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DEPARTMENT OF LAW

The effectiveness of Rights in the Light of European Court of  
Human Rights Case Law

**Section:** **Libertà di pensiero, coscienza e religione**-Libertà religiosa  
individuale

**Title:** ***Criteria for limiting the use of religious symbols in court  
appearances in Strasbourg case law***

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Herzegovina of 5 December 2017 (App. No. 57792/15)

**Conventional parameter:** Articles 9,14 of the Convention

**Key words:** Religious symbol, niqab, hijab, taquiyah, proportionality test,  
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**Abstract:** In its recent ruling, Hamidović v. Bosnia and Herzegovina, the Strasbourg Court found that the conviction of a Muslim for his refusal to remove the taquiyah (skullcap), during a criminal proceeding where he was witness, was illegitimate. The paper analyzes the proportionality criteria applied by the European Court of Human Rights as well as by some national courts in cases where the legal restrictions to the wearing of religious clothing or symbols by privates may constitute forms of discrimination.

## **1. Introduction: the approaches of the Court of Strasbourg on the limitation in the use of religious garments and symbols**

The manifestation of religious beliefs in official institutions and public places by individuals through the wearing of religious clothing and symbols is a sensitive issue that has led the European Court of Human Rights (ECtHR) to establish a set of guidelines to provide an appropriate solution to each situation in which conflicts have arisen, by weighing the interests at stake.

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There are many approaches from which the Court of Strasbourg has tackled the issue that, far from being exhausted in the public sphere, has also been projected on relations in the private sphere, with special incidence in the working environment. Some of the most important Strasbourg judgments and decisions can be consulted in this context: *Dahlab v. Switzerland*, on the Prohibition of the Wearing of the Headscarf by a Public Primary School Teacher; *Eweida and others v. the United Kingdom*, which ruled in four cases: the most prominent concerned Mrs Eweida, a British Airways worker who was refused the right to wear a chain with a crucifix, and Mrs Chaplin, a nurse who during her work wore a necklace with a cross and who, having refused to take it off, was transferred to another job with different functions, or *Ebrahimian v. France*, on the dismissal of a hospital worker for wearing an Islamic veil.

Regarding conflicts concerning religious symbols in the public space, an area that we are now dealing with, the Court of Strasbourg has laid down a series of guidelines in order to establish criteria for solutions, without neglecting the uniqueness of each controversy. Among the most recent pronouncements on the matter, the repercussion of the well-known *S.A.S. v. France*, ruling on the integral veil in public space, as well as sentences referring to more limited areas, significantly those related to the institutional educational space, among which *Leyla Şahin v. Turkey*, judgment of the Grand Chamber on the use of the Islamic headscarf in university educational institutions. Other pronouncements also of great relevance in the educational field are: *Karaduman v. Turkey*, and *Köse and others 93 v. Turkey*. In *Leyla Şahin* case, the Court has stressed the need to take into consideration the diversity of approaches taken by State authorities when integrating the religious phenomenon into their respective systems, in view of which it has observed that it is not possible to discern across Europe a uniform conception of the meaning of religion in society, and that the meaning or impact of the public expression of a religious belief differs according to time and context.

In short, it has appreciated that standards in this area may vary from one country to another according to national traditions and requirements arising from the need to protect the rights and freedoms of other citizens and to maintain public order, concluding that the choice of the scope and form of such standards should inevitably be left to the State concerned, as it will depend on the specific national context.



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In *S.A.S. v. France*, this position was reinforced by stressing, in relation to Article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), that the State should in principle enjoy a wide margin of appreciation when deciding whether a limitation on the right to manifest religion or belief is necessary and to what extent. It has also considered that the Tribunal may consider any consensus and common values arising from the practices of States parties to the ECHR. In any case, the Court warns that the margin of appreciation of the States must go hand in hand with a European supervision covering both the law and the decisions implementing it, to determine whether the measures taken at national level are justified and proportionate.

As indicated by the general standards applied by the Strasbourg Court, each case must be nuanced according to its specific context. The most recent pronouncement on the use of religious clothing and symbols in public space is presented in a context in which the Court has so far had no opportunity to pronounce. This is a case related to the use of religious clothing in the forum by a private individual, which gave rise to the Judgment *Hamidović v. Bosnia and Herzegovina* of 5 December 2017.

There, the Court decides an application concerning a witness who was summoned to testify in criminal proceedings, appearing in the courtroom with his head covered by a taqiyah (skullcap), a garment that some Muslims customarily wear in public as a religious duty. The President of the State Court of Bosnia and Herzegovina ordered him to have his head uncovered on the grounds that such a religious demonstration before a Court violated the principles and values of secularity of the State. Faced with the witness's repeated refusal to remove his garment, the President of the Court imposed a sanction on him that resulted in a sentence of one month in prison, which the plaintiff served.

Given the implications that this may entail for an individual who comes to a court of law to defend his own interests or those of a third party and taking into account the mandatory nature of the court appearance in certain proceedings, the solution applied to this case differs substantially from conflicts that arise in other contexts.

In the case *Hamidović*, once the ECtHR found that there had been interference in the right to religious freedom, it applied to the case the general principles for determining its legitimacy,



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namely: whether the limitation was provided for by state law, whether it pursued one or more of the legitimate objectives set out in Article 9 § 2 ECHR, and whether it was necessary in a democratic society. In this regard, the Court of Strasbourg noted in a preliminary remark:

“It must be indicated from the beginning that the present case does not refer to the use of religious symbols and clothing in the workplace. [...] In fact, it is about a witness in a criminal trial, which is a completely different subject. The public debate on the use of religious symbols and clothing by judicial officials in Bosnia and Herzegovina [...] is, therefore, relevant to the present case”.

Even though the favourable to the plaintiff, some of the conclusions reached by the Court were criticised by some of the judges, who considered that some points of the ruling were insufficiently motivated.

In relation to the use of religious garments and symbols in the forum, prior to this case the action of *Barik Edidi v. Spain* had reached the ECtHR. The situation originated in a trial before the Supreme Court, during which Judge Gómez Bermúdez asked a lawyer, who was acting in the trial wearing a hijab, to sit in the area reserved for the public because lawyers appearing on the stand cannot remain with their heads covered in the courtroom. The lawyer filed a complaint since the applicable regulations only required the toga to be worn, an obligation that she had fulfilled. Her complaint went through the Supreme Court, which dismissed the appeal as untimely, reaching the Constitutional Court, which considered the appeal inadmissible on the grounds that no fundamental right had been violated

In its complaint to the ECtHR, the applicant alleged infringement of Articles 6 (1), 8 and 9 of the ECHR. Finally, the Court dismissed the application claiming it had not exhausted the internal remedies without assessing the merits of the case.

## **2. The limitation on the use of religious garments and symbols in court in the recent Strasbourg jurisprudence: new jurisprudential developments in the case *Hamidović v. Bosnia and Herzegovina***

### **a) Background**



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The judgement at issue originates from a complaint filed with the ECtHR in November 2015 against Bosnia and Herzegovina by Mr. Husmet Hamidović, a Bosnian citizen born in 1976.

The case stems from Mr. Hamidović's conviction for his refusal to withdraw his taqiyah (skullcap) when he was called to testify before a criminal court, which was examining a case related to the attack on the U.S. embassy in Sarajevo in 2011.

In the proceedings, a member of a local group defending the Wahhabi/Salafist branch of Islam was convicted of a terrorist offence and two other defendants were acquitted. The accused belonged to a religious community that opposes the concept of secular state, democracy, free elections and any law that is not based on Sharia law. When called by the court official they refused to stand, and the president of the court ordered their expulsion from the courtroom.

At subsequent hearings they expressed no intention of showing respect for the Court, to which they did not recognize any authority, which led to their final expulsion from the process.

In the context of that trial, Mr. Hamidović, belonging to the same religious community as the accused, was summoned to appear as a witness. He appeared before the court which had summoned him and when he was about to testify, the president ordered him to remove the garment covering his head, Mr. Hamidović refused to comply with the order on the grounds that wearing his head covered in all circumstances constituted a religious obligation for him. As a result, the judge had him removed from the courtroom, convicted him of contempt of court pursuant to article 242 § 2 of the Code of Criminal Procedure and sentenced him to a fine of 10,000 Convertible Marks (BAM).

The Court of Appeal upheld the first instance decision, holding that the obligation to uncover the head in the premises of a judicial institution was a fundamental rule of life in society and that in the secular State of Bosnia and Herzegovina any religious manifestation in a court is prohibited, however, the Court reduced the fine to 3,000 Convertible Marks (BAM). As Mr. Hamidović did not pay the fine, the sanction automatically became a one-month prison sentence, which the plaintiff served.

In July 2015, the Constitutional Court of Bosnia and Herzegovina confirmed the decisions of the national courts and considered that Mr. Hamidović's conviction to pay a fine for contempt of the Court was well founded and did not imply a violation of his right to manifest his religion.



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However, he noted that the automatic conversion of fines into prison sentences violated Article 6 ECHR and ordered an amendment to Article 47 of the Criminal Code of Bosnia and Herzegovina. However, in this case, it decided not to annul the decision to convert the fine into prison, based on the principle of legal certainty.

The plaintiff filed his application with the ECtHR based on Articles 9 and 14 ECHR, arguing in particular that the prohibition of the use of the garment covering his head constituted a limitation on his freedom to manifest his religion which was not in accordance with the law, and that he had been discriminated against on the basis of his religious beliefs, arguing further that the sentence imposed on him was disproportionate.

**b) Arguments of the parties and assessment of the European Court of Human Rights**

The parties agreed that the sanction imposed on the plaintiff had constituted a limitation on the right to manifest his own religion. This is in line with the official position of the Islamic Community in Bosnia and Herzegovina, according to which, covering the top of the skull does not represent a strong religious duty, but has such strong traditional roots that it is considered by many as a religious duty. Their views differed as to whether the contested measure was “provided for by law”.

The plaintiff pointed out that there was no legal provision expressly prohibiting him from remaining in the room with his head covered. In this regard, he claimed that Rule 20 of the House Rules of the Judicial Institutions of Bosnia and Herzegovina only indicated that everyone must respect the dress code applicable to judicial institutions. The rule provides:

“Visitors must respect the applicable dress code to judicial institutions. Visitors shall not wear miniskirts, shorts, t-shirts with thin straps, open heel shoes and other garments that do not correspond to the dress code applicable to judicial institutions”.

The State argued that the plaintiff had not been punished in accordance with this general prohibition, but on the basis of the inherent power of the trial judge who applied article 242 § 3 of the Code of Criminal Procedure, to regulate the conduct of the judicial procedure in order to ensure



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that there were no abuses in the courtroom and that the procedure was fair to all parties. The relevant part of the article states:

“Should (...) a witness (...) cause a disturbance in the courtroom or fail to comply with an order of (...) the presiding judge, (...) the presiding judge shall warn him or her. If the warning is unsuccessful (...) the presiding judge may order that the person be expelled from the courtroom and be fined in an amount of up to BAM 10,000.”

The ECtHR considered that it had no strong reason to depart from the conclusion reached by the state courts and that there was a legal basis for restricting the use of the religious garment in the courtroom.

The Court's position on this point is open to criticism. The Court itself has on other occasions pointed out that the expression “provided for by law” in Article 9 § 2 ECHR not only requires the contested measure to have a legal basis in domestic law, but also refers to the quality of the law in question, which must be accessible to the person concerned, and foreseeable as to its effects. Judge Gaetano indicated in a separate opinion that at this point of the sentence the Court lost sight of the fact that Article 242 § 3 of the Code of Criminal Procedure was not designed to authorize a judge to issue any type of order, which would be purely arbitrary, but only those that might be necessary for the maintenance of order in the courtroom and proper knowledge of the case. Furthermore, it noted that the rule concerning dress in the courtroom was totally vague, and that the inherent power of a trial judge to regulate the process cannot be extended to the point of provoking a situation of unnecessary conflict, particularly when it comes to limiting a fundamental right such as that of religious freedom.

As to the existence of a “legitimate objective”, the ECtHR had already indicated in *S.A.S. v. France* that the enumeration of exceptions to the freedom to manifest religion or personal belief, as indicated in Article 9 § 2 ECHR, must be exhaustive and its interpretation must be restrictive. The complainant considered that interference with the freedom to manifest one's religion did not correspond to any of the objectives listed in Article 9 § 2 ECHR. The State, for its part, held that the contested measure pursued two legitimate objectives: that of “protecting the rights and freedoms of others” (referring to the principle of secularity and the need to promote tolerance in post-conflict society), and that of “maintaining the authority and impartiality of the judiciary”.



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The Court noted that Article 9 § 2 ECHR does not expressly refer to the second of the objectives. As for the first of them, “to ensure the protection of the rights and freedoms of others”, it considered that there was no reason to decide otherwise in the present case. As he had indicated in *Lautsi and others v. Italy*, he recalled that the concept of secularity can be protected by Article 9 ECHR and that the objective of defending democratic and secular values can be linked to the legitimate objective of the “protection of the rights and freedoms of others” within the meaning of Article 9 § 2 ECHR.

The position held by the Court is questionable in two respects that judges Gaetano and Bosnjak expressed in individual votes. Judge Gaetano pointed out that only in exceptional cases, such as when the principle of secularity is included in a country's Constitution or where there is a long historical tradition of secularism, can secularism be said to fall, in principle, within the scope of the expression “for the protection of the rights and freedoms of others” for the purposes of Article 9 § 2 ECHR. In a case like the present, the argument of separation of Church and State is no longer an excuse for an aggressive form of secularism to promote secularism at the expense of religious freedom. As Judge Bonello put it in his concurring opinion in *Lautsi and Others*: “Freedom of religion, in essence, consists of the right to freely profess any religion of the individual's choice, the right to change one's religion freely, the right not to embrace any religious belief, and the right to manifest one's religion through belief, worship, teaching and observance. Here, the catalogue of the Convention stops, far below the promotion of any state secularism”.

For his part, Judge Bosnjak added as a criticism to this section of the Judgment that, although it is true that the plaintiff disobeyed the order to uncover his head, this disobedience can be considered similar to conduct motivated by conscientious objection and cannot in itself be considered as a sign of contempt of the Court. On the other hand, it added that the president of the State Court did not explain how the use of religious clothing could undermine order in the courtroom, impede the proper conduct of the proceedings or pose an imminent danger to another value worthy of protection.

The Strasbourg Court concluded the decision by examining whether the restriction was “necessary in the democratic society of Bosnia and Herzegovina”. First, the general context in which the trial took place was taken into consideration. It was appreciated that the presiding judge had the difficult task of maintaining order and guaranteeing the integrity of the process in a trial for





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a terrorist offence in which several participants belonged to a religious group that opposed the concept of a secular State and manifested a disrespectful attitude maintaining that they only recognized “the Law and the Court of God” Notwithstanding the foregoing, the Court saw no reason to doubt that Mr. Hamiović's act was inspired by the sincere religious belief that it was his religious duty to keep his head covered at all times, without it being possible to deduce from his behaviour any kind of plan to mock the trial or the members of the Court, to incite others to reject the democratic and secular values of the State or to cause disruption arising from his behaviour. Unlike other members of his religious group, the plaintiff appeared before the Court when summoned and rose when asked, thus clearly submitting to the laws and courts of the country. There was no evidence that he was unwilling to testify or that he was disrespectful to the Court. In these circumstances, the ECtHR concluded that punishment for contempt of the Court (on the sole basis of his refusal to remove his religious garment) was not necessary in a democratic society and the national authorities had exceeded their margin of appreciation by punishing the witness.

The ruling found by six votes to one that there had been a violation of Article 9 ECHR, considering that it was not necessary to go into the assessment of the complaint under Article 14 ECHR. In addition, Mr. Hamidović was awarded 4,500 euros in compensation for non-pecuniary damage.

### **3. A comparative perspective: solutions to analogous assumptions in Canadian and United Kingdom case law.**

The jurisprudence of other Western States has been pronounced in similar cases regarding the use of religious garments in the courts. While it is true that decisions cannot be equated on the merits, since the main controversies were based on the difficulty of facial recognition of persons wearing clothing (niqab), the proportionality test applied by the courts examining the issue is of interest. In this regard, we refer to the weighting trial of the Supreme Court of Canada in the case of *R. v. NS* in 2012 and that of the Court Crown of the United Kingdom in the case of *The Queen v. D (R)* in 2013.



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In *R. v. NS*, the Supreme Court of Canada came to assess whether a Muslim woman who was the complainant of a sexual assault should be allowed to testify wearing a niqab.

The Court found it untenable to interpret the case by applying an absolute rule that implied withdrawing the niqab in all circumstances, as well as applying the opposite rule. The response to the case required finding a fair and proportionate balance for the situation, balancing competing rights: religious freedom and the right to a fair trial for both parties. The problem was complex since, in the judicial practice of this country, the technique of cross-examination is applied, in which the credibility of the cross-examination is based, at least in part, on the examination of the behaviour of the individual (gesticulation, tone of voice, etc.), for which it was necessary, according to the defendant, to be able to carry out the open face-to-face interrogation.

The Court, which finally dismissed the applicant's appeal, applied the following reasoning: a witness who wishes to use the niqab for religious reasons based on sincere beliefs while testifying in criminal proceedings should have it removed if the following circumstances arise: (a) If it is necessary to avoid a serious risk to the fairness of the proceedings, because the reasonably available alternative measures would not avoid the risk; and (b) If the positive effects of requiring the niqab to be withdrawn outweigh the negative effects.

The application of this framework involved answering four questions, the first: Would requiring the witness to withdraw her niqab while testifying interfere with her right to religious freedom? Second, would allowing the witness to wear the niqab during the examination of the witness pose a serious risk to the fairness of the proceedings?

If these questions lead to the conclusion that the situation poses a risk both to religious freedom and to the fairness of the process, a third question should be answered: is there any way to accommodate the two rights and avoid conflict between them? If accommodation is not possible, then the question should be answered as to whether the beneficial effects of requiring the witness to withdraw the niqab would outweigh the negative effects.

The final decision in the case considered that the plaintiff's statement was the only evidence against the defendant, so to safeguard the fairness of the proceedings it was decided that it was necessary for the questioning to take place with an uncovered face.



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Judge Abella drafted a dissenting opinion focusing on the impact of the negative effects of requiring the witness to testify without the niqab. In her argument, she argues that asking a Muslim woman to withdraw her niqab to appear in court will likely result in her not wanting to testify, filing charges as affected, or, if accused, not being able to testify on her own behalf. This latter consequence would be far more serious than the fact that the opposing party cannot see the face of the witness unless this was a relevant necessity for the trial. If in the case it is not a problem to establish the identity of the woman, she should not be forced to withdraw the niqab.

It further noted that courts regularly admit witnesses who cannot testify in ideal circumstances due to visual, oral or hearing impairments, adding that a witness may also have physical or medical limitations that affect the ability of the lawyer's judge to assess aspects arising from his or her conduct and behaviour in the courtroom.

The case of the United Kingdom, *The Queen v. D (R)*, was raised in relation to another Muslim woman accused of witness intimidation who wished to wear a niqab during the hearing. The judge, relying heavily on the ECHR, had to decide whether the accused could remain with her face covered during the trial in accordance with her religious beliefs. It considered that in this case some special rules could be applied to the clothing covering the face, which are reproduced below:

“(1) The defendant must comply with all directions given by the Court to enable her to be properly identified at any stage of the proceedings.

(2) The defendant is free to wear the niqab during trial, except while giving evidence.

(3) The defendant may not give evidence wearing the niqab.

(4) The defendant may give evidence from behind a screen shielding her from public view, but not from the view of the judge, the jury, and counsel; or by mean of a live TV link.

(5) Photographs and filming are never permitted in court. But in this case, I also order that no drawing, sketch or other image of any kind of the defendant while her face is uncovered be made in court, or disseminated, or published outside court.

(6) I reserve the case to myself until further order”.



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In order to prevent discrimination in the forum, the Judicial College of the United Kingdom published an updated, expanded and improved version of the Equal Treatment Bench Book on 28 February 2018. The guide, which takes into account the most recent cases, includes guidance on religious dress and the use of the veil (including the niqab and burka) in the Court which seeks to inform, assist and guide equitable treatment that takes into account an understanding of different personal circumstances, so that there can be effective communication and that steps can be taken, where appropriate, to redress any inequality arising from religious motives.

#### 4. Conclusions

From what was examined in the *Hamidović* case, it can be inferred that the proportionality trial applied by the courts will attempt to accommodate the right to religious freedom, especially when this does not pose a threat to the normal conduct of the hearings, bearing in mind that these sometimes constitute an imperative duty and that the prohibition of manifesting religion, with the consequent expulsion from the trial, may alter the right to a defence.

On the other hand, the excessively wide interpretation that the Court of Strasbourg has been applying in relation to the margin of appreciation of state courts, especially since the judgments *Leyla Şahin* and *S.A.S.*, when it comes to cases in which the freedom to manifest religious beliefs by means of garments or symbols conflicts with the secularity of the State, is to be criticized. It should be remembered that among the criticisms that the ruling *Leyla Şahin* has received is included, “the excessive amplitude of the margin of appreciation of the Turkish authorities, without it being based on a decisive proof of the danger of the Islamic headscarf for the legitimate purposes pursued”. (MARTÍN SÁNCHEZ, I.)

This affects the risk that Western states will use the context of Church-State separation to promote an aggressive form of secularism at the expense of religious freedom, and there is a growing trend in some of them to confine the right to manifest religion exclusively to the private sphere.

Assumptions such as those raised continue to reach the courts frequently, This is the case in Italy, where in a hearing for terrorism offenses before the Criminal Court of Cremona (*Corte d'Assise*, November 27, 2008, 3 *Corriere del merito*, 2009), the wife of the defendant entered



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the court with a burqa. When the security agents asked her to uncover her face to be identified, the woman agreed. The Court examined this fact in a subsequent consultation considering that no violation of fundamental rights had occurred. At the same time as this work was being completed, the European Court of Human Rights has ruled on another case involving the wearing of religious garments in court. This is the *Lachiri v. Belgium*, judgment of 18 September 2018, in which the Court ruled in favour of a Muslim woman, Ms. Hagar Lachiri, who was barred from entering the Brussels Court of Appeal, before which she was to testify in a criminal trial, since, according to the Court, remaining in the courtroom with her head covered contravened the dress code provided for in 759 of the Belgian Judicial Code.

The different solutions proposed in the cases examined may shed light on the difficult task faced by State court judges in making an assessment of whether religious manifestations by those appearing may pose a threat by undermining order in the courtroom, impeding the smooth conduct of proceedings or posing an imminent danger to other values worthy of protection in democratic societies, with reasonable accommodation of rights where possible.

In any case, challenges continue to be posed that will involve resolving questions that have not yet been resolved, such as whether the same level of demand should be applied in the use of religious clothing and symbols to individuals as to the professionals who intervene in the forum, such as the judges themselves, the lawyers, the prosecutors, or judicial experts, or the difficulty in examining the “sincerity” of religious beliefs, which so far is based eminently on the assertions of the person involved, but which can entail serious risks for democratic states when the use of the garment pursues a purpose other than religious. The latter is the case of Soukaina Abouddrar, an activist of the Islamic state sentenced to three years in prison for a crime of integration into the terrorist organisation Daesh, whose trial before the National High Court was reported in the national press when, after being banned from using the hijab in prison, she testified in the trial before the National High Court without the religious garment. In an Order of the Criminal Chamber of the National High Court of 2017 (Order of July 17, 2017, n° 530/2017), the inmate was prohibited from remaining with the niqab in prison because she considered that she used the garment "as a jihadist vindication in the work of radicalization towards other inmates of her same religion", warning that the use that the inmate intended to make of the garment "undermines the security and good order of the centre and affects the purpose of her stay in prison".



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In view of the diversity of circumstances, the key lies in applying a careful review to each case, formulating solutions that respect the standards proposed by the Court of Strasbourg and aspiring to apply a reasonable accommodation, which guarantees the fundamental rights of all parties involved in the process.

### **Jurisprudential precedents**

#### **European Court of Human Rights:**

*Lachiri v. Belgium*, (No. 3413/09, ECtHR, of September 18, 2018)

*Barik Edidi v. Spain* (Dec. no. 21780/13, ECtHR, of May 19, 2016)

*Ebrahimian v. France* (No. 64846/11, ECtHR, of November 26, 2015)

*S.A.S. v. France* (No. 43835/11, [GC] ECtHR, of July 1, 2014)

*Eweida and Others v. United Kingdom*, (No. 48420/10, ECtHR, of January 15, 2013)

*Köse and others 93 v. Turkey*, (Dec. no. 36716/02, ECtHR of November 4, 2006)

*Leyla Şahin v. Turkey* (No. 44774/98, [GC], ECtHR, of November 10, 2005)

*Dahlab v. Switzerland* (Dec. no. 42393/98, ECtHR, of February 15, 2001)

*Karaduman v. Turkey*, (Dec. No. 16278/90, ECtHR, of May 3 1993)

*Lautsi and others v. Italy* (No. 30814/06, [GC], ECtHR, of March 18, 2011)

#### **National Courts:**

##### **Italy**

*Criminal Court of Cremona* (Corte d'Assise, November 27, 2008, 3 Corriere del merito, 2009)

##### **Spain**

Audiencia Nacional (Spain). Order of 17 July 2017, no. 530/2017.



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**United Kingdom**

*The Queen v. D (R)*, EW Misc 13 (CC)

**Canada**

*R. v. N.S.*, 2012 SCC 72, [2012] 3 SCR 726

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