



European network of legal experts in gender equality and non-discrimination

FLASH REPORT

Country:	The Netherlands
Title:	Entry into force of Act prohibiting face covering clothing in education, public transport, public buildings and healthcare
Date:	21 August 2019
Expert:	Titia Loenen
<u>Context</u>	
Issue at stake:	Face covering clothing
Ground of discrimination:	Religion
Source:	National legislation
Field:	Access to goods and services in particular, but also other fields are affected'
Applicable law:	Act partial prohibition of face-covering clothing (<i>Wetsvoorstel gedeeltelijk verbod gezichtsbedekkende kleding</i>) ¹

Content

Legislative development: In 2018 an act prohibiting face-covering clothing in a number of specific areas was adopted, but the entry into force was envisaged to take place at a later date to allow for consultation with the sectors concerned for its implementation and the communication of the new standards to the people using their services or visiting their facilities. As of 1 August 2019, the act has finally taken effect.

The law prohibits face covering clothing in education, public transport, public buildings and healthcare. It provides for exceptions to this prohibition where face covering clothing are necessary for reasons of safety and health or requirements connected to the performance of a job or sport, or is appropriate in respect of participation in festive and cultural events. In addition, the prohibition does not apply to clients, patients or their visitors in residential parts of institutions of care as these places can be perceived as their private domain. The prohibition is sanctioned by payment of a fine of up to 400 euros.

Key points of analysis: The law does not amount to an overall ban on face covering clothing in all public space, but it does have a wide scope of application. Notwithstanding the neutral formulation in terms of prohibiting all face covering clothing, which includes certain types of helmets, masks and balaclavas, its real aim is to prohibit niqabs and

¹ Act Partial prohibition of face-covering clothing (*Wet gedeeltelijk verbod gezichtsbedekkende kleding*), see Law Gazette (*Staatsblad*) 2018, 222; Decision determining the date of entry into force of the Act Partial prohibition of face-covering clothing (*Besluit houdende vaststelling van het tijdstip van inwerkingtreding van de Wet gedeeltelijk verbod gezichtsbedekkende kleding*, see Law Gazette (*Staatsblad*) 2019, 165.

burqas worn by some Muslim women. The number of Muslim women that would be affected by the ban is estimated to be around 400.²

The entry into force caused quite a lot of public debate and received much media attention. It has been contested from the start. Several mayors of major cities such as Amsterdam and Rotterdam announced that enforcement of the act will not be given priority given the many more pressing problems faced by the police. In addition, some of the main public transport companies communicated that they will not refuse passengers wearing a burqa or niqab. Their personnel will be free to call them to account for not abiding with the prohibition, but practically speaking further consequences are considered to be hardly feasible as personnel itself is not allowed to enforce the ban against reluctant passengers and would have to wait for authorized agents to do so, causing delays.³

The Netherlands Institute of Human Rights reiterated its criticism of the act. It considers the act to be too far reaching and not necessary to achieve the aims of the act, as the organisations and institutions covered by the act were already able to prohibit face covering clothing in specific situations where this is necessary to guarantee good communication or safety. As such it does not consider the very broad and general scope of the act to be in line with the freedom of religion or the prohibition of discrimination on grounds of religion of the General Equal Treatment Act, which covers not just employment, but the broad area of goods and services, and other non-discrimination provisions such as Article 1 of the Constitution. Nevertheless, as the act has entered into force the NIHR will abide with the norms and standards set.⁴

Internet link source:

<https://zoek.officielebekendmakingen.nl/stb-2018-222.html>.

<https://zoek.officielebekendmakingen.nl/stb-2019-165.html>.

<https://zoek.officielebekendmakingen.nl/dossier/34349>.

² <https://www.volkskrant.nl/nieuws-achtergrond/het-boerkaverbod-na-4-571-dagen-wordt-wilders-wil-wet-in-de-zorg-het-openbaar-vervoer-en-op-scholen~b3b87713/>.

³ See e.g. 'Boerkaverbod' voor ingaan al omstreden'(Burqa ban contested already before entering into force), <http://www.msn.com/nl-nl/nieuws/binnenland/boerkaverbod-voor-ingaan-al-omstreden/ar-AAEYb9N>.

⁴ <https://mensenrechten.nl/nl/toegelicht/verbod-gezichtsbedekkende-kleding>.