



NEWS REPORT

Update of flash report nr:

Update of BE_67_Belgium_FR_62 "The federal Act prohibiting 'the wearing of the *burqa* and the *niqab*' in the public sphere in force in Belgium", 1179-BE-65-Belgium_FR "The federal Act prohibiting 'the wearing of the *burqa* and the *niqab*' in the public sphere adopted in Belgium", 947_BE_47_Belgium_FR "The prohibition of the *burqa* and the *niqab* in the public sphere in Belgium adopted by the Parliament's House of Representatives" and 946_BE_46_Belgium_FR "Towards a prohibition of the *burqa* and the *niqab* in the public sphere in Belgium" 25 October 2011

Date:

Expert:

Title:

Emmanuelle Bribosia

The Constitutional court refuses to grant suspensive effect to the federal act prohibiting 'the wearing of the *burqa* and the *niqab*' in the public sphere Belgium

Country:

Context

Issue at stake:

By a decision of 5 October 2011, the Constitutional court rejected the action for suspension of the federal act prohibiting 'the wearing of the *burqa* and the *niqab*' in the public sphere, which was filed by two Muslim women

Ground of discrimination:

Religion/belief

Source:

National court decision

Field:

Areas accessible to the public

Legislative provisions:

Act aiming at prohibiting the wearing of any clothing totally, or principally, hiding the face, adopted on 28 April 2011 and published in the official Journal (*Moniteur belge*) on 13 July 2011

Content

Law/political development: After a year of a chaotic legislative process, the federal Act prohibiting "the wearing of the *burqa* and the *niqab*" in the public sphere, adopted last April (See FR n° 1179-BE), entered in force on 23 July 2011.

Samia Belkacemi and Yamina Oussar, two Muslim women occasionally wearing a headscarf totally or principally hiding their face, decided to apply to the Constitutional Court for annulment of this act with suspensive effect, on 27 July 2011 (appeal No 5191).



Decision of the Court: On 5 October 2011, the Constitutional court handed down a first decision on the action for suspension of the federal Act prohibiting “the wearing of the *burqa* and the *niqab*” in the public sphere. The court refused to suspend the effect of the challenged act while examining the request for annulment as the applicants had not demonstrated that the application of the “Anti-burqa” Act during the proceedings may cause serious irrevocable prejudice. In fact, according to the court, if the applicants are to be prosecuted in criminal court because of the wearing of a headscarf totally or principally hiding their face, they still have the possibility to ask the judge to address a preliminary ruling to the Constitutional court.