions from their employers, colleagues and clients.

*I have not experienced any discrimination by my employer, not that I can recall. But I have experienced discrimination by colleagues. My former colleagues have used racist and offensive expressions such as the n-word, others have questioned my choice of wearing the headscarf, while others have reproduced stereotypes that my parents would probably force me to marry against my will. There are also colleagues who have tried to make me into this suspicious subject by associating me with people travelling to Syria.*⁹⁵

Some women also state that the customers/clients assume they are less competent than other colleagues.

*One of the clients had written to my boss that she did not trust that I could be impartial in her case given that I probably come from a culture where women are hated. My boss handled it well, however, this kind of behaviour strikes a nerve with me; how can I be disqualified on the basis of racist stereotypes and not my actions?*⁹⁶

In Denmark 26-year-old Dana worked in a bakery where she repeatedly experienced Islamophobia from customers:

*A customer ignored me and walked out. He came back another day and said 'you provoke me just by standing in front of me, I am a Christian', so he threw the money at me and walked out. It shocked me. I didn't dare to confront him; I just went out and cried.*⁹⁷

89 ENAR. 2016. *Forgotten Women - National Report for Belgium*.

90 Ibid.

91 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

92 ENAR. 2016. *Forgotten Women - National Report for Belgium*.

93 ENAR. 2016. *Forgotten Women - National Report for the Netherlands*.

94 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

95 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

96 Ibid.

97 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

When asked in a survey about exclusion of Muslim women, heads of human resource departments in different German companies did not state that they were excluding them due to existence of some legal rules, but rather due to the fact that “they are backward”, “not willing to integrate”, “representing Islamist and political oppression”, “frightening for customers”, “oppressed by Muslim men”, “incompatible with Western culture”, “cause conflicts and economic loss”, expressing their own prejudices and stereotypes.⁹⁸

Avoidance strategies

Muslim women often develop avoidance strategies in order not to be confronted with discrimination. Constraining choices (necessary ‘invisibility’, no customer contact, alternative professional choices, drop-out, etc.) are often a source of frustration and suffering. Some women turn to their religious or ethnic community to find at least some professional fulfilment and acceptance. Others become entrepreneurs and create their own business. Lastly, unfortunately some Muslim women do not want to be confronted with employers anymore at all, and they subsequently leave the labour market and decide to stay at home. Testimonies reveal that their psychological state has a great influence on the way Muslim women handle discriminatory situations. For example CCIF in **France** reports that more and more Muslim women suffer from depression and observes trends of self-denigration and lack of self-esteem.⁹⁹ Some of the women resort to removing their headscarf. This can represent a difficult personal decision for these women, leading to feelings of humiliation, violation of their dignity and a negation of their integrity.¹⁰⁰ Some of them continue to wear it outside the workplace and try to adopt a low profile and develop strategies to avoid being questioned on this by their employers or co-workers.¹⁰¹

EU legislation

The EU Employment Equality Framework Directive 2000/78/CE establishes a general framework for equal

treatment in employment and occupation. It requires Member States to prohibit any direct or indirect discrimination, any harassment and incitement to discrimination based on religion or belief in the context of employment and work, including vocational training. This Directive does not include race and ethnic origin, but the **Racial Equality Directive 2000/43/CE** guarantees equal treatment of all people without distinction of race or ethnic origin. It gives general protection against ethnic and racial discrimination in the fields of employment, education, social protection, health and access to goods and services. It also recognises direct and indirect discrimination. Discrimination on the grounds of religion, sexual orientation, age and disability is not included. In 2008, another EU directive was proposed in order to fill this gap in legal protection, introducing European standards of protection on the grounds of religion/belief, sexual orientation, age and disability in all areas outside of employment (education, social security, access to goods and services). This text is still blocked in the European Council. In terms of gender equality there are two relevant directives, namely **Directive 2004/113/EC** implementing the principle of equal treatment between men and women in the access to and supply of goods and services, and **Directive 2006/54/CE** dealing with equality between men and women in employment and occupation.

Some countries have gone beyond the requirements of the Directives and have extended protection outside of employment for the grounds of religion, sexual orientation, age and disability. However, there still exists a lack of harmonisation and this legislative gap creates a hierarchy between protection of grounds. Furthermore, the fact that the EU equality directives provide for an exhaustive list of discriminatory grounds rather than an open list of prohibited factors does not encourage protection against multiple discrimination.¹⁰² Therefore, “gender policies and non-discrimination policies should not be kept separate, because this does not promote the development of coordinated action to tackle discrimination and, in particular, endangers those intersections and communication across the various grounds that are necessary to recognise the combined

98 ENAR. 2016. *Forgotten Women - National Report for Germany*.

99 ENAR. 2016. *Forgotten Women - National Report for France*.

100 Fatiha Ajbli, sociologist and expert on Muslim women discrimination in the field of employment. Interview, 19 June 2015. Fatiha Ajbli’s academic work is based on interviews of Muslim veiled and educated women aged between 22 and 40.

101 Ibid.

102 ENAR “Forgotten women - National report for Italy”, 2016. Interview with Simonetta Renga, legal expert of the European Network in the Field of Gender Equality.

effect of different grounds of discrimination”.¹⁰³ This hierarchy has been said to work to the detriment of gender equality and in general to have induced a less structural approach to addressing inequalities.¹⁰⁴

National legislations

Generally speaking these eight countries have harmonised their legislative framework with EU requirements. They have anti-discrimination principles enshrined in their constitutions, but also in specific anti-discrimination laws. Some of them have their own specificities and different ways in which they understand and interpret anti-discrimination obligations (such as France, Belgium, Germany). In **France**, civil servants are prohibited from wearing any religious symbols by law in respect of the neutrality principle. In **Belgium**, restrictions on the wearing of religious symbols and clothing in the public sector exist due to the interpretation of the constitutional principle of neutrality, even though, this principle only refers to education in the Constitution. Despite some proposals to extend the ban to the entire country, the prohibition is not harmonised at the federal level. In **Germany**, there are regulations that partially restrict freedom of religion and discriminate against Muslim women. Claiming the need for establishment of neutrality, eight different German Federal States¹⁰⁵ adopted specific regulations on the banning of religious symbols. Additionally, the right of freedom of enterprise allows public and private companies and institutions to refuse applicants as long as they can justify the headscarf’s incompatibility with in-house requirements and its association with economical loss or working disturbances. **France, Belgium and Germany** have also prohibited teachers from wearing religious symbols at different regional levels. According to researcher Eva Brems, this has important implications in terms of job opportunities since “the number of jobs in French public service is around 5.6 million while the number of people in France who have a job is around 26 million. Hence the French exclude Muslim women who

wear a headscarf (as well as Sikh men who wear a turban and Jewish men who wear a kippah) from more than 21% of all potential jobs that they might aspire to in France.”¹⁰⁶ In Belgium, a general ban would mean excluding persons wearing religious symbols from 42% of the total available jobs.¹⁰⁷ Although freedom of religion is a fundamental principle of the Italian Constitution, legal protection of freedom of religion is also linked to the signing of a bilateral agreement (Intesa) and Muslim representatives have still not signed it. In the **Netherlands, the UK, Sweden and Denmark**, legislative frameworks are not primarily framed around ‘neutrality’ issues. In **the UK**, it is the duty of public authorities to eliminate prohibited conduct in a range of protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, [and] sexual orientation.¹⁰⁸ In 2009, in **Denmark** the parliament passed a law (popularly called the Scarf Act) forbidding judges to wear headscarves (and other religious or political symbols), despite criticism by lawyers,¹⁰⁹ Both in **Germany** (Constitutional Court judgment of 27 January 2015) and **Belgium** (Council of State judgment of 14 October 2014), courts have recently adopted judgments which limit the justifiability of headscarf bans to situations in which there is evidence of concrete risks for neutrality or the rights of others.

Court cases

European Court of Human Rights (ECtHR)

Case law in the ECtHR has greatly influenced national and European developments on the issue of Muslim women. “Although in the last years, the ECtHR has recognised and sanctioned indirect discrimination, in particular on a gender basis, it totally ignores such forms of discrimination when a religious sign or a dress code is at stake. It thus misapplies the concept of indirect discrimination which does not necessarily require a discriminatory intent.”¹¹⁰

103 European Network in the Field of Gender Equality. 2009. Multiple Discrimination in EU Law: Opportunities for Legal Responses to Intersectional Gender Discrimination?

104 European Network in the Field of Gender Equality. 2009. *Multiple Discrimination in EU Law: Opportunities for Legal Responses to Intersectional Gender Discrimination?*

105 Baden-Württemberg, Bayern, Berlin, Bremen, Hessen, Niedersachsen, Nordrhein-Westfalen and Saarland.

106 See <https://strasbourgobservers.com/2015/11/27/ebrahimian-v-france-headscarf-ban-upheld-for-entire-public-sector/>.

107 Collectif Contre l’Islamophobie en Belgique. 2015. Existe-t-il une Dimension Sexiste dans les Actes d’Islamophobie en Belgique?

108 Equalities Act 2010 c. 15, Part 2, Ch. 1, Clause 4).

109 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

110 Ast & Spielhaus, 2012.

In the case “**Dahlab v. Switzerland**” the applicant, a primary-school teacher, complained of the school authorities’ decision to prohibit her from wearing a headscarf while teaching and the Court declared the application inadmissible (manifestly ill-founded).¹¹¹ It stated that the measure had not been unreasonable, having regard in particular to the fact that the children for whom the applicant was responsible as a representative of the State were aged between four and eight, an age at which children were more easily influenced than older pupils.

Another case is that of “**Eweida v. British Airways**”, where a claimant was sent home from work without pay following repeated infringements of her employer’s uniform policy by attending work wearing a visible Christian cross. She claimed that, while British Airways would allow Muslim women to wear the hijab, it was a form of indirect discrimination to send her home from work for visibly wearing a crucifix. The ECtHR upheld a claim from Eweida and others against the UK: the ECtHR found that English courts had failed to strike a “fair balance” in protecting Article 9 related to freedom of thought, conscience and religion. They had given too much weight to an employer’s concerns about its corporate image and not enough weight to the employee’s interest in expressing her religious convictions.¹¹² The ECtHR upheld the notion that the right to manifest one’s religious belief cannot be circumscribed by an argument for projecting a “corporate image”.

The ECtHR in its “Dahlab v. Switzerland” 2001 statement stated that the headscarf is a “powerful external symbol” and “is hard to square with the principle of gender equality. It therefore appears difficult to reconcile the wearing of an Islamic headscarf with the message of tolerance, respect for others, and above all, equality and non-discrimination”. The court offered a similar opinion on the headscarf in the “Leyla Şahin v. Turkey” case in 2004.

In the most recent case “**Ebrahimian v. France**”, the applicant, with a temporary contract in a public hospital in the Paris area, was informed that her contract would not be renewed due to her refusal to stop wearing a headscarf. The French court ruled that the hospital was allowed to refuse renewal on this ground due to the principle of ‘*laïcité*’ of

the State and neutrality of public service. She then turned to the ECtHR which also ruled against her upholding the non-renewal of a contract on the ground of the applicant’s refusal to take off her headscarf.¹¹³

According to Ast and Spielhaus, such a construction of the headscarf as a symbol of the inferior position of women in Islam has enabled States to justify regulations that in practice ban Muslim women from studying or working with the headscarf. In fact according to them one of the key obstacles in the development of an intersectional approach is the ECtHR’s case-law interpreting the headscarf as incompatible with gender equality.¹¹⁴

Court of Justice of the European Union (CJEU)

Unlike the European Court of Human Rights, the **Court of Justice of the EU** has not delivered any judgement on cases of alleged discrimination based on religion or belief up until now under the EU Employment Equality Directive. However, recently two similar cases from France and Belgium were referred to the CJEU for which the judgement has not yet been pronounced. Both concern the wearing of headscarves in private companies. The French case, “Bougnaoui v. Micropole Univers SA” concerns a design engineer about which a customer complained that the headscarf she wore “embarrassed” a number of its employees, and demanded that this should not recur. The employer discussed this with Mrs Bougnaoui and asked her to observe a principle of ‘neutrality’ as regards her dress when dealing with clients. When she refused, she was dismissed. The Belgian case, “Achbita v. G4S Secure Solutions NV” concerns a receptionist contracted out to another company, Atlas Copco. Sometime after starting the job, she decided to wear the headscarf. G4S is part of an international company and this was regarded as infringing a ‘strict neutrality’ rule in the workplace. Both of these cases question the extent to which an employer is entitled to limit an employee’s religious expression in order to comply with the preferences of a customer or the neutrality principle, an extension from the public sector to the private employment sector.¹¹⁵

111 ECHR. 2016. *Religious Symbols and Clothing - Factsheet*.

112 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

113 Brems, E. 2015. *Ebrahimian v France: headscarf ban upheld for entire public sector*.

114 Ast. & Spielhaus, 2012.

115 Rubenstein, M. 2015. “Recent and Current Employment Discrimination Cases in the Court of Justice of the European Union”. *The Equal Rights Review*, Vol. 15.

As the FRA mentioned, “a kind of ‘legal discrimination’ (selective bans on wearing the Islamic headscarf) also plays a role, and apart from the impact on those directly affected, has the potential to affect public perceptions of the headscarf issue, and to increase the ‘acceptability’ of such discrimination against women”.¹¹⁶

National court cases

Dismissals due to the commercial imperative and/or neutrality requirement

Most of the court cases deal with discrimination of Muslim women in sectors with frequent contact with external parties (patients, users, customers, clients), where they are visible, such as hospitality and retail, but also education, health care, public administration, etc. Generally women rarely decide to pursue a court action. If they do, it is usually at the dismissal stage, not at recruitment stage or denial of progression opportunities. Therefore such types of discrimination represent the majority of court cases in the field of employment.

The **Belgian** equality body UNIA handled legal proceedings by a woman wearing a headscarf who worked as a cashier in a store. Following the complaint of a client, the management decided to move the woman to a back-office position. The Labour Court found this operation illegitimate stating that the company rules did not mention anything regarding religious signs. This judgment was positive for this woman,¹¹⁷ but it in fact legalised the possibility for companies to institutionalise the prohibition of religious signs. Another case involved *Actiris*, the public employment agency for the Brussels-Capital Region. The Labour Court pronounced a decision against the *Actiris* decision to fire a Muslim woman due to prohibition on religious signs in a supposedly neutral service. According to UNIA, this court decision respected the correct meaning of the principle of neutrality as the judge in charge stated that the *Actiris* prohibition violated prescriptions promoting diversity and fighting

against discrimination and constituted an act of indirect discrimination not justifiable by any legitimate objectives concerning neutrality. Up until now judgements had not focused on different levels of understanding of ‘neutrality’ in particular the nuances that determine the limit of the “principle of objective and reasonable justification for genuine occupational requirement” often referred to in such cases.¹¹⁸

In **Germany**, a famous court case in 2003 was that of Fereshta Ludin who was refused a teaching position due to the fact that she wore the headscarf and won the case at the Federal Constitutional Court. However, as a consequence eight Federal States in Germany introduced neutrality laws which in practice discriminate primarily against veiled Muslim women in schools. The situation has just recently changed. In March 2015 the Federal Constitutional Court has decided that blanket headscarf bans cannot be justified unless it can be proven that the headscarf poses a concrete threat to school peace or the state’s neutrality.¹¹⁹ In the German private sector, some companies have had positive court decisions claiming that the headscarf is incompatible with in-house requirements of processes, hygiene and security, and that it causes clear economic damage.¹²⁰ In respect of German Christian faith-based institutions, the law guarantees them the right to self-determination so that they are allowed to discriminate against other beliefs. In a case of a 36 year old nurse who was fired by a Christian hospital because she started wearing the headscarf after three years of parental leave, the court stated that by wearing the headscarf, the nurse showed that she “visibly stands for another faith”, which could damage “the Church’s credibility”.¹²¹ Generally in relation to this, Dr. Michael Wrase from Berlin Social Science Centre argues that on the one hand “the state pretends to be neutral, on the other hand it de facto privileges the Christian religion”.¹²²

In **France**, several court cases validated CEOs’ decisions to dismiss their Muslim employees wearing a headscarf, due to commercial imperatives.¹²³ However, in 2008 and

116 European Union Agency for Fundamental Rights. 2011. *Migrants, Minorities and Employment – Exclusion and Discrimination in the 27 Member States of the European Union*.

117 ENAR. 2016. *Forgotten Women - National Report for Belgium*.

118 Ibid.

119 ENAR. 2016. *Forgotten Women - National Report for Germany*.

120 Ibid.

121 Ibid.

122 ENAR. 2016. *Forgotten Women - National Report for Germany*.

123 Decision 97/703397 of 9 September 1997, Court of Appeal of Saint-Denis de la Réunion and Decision of 16 March 2001, Court of Appeal of Paris.

2009, the equality body (former HALDE) reaffirmed that according to the non-proselyte nature of religious symbols as such, the simple fact of being in contact with customers cannot be a legitimate and proportionate justification to restrict religious freedom.¹²⁴ A landmark case was the “Baby Loup” case in Paris, France. In 2008, a social worker in a day-care centre (Baby Loup) was dismissed when she started wearing a headscarf. The victim referred to the equality body (former HALDE) that adjudicated against the Baby Loup centre in 2010. The case was re-examined upon the request of the equality body’s new president but the initial decision was upheld. The case then went to the Labour Court in 2010, and the equality body’s president openly supported the “Baby Loup” centre, against her organisation’s former decision. The decision of the Versailles Court of Appeal in November 2011 confirmed the previous one but the decision of the Court of Cassation led to a new development as it recognised the abusive aspect of the dismissal, reaffirming that private sector companies were not concerned with secularism and religious neutrality. This decision was followed by a media and political frenzy and the case went back to court. Both the Paris Court of Appeal (2013) and the Court of Cassation (2014), overturning its previous decision, invalidated the former decision and the victim definitively lost the case.¹²⁵ The “Baby Loup” case is emblematic of the political and judicial relentlessness when it comes to Muslim women, especially those wearing the headscarf. In addition, both the judicial authorities and the equality body lost credibility as they proved to be partial and sensitive to political lobbying.

In **Denmark** in 2008, the Documentation and Advisory Centre on Racial Discrimination - DRC (*Dokumentations og Rådgivningscenteret for Racediskrimination*) represented a young woman who was fired because she was fasting during Ramadan. The day care where she had been hired refused the existence of religious discrimination as they justified the dismissal by referring to the ‘necessity’ for her to eat with the children. The Eastern High Court (*Østre Landsret*) rejected this claim, and found that there was indirect discrimination in violation of the law prohibiting employment discrimination.¹²⁶

In the Føtex case, the claimant who was dismissed from her job at a department store because she started wearing a hijab, challenged the dismissal exclusively on the basis of religious discrimination. The Supreme Court, however, considered ethnic and gender discrimination in addition to religious discrimination. The Danish Supreme Court held that Føtex’s dress code indirectly discriminated against Muslim women who wear headscarves for religious reasons, but that the dress code did not violate the Discrimination Act’s prohibition against discrimination because it was justified by a legitimate and neutral objective and the principle of proportionality was complied with.¹²⁷

In **Italy** in 2013, Sara Mahmoud, a 19 year old woman, was contacted by an agency to work as an advertising promoter distributing leaflets to potential customers. In contacting her, one of the agents wrote to her: “I would like to hire you because you are very pretty, but are you keen on taking the chador off?”.¹²⁸ After Sara proposed to match it with a uniform, the agency dismissed her saying that customers would not be very flexible. After a long court case, the ruling did not recognise that the employer discriminated against her since one of the requirements was “fine and voluminous hair” and therefore the rejection was justified due to a commercial imperative. Unsatisfied by a superficial sentence her lawyers appealed and the decision of the court was that the company discriminated against Sara and the company was ordered to pay 500 Euros in damages.¹²⁹

In **Sweden**, there are currently two court cases involving Muslim women. Both involve the health care sector and are related to the issue of wearing disposable long sleeves in medical practice. The short-sleeved dress code is a procedure that appears neutral but in practice means that women who for religious reasons want to cover their arms are not allowed to do so.¹³⁰ According to *Malmö mot Diskriminering*, the issue of disposable sleeves in medical practice gives mixed messages that are to the Muslim women’s disadvantage.¹³¹

124 ENAR. 2016. *Forgotten Women - National Report for France*.

125 Ibid.

126 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

127 European Network in the Field of Gender Equality, 2009.

128 ENAR. 2016. *Forgotten Women - National Report for Italy*.

129 Ibid.

130 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

131 Ibid.

GOOD PRACTICES

Trade unions and companies

Some good examples in companies include the permission to wear the headscarf in the University Hospital in Ghent, **Belgium**, if the woman accommodates her headscarf and matches the uniform of the hospital. Another positive development comes from a private company in Belgium where the administration wanted to list all Muslim women wearing the headscarf in the company. When the information reached the employees, all of them (both women and men) showed up at work the following day wearing a headscarf. This peaceful but significant protest led to the cancellation of the discriminatory initiative.¹³²

A reporter at the **Swedish** newspaper *Aftonbladet* conducted a research during 2014. The reporter called assistance officers at 20 randomly selected municipalities asking whether there was a possibility of not being catered for by staff wearing the headscarf. *Aftonbladet* revealed that in 16 out of 20 municipalities, clients could be 'spared' staff who wear the headscarf. The response from trade unions was immediate. Trade union representatives, Annelie Norström from Kommunal and Veronika Karlsson from Vision, stated that demands such as staff without headscarf are completely unacceptable and ultimately affect the members of their unions: "Our trade unions are organising some 200,000 welfare workers in the health care sector. Many have a background in countries outside of Europe. They are managers, administrators, but not least, nurses, nursing assistants and personal assistants. Without them, welfare does not work, not a single day".¹³³

Civil society initiatives

Several projects promoting knowledge of rights and opportunities for immigrant women in the labour market have been initiated, like Italian *Lo Sapevi Che?*

(Did you know that?), or the Dutch projects *Talent uit Isolement* (Do not isolate the talent) or *Tipje van de Sluier* (Under the cover).

In Ghent, **Belgium**, a network of feminist associations campaigned against the prohibition on wearing the headscarf in municipality offices. As a result, the municipality decided in 2013 to cancel the prohibition and let Muslim women wear the headscarf at work. In **France**, the *Collectif des Féministes Pour l'Égalité* – CFPE (Collective of Feminists for Equality) is an alternative to mainstream feminist associations as it promotes an inclusive feminism. **Danish** mentor network KVINFO's matches women with refugee and immigrant backgrounds with women who are active in society. More than 7,500 women have participated in the network since its inception in 2002.

In **Belgium**, a Flemish association was established by a woman with the aim of helping female Islamic religion teachers in Flanders to have their rights respected. Another campaign entitled "Head-Up" was launched in 2014 by a young woman to collect funds and to support women wearing the headscarf who were discriminated against to undertake legal procedures. This campaign was supported by several associations and collected 70.000 Euros.¹³⁴ In 2015, **Dutch** Muslim women's organisation Al Nisa produced a documentary *Anders Kijken* (Look differently) about Islamophobia in order to raise awareness and encourage Muslims to report incidents. In **Germany**, several Muslim women groups, such as the *Islamische Frauengruppe Muenster* (Islamic Women's Group Muenster), Nafisa and the *Aktionsbündnis muslimischer Frauen* (Action Alliance of Muslim Women) are active on the issue of Islamophobia.

132 ENAR. 2016. *Forgotten Women - National Report for Belgium*.

133 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

134 ENAR. 2016. *Forgotten Women - National Report for Belgium*.

4. VIOLENCE AGAINST WOMEN, HATE CRIME AND HATE SPEECH TARGETING MUSLIM WOMEN IN EU

Visible Muslim women as main targets of racist and sexist violence

Racist violence against Muslim women mainly happens offline, in public spaces such as public transport, streets, markets and shops, or in the workplace. Visibility of religion, through clothing perceived as religious, plays a central role in triggering racist behaviours that are based on an anti-Muslim bias. Muslim women are seen as the 'visible representatives' of a religion but perpetrators choose to target them most probably due to the perception of their greater vulnerability linked to their gender. This is confirmed by the types of attacks which are often very violent, involve the removal of headscarves, as well as a mix of racist and sexist insults and gestures ("Muslim bitch", "Turkish slut" and "Muslim whore"). Moreover, the attacks are mostly perpetrated by unknown males, which shows a clear gender dynamic. Similar to other discriminatory practices, criminal offences with a bias are also likely to be intersectional, rather than having only one cause but the combination racism and sexism is rarely discussed.¹³⁵ Data show that such attacks, assaults and insults disproportionately affect Muslim women.

For example in **Belgium**, the Collective Against Islamophobia in Belgium (CCIB) stated that according to UNIA's data 63.6% of the Islamophobic hate crimes and offences registered between January 2012 and September 2015 concerned women.¹³⁶ In **France**, the French National Observatory against Islamophobia insists on the fact that most verbal or physical aggressions concerned women wearing headscarves.¹³⁷ CCIF data on Islamophobia reveal that in 2014, 81.5% of Islamophobic acts and speech targeted women. Muslim women, especially those wearing some type of headscarf, account for almost 100% of victims of physical aggressions.¹³⁸ There are also reports of cases of violence by the police in France. In **Sweden**, researcher Mehrako Masifi conducted a survey on hate crime experiences among young Muslims in 2008. Over 90% of the participants had been victims of hate crimes due to their faith, and about 70% of the

victims were young women wearing the headscarf or the veil.¹³⁹ Of the 250 who took part of the survey, only three people had reported the incident to the police. In the **Netherlands**, the organisation *Meld Islamofobie* (Report Islamophobia) registered 89 anti-Muslim incidents over the period January-June 2015.¹⁴⁰ 90% of the victims of incidents reported were Muslim women. Moreover, 98% of them were identifiable as Muslim because they wore Islamic dress. 71% of the perpetrators were men, unfamiliar to the victims. In **Germany**, a survey conducted by the *Antidiskriminierungsstelle des Landes Brandenburg* (anti-discrimination bureau of Brandenburg) with Muslim women in **Germany**, finds that 59% of the respondents were insulted, verbally abused or accosted.¹⁴¹ In a study in **Denmark** 60% of the women stated they had been shouted at or the like, and many of these incidents were based on their appearance and clothes. Ethnic minority women experience more incidents related to their ethnicity, religion, and religious symbols such as the headscarf.¹⁴² In the **UK**, data from Tell MAMA from March 2014 to February 2015 show that of the 34 cases of women targeted with verbal abuse in person, 23 (68%) were wearing identifiably religious clothing. Findings from 2014 data show that 78% of perpetrators are male, and the majority are White British.¹⁴³

Fear and feeling of insecurity in public spaces

Feelings of vulnerability become a part of these women's daily lives. This results in normalisation of the violence and feelings of insecurity, which leads women to make constant risk assessments in order to avoid harassment in public spaces, such as calculating which parts of the city to walk in and at what time, etc.

*Basically, I've become this person who constantly evaluates risks and potential dangers. I feel like I have to look around when I'm on the go. I'm busy making sure that I know what to do, just in case something would happen. It's exhausting.*¹⁴⁴

135 ENAR. 2016. *Forgotten Women - National Report for Italy*.

136 CCIB. Factsheet: *Islamophobia : "Existe-t-il une dimension sexiste dans les actes de l'islamophobie en Belgique?"*. Available at: <http://fr.slideshare.net/CCIB/droits-des-femmes-et-dimension-sexiste-de-lislamophobie>.

137 ENAR. 2016. *Forgotten Women - National Report for France*.

138 Ibid.

139 ENAR 2016. *Forgotten Women - National Report for Sweden*.

140 Meld Islamofobie. 2015. *Rapport periode januari – juni 2015:5*.

141 ENAR. 2016. *Forgotten women - National report for Germany*.

142 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

143 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

144 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

Examples of violent assaults/attacks on Muslim women

There are numerous cases of violence committed against Muslim women in all country reports. A well-known case is the murder of 31 year old Marwa Elsherbini in **Germany** in 2009.¹⁴⁵ Marwa, who was pregnant at the time of the aggression, was stabbed to death in the Dresden courtroom at the moment when she was charging the murderer of insulting her for wearing the scarf. Her husband, who ran to save her was shot by a police officer who assumed that her husband was attacking her. Marwa died on the spot, her husband was critically injured but survived. Wiens was found guilty of murder, as well as attempted murder.¹⁴⁶ In 2013, a 20 year old pregnant woman in Fagersjö, a suburb of Stockholm, **Sweden** was violently attacked. She was assaulted by an unknown man who tried to pull off her headscarf and shouted "those like you should not be here!", before he pounded her head against a car, so hard that she lost consciousness. The case has been on standstill ever since because of lack of evidence, but received nationwide media attention. A pregnant Muslim woman wearing a headscarf was violently attacked in Paris, **France** in 2013. She suffered a miscarriage and lost the baby. Two men attacked the 21 year old woman, trying to remove her veil and later cutting off her hair, and reportedly shouted anti-Islamic taunts at her.¹⁴⁷ In **Denmark**, a man tore a woman's headscarf off as she was walking down the street, and then punched her in the head. The district court gave the perpetrator a partial prison sentence of 60 days.¹⁴⁸ In the **Netherlands** a 40 year old woman was violently attacked in Rotterdam while driving her car. Whilst waiting in front of the traffic light a Dutch man tapped on her window. She rolled down her car window and was immediately called "kankermoslim" (cancer Muslim), after which the man punched her in her face, grabbed her throat and pulled her headscarf.¹⁴⁹ In **Italy**, in 2011, a man insulted Suad Omar, an Italian-Somali activist and cultural mediator in Turin, on a bus, with insults that ranged from the colour of her skin, to her body, to the clothes she was wearing. He then physically assaulted her in front of unresponsive passengers until two men intervened.¹⁵⁰ In **Germany**,

a train passenger from Koblenz refused to make an emergency call for a Muslim woman who fainted.¹⁵¹ He was asked to call by another woman who tried to help the collapsing Muslim woman. He replied to her saying "For such a dirty scarf-wearer I won't do anything".¹⁵²

Online hate speech

Online hate attacks are increasing and a significant concern on social media platforms, particularly Facebook and Twitter, with verbal abuse and hate speech being the most common incidents. Individual Facebook and Twitter users make direct attacks on Muslim users as well, often singling out Muslim women. For example **UK** Tell MAMA (Measuring Anti-Muslim Attacks) analysis in 2013/14 found that online incidents (82 %) are mostly forms of verbal abuse and hate speech. Nearly half of these cases reference the far-right through verified links and recognisable slogans. Their evidence also shows that anti-Muslim hate crime has increased online, in particular against Muslim women. The hate images and posts in particular contain a number of loaded generalisations with respect to Muslim women. For example Kelly stated that trolls set up a hoax ID and from there they can abuse anyone with complete anonymity and hiding behind a false ID. The online abuse Sophie suffered from was because of her 'visible' presence online as a White Muslim convert. Halima has been a victim of the EDL cyber mob and had to report the online abuse that she had suffered because of the direct threats that were made to her life. An EDL sympathiser had threatened her with physical violence. She also suffered online abuse on her Twitter account on numerous occasions. In one case, she was targeted online by someone who said "Go f***k yourself, go f***k a goat, you Islamic extremist piece of SHIT!"¹⁵³

A research project was undertaken at the University of Ghent, **Belgium**, where a student pretended to have converted to Islam and posted this news on her Facebook account to see the reactions of her friends and acquaintances. She replaced her profile image with a photo of her wearing a headscarf. The reactions were violent, and the student was the target of racist comments.¹⁵⁴

145 ENAR. 2016. *Forgotten women - National Report for Germany*.

146 Ibid.

147 ENAR. 2016. *Forgotten Women - National Reports for Sweden and France*.

148 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

149 ENAR. 2016. *Forgotten Women - National Report for the Netherlands*.

150 Ibid.

151 ENAR. 2016. *Forgotten Women - National Report for Germany*.

152 Ibid.

153 Awan I. and Zempi I., "We fear for our lives: Offline and online presence of anti-Muslim hostility", Birmingham City University, Nottingham Trent University and Tell MAMA, 2015.

154 ENAR. 2016. *Forgotten Women - National Report for Belgium*.

Increased attacks after major international incidents

Offline and online attacks tend to spike during major international incidents. This was most noticeable after the attacks in Paris in November 2015. For example in the week following the November attacks in Paris, anti-Muslim hate crimes reported to Tell MAMA in the UK increased threefold, with 115 attacks observed in one week.¹⁵⁵ Also in France, in the first six months of 2015, there were 87 cases of Islamophobic discourse, 30 verbal aggressions and 32 physical aggressions reported to the CCIF.¹⁵⁶ Physical and verbal aggressions respectively showed a 500% and 100% increase compared to the same period in 2014.¹⁵⁷

Violence against women: an intersectional approach to hate crime

Policies that aim to combat and prevent violence against women focus on the connection between violence and unequal power relations. Recognition of violence against women as a widespread issue can be attributable to decades of feminist activism bringing important changes in how the criminal justice system deals with violence against women. One of the most important achievements of feminism has been to locate patriarchal power, gender inequality and misogyny at the heart of all forms of violence against women. However, within the mainstream culture, media, politics and the legal system, violence against women continues to be viewed primarily as a personal, individualised issue, happening in dependency relationships. Moreover, considerations of patriarchy and power relations and its impact on minorities tend to enter mainstream debates only when the violence is perpetrated within minority ethnic/cultural communities, where it is then seen as evidence of ‘backward’ cultural attitudes to women.¹⁵⁸ For example with regard to women with a migration background, emphasis is put on violence against them in the domestic sphere but it is done in relation to the majority population and the impact of racism.

There are ongoing debates on whether violence against women should be recognised as a form of hate crime, in order to better address violence committed based on multiple grounds and influenced by different forms of structural domination. On one hand, some feminists express reservations regarding the desirability of utilising a ‘hate crime’ approach due to the fact that legislation on violence against women is generally designed to deal with a perpetrator who is usually a partner, ex-partner, acquaintance or friend and that women victims would not readily identify their experiences with the term ‘hate’. Also they believe that requirements of intersectionality would not be considered under hate crime laws since “without a full consideration and integration of power relations, hate crimes can be depoliticised as motivated by irrational prejudice, rather than domination, exclusion and control”.¹⁵⁹ On the other hand, according to Julia Long, the concept of hate crime does at least bring considerations of discrimination and the generalised effects of violence into the picture.¹⁶⁰ It facilitates and supports recognition that inequalities and discrimination experienced by certain groups exist (from racist language to acts of violence and murder). So while the term has its problems, it does at least serve to make links between cultural attitudes, discrimination and acts of violence. What is necessary is a further re-framing of the issue in order to recognise that power and control are key motivations for violence against women and girls, and that individuals’ acts of violence are also supported by a context of structural inequality, the crucial role of structural power relations between women and men and cultural misogyny.

EU legislation

The EU should be soon ratifying the Council of Europe’s **Istanbul Convention** that obliges all Council of Europe’s Member States to fight “all forms of violence against women”. Gender-based violence is defined in Article 3 as “violence that is directed against a woman because she is a woman or that affects women disproportionately”. Article 4 of the Convention stipulates that “the implementation

155 ENAR. 2016. *Forgotten women - National report for the United Kingdom*.

156 CCIF. 2015. *Rapport sur l’Islamophobie France 6 mois après les Attentats de Janvier. 1^{er} semestre 2014 - 1^{er} semestre 2015*.

157 Ibid.

158 Long, J. 2010. “Should violence against women in the UK be seen as hate crime?”. *Open Democracy*.

159 Ibid.

160 Ibid.

of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as (...) migrant or refugee status, or other status”.

Adopted in 2008 by the EU, **the Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law** defines a European Union wide criminal-law approach to certain actions and obliges Member States to develop effective, proportionate and dissuasive penalties. Article 1 ensures that Member States should make punishable intentional conduct that amounts to “publicly inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin” as well as “public dissemination or distribution of tracts, pictures or other material”. Article 4 of the Framework Decision ensures “that racist and xenophobic motivation is considered an aggravating circumstance, or, alternatively that such motivation may be taken into consideration by the courts in the determination of the penalties”. Additionally, the EU non-discrimination directives state that an “instruction to discriminate” is also deemed to constitute discrimination. They do not provide a definition as to what is meant by the term. It should extend to situations where there is an expressed preference or an encouragement to treat individuals less favourably due to one of the protected grounds.¹⁶¹

The **Victims’ Rights Directive 2012/29/EU** ensures the rights, support and protection of victims of a crime, including hate crime.

National legislations

In all eight countries there are laws that punish incitement to hate and violence towards a person, a group or a community on the basis of the attribution of some distinguishing criteria such as race, skin colour, religion, language, nationality or ethnicity. They also include provisions which make religious, racial or ethnic bias an aggravating circumstance.¹⁶² “Notably, several Member States do not systematically investigate racially motivated crimes and although most countries recognise racially motivated crime in their legislation, narrow definitions of what constitutes a racially motivated crime can result in under-recording of incidents. Under-qualification of racist crimes takes place throughout the justice system, from police reporting to court judgements.”¹⁶³

Court case

In **Sweden** in 2012, a man attacked a woman on the street in Malmö. He threw a shoe in her face and banged her head against a wall. This left the woman unconscious. When the woman’s daughter intervened, the man beat her too. While beating them he screamed “You’re ruining this country”. The perpetrator was one of the driving forces of the Free Press Society (*Tryckfrihetssällskapet*), an organisation whose definition of freedom of the press exclusively extends to the ‘right’ to offend Muslims and mock and defame Islam. The man was sentenced with probation and 75 hours of community service. However the court considered that there was not sufficient evidence that he attacked the women as a result of their religious belonging despite racial slurs and abusive epithets and although he was known for his opinions about Muslims. The sentence was appealed against in the Court of Appeal, which stated that the assault was in fact a hate crime with an anti-Muslim bias.¹⁶⁴

161 European Union Agency for Fundamental Rights. 2010. *Handbook on European Non-discrimination Law*.

162 For more details on national hate crime legislation, please refer to ENAR. 2014. *Racist crime in Europe*.

163 Ibid.

164 ENAR. 2016. *Forgotten Women - National Report for Sweden*.

GOOD PRACTICES

Government initiatives

The National Observatory of Islamophobia was established in **France** in 2011 thanks to an institutional partnership between the Ministry of Interior and the French Council of Muslim Worship (*Conseil Français du Culte Musulman*).¹⁶⁵ In **Italy**, the equality body UNAR and the Observatory for Security Against Acts of Discrimination (OSCAD) jointly organise training courses to raise awareness against racism in the police. Police officers are taught how to recognise discrimination and criminal offences with a bias, as well as the current legislation on wearing a full-face veil in public places and headscarf in ID photos.¹⁶⁶ The **Danish** Institute for Human Rights initiated a theme day on hate crimes in all the country's police departments and also launched a number of campaigns in cooperation with the municipality of Copenhagen against hate crimes.¹⁶⁷ The **UK** Government introduced the Police and Crime Commissioner position in 2012, an elected position to allow democratic oversight of police forces and this has allowed Muslim communities to articulate their concerns about hate crime and encourage forces to record anti-Muslim hate under a separate crime flag.¹⁶⁸

Civil society initiatives

In **France**, the Collective Against Islamophobia in France (CCIF) is an NGO combating all forms of islamophobia with a specific gender focus. In their data collection methodology, they ensure the disaggregation of data by gender and pay specific attention and dedicate analysis and activities to the gendered aspects of Islamophobia.

In a joint initiative *Fællesinitiativet*, several **Danish** NGOs are working together against discrimination in Copenhagen including the Women's Council, the Jewish Community in Denmark, Muslims joint councils, with support from the municipality of Copenhagen, on various information campaigns on discrimination.

Tell MAMA (Measuring Anti-Muslim Attacks) is a **UK** non-governmental organisation which works on tackling anti-

Muslim hatred, cooperating with government to raise the issues of anti-Muslim hatred at a policy level through systematic recording and reporting of anti-Muslim hate incidents and crimes. They also disaggregate the complaints data by gender. In 2012, they published a report on British Muslim women's experiences of offline and online anti-Muslim hatred "We fear for our lives".

In **Italy**, the recently launched AISHA project, initiated by a Muslim umbrella organisation in the Lombardy region, combats violence and discrimination against women.

Feminist initiatives

The Collective of Feminists for Equality (CFPE) in **France** organises many thematic meetings and conferences on the intersectionality of the feminist and anti-racist struggles.

Muslim women initiatives

The *Comité 15 mars et Libertés* in **France** produces statements, articles and reports on the impact of Islamophobia on Muslim women. Similarly the Association for the Recognition of Discrimination and Freedoms of Muslim Women (*Association pour la Reconnaissance des Discriminations et des Libertés aux Femmes Musulmanes*) or Association of Muslim women of **Italy** are also active in this regard. In **Sweden**, a Muslim women's association (Muslimska Kvinnoföreningen) organises a study circle to facilitate discussions about Muslim women's self-image and their ability to defend themselves. Also in Sweden, the Hijab Petition (*Hijabuppropet*) was organised by five Muslim women after a hate crime against a heavily pregnant woman. Prominent Swedish politicians, activists and citizens wore the hijab for a day, in support of the right to safety for Muslim women who wear the veil. The Muslim Women's Network in the **UK** is very active in supporting Muslim women through many different programmes, some of them specifically dealing with sexism, abuse and violence. They also serve as a mediator for cooperation with different stakeholders, such as police or government.

165 ENAR. 2016. *Forgotten Women - National Report for France*.

166 ENAR. 2016. *Forgotten Women - National Report for Italy*.

167 ENAR. 2016. *Forgotten Women - National Report for Denmark*.

168 ENAR. 2016. *Forgotten Women - National Report for the United Kingdom*.

5. CONCLUSION

At the moment of drafting this conclusion, several events occurred reconfirming the dire need to tackle the needs of Muslim women more seriously. In an interview with French media, France's Minister for women's rights Laurence Rossignol compared Muslim women who wear the headscarf to American "negroes" who accepted slavery.¹⁶⁹ UK Prime Minister David Cameron stated that Muslim women need to be taught English in order to beat "backward attitudes" and counter extremism.¹⁷⁰

The idea behind this project and the report was to document the disproportionate effect of racism and sexism on Muslim women and shed light on the intersectional discrimination that is affecting them. As analysis and data gathered show, Muslim women are often simultaneously struck by a combination of different issues and challenges. Discourses and practices around the female 'Islamic dress code' are among the main channels through which exclusion of Muslim women occurs.

In employment, Muslim women are being discriminated at different stages, often being victims of indirect discrimination that is difficult to prove. Due to the lack of knowledge or trust in the system, Muslim women rarely complain or initiate legal proceedings. When they do so, it is on the basis of religious discrimination. This report shows that the discrimination they suffer is more complex. It is in fact multiple, intersectional discrimination and should be tackled as such. Several positive examples give hope that readiness and willingness to apply more substantial diversity management practices, can give space for new respectful and inclusive labour market practices. In some countries, the tendency to extend bans on religious symbols to the private sector reinforces the reality of structural inequalities affecting these women. Such regulations and exclusionary practices mainly impact Muslim women. They also show the influence that negative stereotypical images of Muslim women perceived to be representing a homogeneous group can have on legislation and, eventually, on discriminatory practices.

This report also shows how Islamophobic violence and speech are gendered. Not only in quantity (Muslim women are generally more often attacked), but also in the quality of incidents. Perpetrators (usually men) attack Muslim women not only because they belong to an ethnic, racial or religious minority, or because they are women, but because of their combined intersectional identities. Perpetrators trying to remove Muslim women's headscarf and/or using racist and sexist gestures and/or insults, show that the image of these women is reduced to what they wear, to their body and to the feeling of entitlement perpetrators have to exert power over them.

While recognising the importance of intersectionality of discrimination grounds, it is also important to refine our understanding of Islamophobia, by differentiating what clearly amounts to religious discrimination per se and what should be fully addressed as racial discrimination. This would help victims and legal practitioners understand what is at stake in each discrimination case and select the most relevant means of redress. Most of the forms of discrimination and violence targeting Muslim women, including those wearing the headscarf, seem more related to a certain racialisation of Muslim women than to their level/practice of religiosity. No matter what meaning is conferred to the garment by the person wearing it, it is the bias in the mind of the perpetrator of discrimination or violence that matters as it is what will trigger discrimination or violence. The report shows that it is a specific combination of factors acting as triggers, namely the 'gender penalty', the 'ethnicity penalty' and the 'Muslim penalty' or more precisely the "garment penalty perceived as Muslim". The headscarf (but this could apply to long skirts, or potentially other pieces of clothing) is racialised or contributes to the racialisation of the victim as 'Muslim'. It is the specific combination of the three elements that leads to the racialisation of Muslim women, constructing them as a homogeneous group, to which negative attributions are ascribed.¹⁷¹

169 See <http://www.aljazeera.com/news/2016/03/french-minister-shocks-muslim-veil-slavery-comment-160330193124341.html>

170 See <http://www.theguardian.com/uk-news/2016/jan/18/muslim-women-to-be-taught-english-in-20m-plan-to-beat-backward-attitudes>

171 The racialisation of garments as an emerging form of racism has been explored in particular by Ash Amin in: Amin, Ash. 2009. "The Racialisation of Everything" in Amin, Ash and O'Niell, Michael (eds.). *Thinking About Almost Everything*. London: Profile.

Dominant dynamics of essentialising Islam and Muslims are intimately connected to ideas of female oppression and emancipation. As Dutch researcher Mariska Jung puts it, “this is not to say that women’s rights and histories of gender emancipation are not worthy of appreciation or safeguarding, but the fact that these achievements are increasingly being instrumentalised to create a stereotypical image of Muslim women should be criticised”.¹⁷² As a result of racism and sexism, Muslim women wearing visible garments are on the one hand seen as in need of rescue from oppressive cultures and family structures, but on the other hand further excluded from the labour market and further victimised. As Ast and Spielhaus put it, “excluding Muslim women from employment and education and depriving them of their economic and intellectual independence” is paradoxically further excluding them from “emancipation”. It is our hope that this report will contribute to shedding light on policies and practices which have a disproportionate impact and lead to further discrimination and exclusion, even when such policies are implemented in the name of good intentions and underlying assumptions.

172 ENAR. 2016. *Forgotten Women - National Report for the Netherlands*.

6. RECOMMENDATIONS

To EU institutions

1. Consolidate and complete EU equality legislation by adopting the 2008 proposed Equal Treatment Directive and by merging all Equality Directives in one single piece of legislation. This would allow introducing a new provision explicitly addressing the need to tackle multiple discrimination and recognising the combined effect of different grounds of discrimination.

2. The European Commission should initiate infringement proceedings on the basis of the Employment Directive (2000/78/EC) where there is systematic discrimination in employment on the ground of religion and belief. Particular justifications to the private sector's systemic restrictions to wearing religious symbols based on unlawful justifications such as neutrality, customers' relations or promoting a specific corporate image should be addressed, as they do not constitute 'occupational requirements' and structurally disadvantage Muslim women. Consider launching infringement proceedings under the Gender Equality Directives, when systemic discrimination targets only women, and under the Race Equality Directive (2000/43/EC), when such systemic discrimination is related to strict 'racialised' victimisation of Muslim women rather than their actual degree of religiosity.

3. The European Commission should launch infringement proceedings against Member States where there is evidence of failure to transpose or implement the Framework Decision on combating racism and xenophobia (2008/913/JHA), including on failure to investigate the racist motivation of Islamophobic crime against Muslim women and incitement to hatred against Muslim women.

4. The EU Fundamental Rights Agency and the European Institute for Gender Equality should reinforce cooperation, develop common positions and reporting mechanisms on multiple discrimination affecting women, and include disaggregated data on gender, ethnicity and religion in studies, indicator frameworks and victimisation surveys.

5. Develop EU standards for official hate crime recording forms and methods, including the type of offences and bias motivations that should be officially recorded. Particular attention should be paid to recording multiple bias offences as such, including when the victims are women.

6. Adopt a recommendation for comparable and reliable collection and analysis of equality data that obliges

Member States to record and publish data disaggregated by ethnicity, gender and religion. Intersectionality should be taken into account in equality data collection and analysis.

To Member States

1. Adopt national strategies to combat Islamophobia covering, among others, discrimination in employment and hate crime. Such strategies should include specific objectives and targets on Muslim women's inclusion and protection from violence.

2. Introduce provisions in anti-discrimination legislation to address multiple discrimination including on the grounds of gender, ethnicity and religion.

3. Policy measures promoting equality between women and men and combating racism should include multiple discrimination provisions and have an intersectional approach, acknowledging the combined effects of discrimination on the grounds of gender, ethnicity and religion, among others. Obstacles faced by Muslim women within their cultural groups and in relation to the majority population should be addressed.

4. Undertake evidence-based human rights assessments of public sector regulations enforcing concepts of neutrality and secularism. When impact assessment shows a disproportionate impact on Muslim women, review the necessity and proportionality of the restrictions and develop empowerment programmes to ensure emancipation of the targeted group.

5. Ensure comparable and reliable collection and analysis of equality data, and record and publish data disaggregated by ethnicity, gender and religion. Intersectionality should be taken into account in equality data collection and analysis. Labour market indicators should measure the employment outcomes of ethnic and religious minority women. Complaint data collected by equality bodies and police, among others, should include categories of 'Islamophobia' or 'anti-Muslim acts' and pay specific attention to women and girl victims of multiple forms of biases.

6. Commission testing, studies and research on perceptions and experiences of discrimination (victimisation surveys) and on the intersectionality of discrimination based on religion, ethnicity and gender, to better inform public policies.

7. Equality bodies and national human rights institutions not covering gender equality and dedicated gender

equality institutes should develop common positions and reporting mechanisms on multiple discrimination affecting Muslim women.

To law enforcement authorities and police forces

1. Develop awareness raising and training of law enforcement agents on unconscious bias, Islamophobic hate crime and speech, violence against women and intercultural understanding. A community policing approach should be encouraged. Initiate dialogue with Muslim women in order to allow them to articulate their concerns about hate crime and speech.
2. Ensure that hate crime and hate speech can be recorded on multiple biases, including Islamophobia and violence against women, according to the victim's or witness' perception. Include open categories and widen the keywords lists, so as to include 'Islam', 'hijab', 'headscarf', 'veil'.
3. Create specialised units or focal points within law enforcement agencies and initiate prompt and effective investigation into the alleged racial motivation associated with a crime or speech, taking into account the gender bias in case of incidents involving women.

To employers, employment agencies and trade unions

1. Refrain from adopting general internal regulations prohibiting wearing religious symbols if these are not limited to well-defined and narrow circumstances or pursue a legitimate goal. Enforcing the concept of neutrality, promoting a specific corporate image or responding to customers' requests are not objective and reasonable justifications under international human rights law. Prefer case-by-case handling of situations and ensure that decisions are based on objective facts and not on stereotypes and assumptions that run the risk of creating structural gender-based exclusion.
2. Encourage the adoption of Diversity Charters that address ethnic and religious discrimination and provide relevant remedies. Encourage the reinforcement of Diversity Charters and ensure they acknowledge all types of multiple discriminations and their consequences.
3. In collective labour agreements, ensure the inclusion of diversity policies aiming at remedying all types of direct and indirect, including intersectional, discrimination, with a particular attention to the potential disproportionate effects on Muslim women.

4. Issue guidelines and organise trainings on women's rights, religious and cultural diversity in the workplace, and especially the place of Muslim women in the company and the specific intersectional discrimination they may face. Placement/temporary agencies' staff members should also be trained on unconscious bias to avoid discriminating Muslim women at all stages of the placement process and to challenge assumptions made by their business customers.

To lawyers, litigators and legal practitioners

1. Consider cases of discrimination or violence against Muslim women not only as cases of religious discrimination/violence, but also on double or multiple ground(s) (including gender and ethnicity). Explore ways to use direct/indirect gender or racial discrimination when bringing cases of discrimination and violence against Muslim women to court, including for headscarf bans, as the perpetrator's motivation is more related to the gender/racialisation of the victim rather than actual levels of religiosity.
2. Advocate recording, investigation and prosecution of discrimination and violence based on multiple discrimination grounds. Raise awareness among victims seeking redress.

To media

1. Offer a more responsible and genuine representation of European Muslims as a diverse mix of ethnicities, religious affiliations, philosophical beliefs, political opinions, secular tendencies, languages and cultural traditions.
2. Offer space for a more nuanced picture of Muslim women, as agents instead of subjects, and move away from a polarised image of Muslim women, not only focusing on the perception of their supposed 'Muslimness'. Give a proportionate space to 'Muslim voices' on all issues in the public debate, as any other group of citizens, and not only when 'Muslim' issues are at stake.
3. Implement intercultural course modules in journalism studies to achieve a more balanced coverage of ethnic and religious minorities and the use of correct terminology, with a specific focus on minority women.
4. Train graphic designers and photographic editors of printed and online media to intercultural awareness so that they are empowered to make sensitive and non-discriminatory choices when designing the visual content

of publications.

To women's rights/feminist organisations

- 1.** Acknowledge that female agency comes in different forms and that it is possible to be feminist and religious. Promote inclusive feminist platforms and involve Muslim women. Explore intersectionality in feminism acknowledging ethnic and religious minority women's conditions.
- 2.** Avoid reproducing dominant power divisions. Integrate an anti-racism and anti-Islamophobia stance in the fight against patriarchy and gender-based oppression.

Anti-racism organisations

- 1.** Pay special attention to Islamophobia as a gendered form of discrimination through dedicated advocacy, awareness raising campaigns, hotlines, online tools, collection of testimonies, etc.
- 2.** Adopt specific advocacy, mobilisation and litigation strategies to address the comparative situation of Muslim women in employment and as a group vulnerable to bias violence.
- 3.** Cooperate with a wide-range of organisations, including women's rights movements, to understand and address complex domination structures in society in a more holistic manner, including patriarchy and white privilege.
- 4.** Ensure equal participation and representation of women, including Muslim women, in debates and decision making structures.
- 5.** Regularly conduct victimisation surveys, with a specific focus on minority women.

To Muslim community organisations

- 1.** Increase and highlight the need to report discriminatory incidents and attacks amongst Muslim communities. Support community led organisations working in this area.
- 2.** Raise awareness of the gendered aspects of Islamophobia, and how it affects women and men differently.
- 3.** Build coalitions and cooperation with other stakeholders dealing with non-discrimination. Ensure all organisations and initiatives involved cooperate in a constructive manner.
- 4.** Apply a gender sensitive approach in community work and organisational structures. Involve more women in

leadership and make sure their voices are heard within the community.

- 5.** Support Muslim women in fighting against discrimination and violence outside of the communities but also within them and support Muslim women in reporting discrimination and violence.

To Muslim women's organisations

- 1.** Initiate awareness raising campaigns about Muslim women's rights to equality and non-discrimination and encourage them to report incidents. Establish links with existing legal and counselling services to support victims of discrimination and violence.
- 2.** Collect and make their testimonials and experiences available and visible.
- 3.** Tackle gendered Islamophobia more explicitly through awareness raising campaigns, hotlines, online tools, etc. Organise thematic discussions, campaigns and activities.
- 4.** Build alliances with other women's rights/feminist organisations but also other organisations working on non-discrimination issues. Facilitate discussions about Muslim women's experiences with other stakeholders in order to find common ground and understanding.
- 5.** Encourage and empower Muslim women's participation in media and public life.
- 6.** Support victims to report cases of discrimination and violence and initiate legal proceedings, not only on the grounds of religion/ethnicity but also on the ground of gender.

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FORGOTTEN WOMEN: The impact of Islamophobia on Muslim women

ENAR's report "Forgotten women: the impact of Islamophobia on Muslim women" covers eight European countries: Belgium, Denmark, France, Germany, Italy, the Netherlands, Sweden and the United Kingdom and discusses the impact of Islamophobia on Muslim women in the field of employment and hate crime.

The report sheds light on the gendered aspect of Islamophobia and how the intersection of different identities and perceptions of these influence the lives of Muslim women. It shows that Muslim women suffer from the same inequalities as other women but additional factors such as perceived religion or ethnicity deepen these gender gaps. They are also more likely to be the victims of hate crime compared to Muslim men. In both employment discrimination and hate crime, the headscarf acts as a trigger, because it is a visible marker of Muslim and woman identity.

The European Network Against Racism (ENAR) stands against racism and discrimination and advocates equality and solidarity for all in Europe. We connect local and national anti-racist NGOs throughout Europe and act as an interface between our member organisations and the European institutions. We voice the concerns of ethnic and religious minorities in European and national policy debates.



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