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OSCE/ODIHR and EU Institutions hold Joint Day of Action against Antisemitism and Anti-Muslim Hatred and Discrimination

OSCE (31.05.2017) - <http://bit.ly/2rEb9gh> - Representatives of the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and European Union bodies, as well as from civil society groups came together today in Brussels for a Joint Day of Action against Antisemitism and anti-Muslim hatred and discrimination.

The day, organized by ODIHR, the European Commission (EC), European External Action Service (EEAS) and the European Parliament Anti-Racism and Diversity Intergroup (ARDI) and in co-operation with the the European Parliament Working Group on Antisemitism (WGAS) and the European Union of Jewish Students (EUJS), included workshops, presentations and discussions focusing directly on current issues related to Antisemitism and anti-Muslim hatred and discrimination.

The Joint Day began with a public discussion in the European Parliament (EP) that brought together MEPs, media professionals, researchers and Muslim community representatives to analyse and discuss the portrayal and participation of Muslims in the media.

Sajjad Karim MEP, Vice-President of the European Parliament Anti-Racism and Diversity Intergroup (ARDI) said *"Today's Joint Day of Action has been a great exercise in raising awareness of the portrayal and participation of Muslims in the media. Bringing together so many different stakeholders and representatives has led to a truly rewarding discussion. Following last week's cowardly attack in Manchester, it is important now, more than ever, that we counter hate speech and biased coverage of communities targeted by racism, discrimination and intolerance. However, it is just as vital that we do not endanger freedom of expression. I hope that today's debate will encourage this by allowing closer co-operation between civil society on developing measures which are effective against both hate speech and for freedom of expression."*

Another session in the EP entailed a public presentation of ODIHR's new publication, *Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities – a Practical Guide*". The publication lists practical steps that governments, in co-operation with Jewish communities, can undertake to prevent and respond to Antisemitic hate crimes and better address the security needs of Jewish communities.

Mairead McGuinness, MEP and First Vice-President of the European Parliament, said *"when it comes to our Jewish communities today, respect for their human dignity - a fundamental European value - is sadly lacking in many places, and in many ways. We must tackle this through education, through communication, and through working with groups and individuals susceptible to anti-Semitic ideas. But we must also ensure that public authorities take the necessary steps to ensure the safety and security of our Jewish communities."*

At another event, the Institute for Jewish Policy Research (IJPR) presented the findings of a new study, commissioned by ODIHR, on the specific impact of Antisemitism on Jewish youth. The study reveals that young women and men are particularly affected by Antisemitism and are more likely to experience verbal Antisemitic insults or harassment and physical attacks, to witness Antisemitic attacks or experience Antisemitic discrimination, or to be threatened in person, attacked online or followed in a threatening way because they are Jewish.

Later in the day a joint roundtable organized by the European Commission and ODIHR and hosted at the Commission's headquarters brought together civil society organizations working specifically on the issue of anti-Muslim hatred and discrimination.

"Today's Joint Day of Action serves as an opportunity to remind us that concrete and urgent action is needed to ensure that manifestations of all forms of intolerance do not tear at the fabric of social stability across the OSCE region" said Cristina Finch, Head of ODIHR's Tolerance and Non-Discrimination Department. *"While the primary responsibility for addressing acts of intolerance and discrimination rests with participating States, including their political representatives, it is important to stress that initiatives addressing these issues are more effective when a broad range of actors are involved in the process, including the media and civil society."*

The Joint Day coincided with the Muslim holiday of Ramadan and the Jewish holiday of Shavuot and concluded with an interfaith dinner at the European Jewish Community Center that brought together activists working on issues of Antisemitism and intolerance against Muslims to discuss joint approaches to addressing intolerance and discrimination.

Frans Timmermans, First Vice-President of the European Commission concluded: *"Combating racism, xenophobia and intolerance goes to the heart of our common European project. By coming together today, the Jewish and Muslim communities are sending out a strong signal that there is no harbour for hate or discrimination in their communities. For history teaches us that hatred against one minority often spills over to others. Our Coordinators on combating Antisemitism and anti-Muslim hatred ensure that the concerns and ideas of these communities are heard loud and clear. Over the past three years, we have also stepped up our close cooperation with international institutions – such as ODIHR and the Council of Europe – which are doing great work in this field. In this spirit, I warmly welcome today's Joint Day of Action."*

4 steps to make the EU a human rights champion

By Sophia Kuby

Freedomofthought.blogactiv.eu (03.04.2017) - <http://bit.ly/2o6NCBP> - If the EU is serious about its commitment to peace, democracy, and human rights, it has to step up its efforts

on freedom of religion or belief. This can only be done meaningfully by establishing an EU Special Representative on Freedom of Religion or Belief.

25 years ago, in the founding Treaty of the EU (the Maastricht Treaty), the EU officially decided to protect and promote human rights in the world. This included freedom of religion or belief. It is a fundamental human right protected by all the major human rights treaties.

Since 1992 however, the EU has floundered in this commitment and it took more than 20 years to take any other significant steps on religious freedom. In June 2013, the Foreign Affairs Council agreed on the EU Guidelines on the promotion and protection of freedom of religion or belief in the world. The Guidelines read as a detailed operating manual for EU officials in Brussels and across the globe.

With the Guidelines, the EU committed to raise the issue of religious freedom through public diplomacy: through high-level contacts, the EU Special Representative for Human Rights, and through regular political dialogue with third countries. In addition, the human rights country strategies, official country visits, as well as the weight of the EU's voice at the UN, were agreed upon as important avenues to promote freedom of religion or belief.

The Guidelines demonstrate a serious commitment to freedom of religion and belief. They even make the protection of religious freedom a condition for economic and political collaboration with the EU. However, there have been no institutional adjustments to follow through with these self-imposed obligations. A first evaluation report was due in 2016 but has not yet been published and no date for publication has been announced.

The many avenues, instruments, and mechanisms that exist in the EU structures for promoting freedom of religion or belief are both a blessing and a curse. On the one hand, the existing structures offer excellent avenues through which religious freedom can be promoted in the world. On the other hand, to mainstream, a concern for freedom of religion or belief requires a strategic use of many institutional avenues in parallel. To use a metaphor, it needs a conductor of the polyphonic orchestra that the EU is in order to strike a better and more co-ordinated tone on religious freedom. A commitment made on paper may be neglected if no one is responsible for pulling the strings together and can be held accountable for the results.

The current situation is as if all elements for an effective protection of freedom of religion or belief in the EU's external policy were there, but there is no one to put the puzzle together in a coherent way. Without a central position that has the necessary clout to pull all the pieces together, the implementation of the obligations laid out in the Guidelines has proven and will remain, impossible.

In May 2016, at the height of the crisis in the Middle East, and following a European Parliament resolution on the systematic mass murder by ISIS, the position of a Special Envoy for the promotion of freedom of religion or belief outside the EU was created. This was an important, albeit insufficient, development in making the EU's commitment more concrete.

Unfortunately, the mandate is exceptionally weak. While the first ten months have allowed the Special Envoy to gain significant visibility as the representative of the EU for all religious freedom-related matters, his position is not an institutional one. He is a special advisor to the Commissioner for International Cooperation and Development. The mandate originally came with no staff nor budget, and it is limited to a one-year term.

At the close of the one-year term of this Special Envoy, and in light of the fundamental importance of freedom of religion, the EU cannot afford to ignore the growing, critical need to address religious freedom matters adequately and coherently.

Here is how the EU can act, right now, to champion the human rights that it has vowed to protect:

1. **Establish a Special Representative on freedom of religion and belief as an institutional position similar to the nine existing Special Representatives.** Following the EU resolution of 4 February 2016, it would be appropriate to turn the position into an EU Special Representative for Freedom of Religion or Belief, reporting directly to the High Representative for Foreign Affairs and Security Policy and the Foreign Ministers' Foreign Affairs Council (FAC). The position needs to become a central part of the EU's foreign relations system. The work should be closely coordinated with the EU Special Representative for Human Rights in order to guarantee the essential link between religious freedom and Human Rights.
2. **Properly fund the office.** An EU position on the promotion and protection of freedom of religion or belief requires the necessary clout to maneuver a complex and heavy institutional structure. It should make religious freedom a priority in the EU's external action. This is only achievable with a well-equipped office, a serious working budget (comparable to that of other EU Special Representatives), and institutional authority.
3. **Guarantee sufficient capacity.** Financial and human resources would need to be allocated to effectively monitor freedom of religion or belief in third countries. The position needs to be able to conduct regular country visits, make religious freedom-related proposals within the European External Action Service (the EU's diplomatic service) and, most importantly, issue concrete recommendations and policy actions.
4. **Affirm diplomatic credibility.** The position should be given the necessary standing and political weight to be able to engage in regular high-level dialogues with political decision makers, and officials at embassies, consulates, and EU missions.

This would be at least a serious effort to mainstream the concern of religious freedom, implement the Guidelines, and live up to what the EU aspires to be: a champion on the protection of human rights in the world.

Open letter from the European Platform against Religious Intolerance and Discrimination (EPRID) to the Presidents of the European Council, European Parliament and the European Commission regarding the continued mandate of European Special Envoy

EPRID (22.03.2017) - <http://bit.ly/2nu0AY5> -

Mr Donald Tusk, *President of the European Council*

Mr Jean-Claude Juncker, *President of the European Commission*

Dr Federica Mogherini, *High Representative of the European Union for Foreign Affairs and Security Policy and Vice-President of the European Commission*

Mr Neven Mimica, *Commissioner on International Cooperation and Development*

Re: The continuation and strengthening of the European Union mandate of Special Envoy on Freedom of Religion or Belief

Dear Sirs and Madam, EPRID is a diverse network of civil society organisations including religious and non-religious (nonconfessional) associations operating at the European level. The objective of EPRID is to collectively promote freedom of religion or belief in the world as defined in the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights and other international human rights instruments. Its membership comprises the organisations identified in its website at: <http://www.eprid.eu/members/>

At its recently held annual general meeting, the members of EPRID unanimously resolved to express support for the continuation of the mandate of the Special Envoy for the promotion of freedom of religion or belief outside the European Union. EPRID expresses that support by way of this open letter.

Each of the members of EPRID have had association with the current Special Envoy and have been impressed by Dr Ján Figel's considerable achievements in his efforts to promote the principles of FoRB in several regions of the world all in a relatively short time.

Indeed, in the current international climate of persecution and diminution of the basic freedoms of religion, belief and expression, the continuation of an informed and articulate voice on behalf of Europe is necessary. However, EPRID members are concerned that the true potential of the mandate has been constrained by:

- limitations in resources;
- institutional connection and authority;
- the shortness of the period of the mandate.

EPRID is conscious that the mandate is a new one and thus without precedent within the European Union. It is with this recent creation of the role in mind that EPRID couples its recommendation for continuation with other recommendations and observations on how the mandate may be optimised to achieve its purposes. None of the matters raised by way of recommendation are intended to delay the renewal of the mandate. We hope that the points made in this letter might form part of the EU's considerations in how the role could meaningfully grow. EPRID notes, for example, the EU considerable potential influence in the area of FoRB upon trading partners. This may be a matter that could form part of the brief to the Special Envoy.

EPRID's recommendations and observations are the following.

First, a clear and workable EU Strategy on FoRB with respect to third countries must be developed in consultation with both the Special Envoy and civil society. This strategy should then inform the role of the mandate holder. With such a strategy in place, the Special Envoy could more readily prioritise the issues and third countries.

Secondly, given the importance of the mandate, it is equally important that the person appointed is both in possession of and seen to be vested with real institutional credibility and power. We propose that this person should be given a double hat and placed both within the European Commission, but also within the EEAS, in a position made directly responsible to the cabinet of the High Representative/Vice-President. In this respect, consideration could be given to the following improvements: the title of the office might be changed to that of 'EU Special Representative on Freedom of Religion or Belief'; and, the functions of the office might be formally connected with the EU's responsibilities under Article 9 of the European Convention on Human Rights and Article 18 of the International Covenant on Civil and Political Rights. We find that it is important that this position is grounded in both institutions as there are implications of this work for, amongst others,

DG development, DG Near and DG Trade. It will be through appropriate normative and structural connection with the other priority areas of the EU that the mandate will succeed in supporting work done in humanitarian aid, refugees and dealing with conflict in the Middle East.

Thirdly, if the mandate is to be successfully performed, there must be adequate allocations of budget and staffing. The allocations must take account of the needs for liaison with internal EU institutions and policy areas, the training and support of EU delegations tasked with the promotion of FoRB, the implementation of the EU Guidelines on the promotion of freedom of religion or belief and continued dialogue with civil society. Without adequate allocation of resources, the mandate has the potential to fail over time or, possibly worse, for it to lapse into window dressing and tokenism at a time when real action is required of the EU.

Fourthly, and for similar reasons, it is also important that the mandate be for ongoing periods of three or four years, so that each appointee has sufficient time to implement projects in accordance with EU priorities.

EPRID thanks the leaders of the EU institutions for their attention to the matters raised in this letter. If there is any matter that requires elaboration or explanation, EPRID and its constitutive members are ready to discuss those matters either in writing or in meetings. Yours sincerely,

Ms Penelope Faulkner – Que Me: Vietnam Committee on Human Rights

Dr Susan Kerr – Christian Solidarity Worldwide

Mr Christel Ngnambi – European Evangelical Alliance EPRID Board of Coordinators

European court rules employers can ban women from wearing Islamic headscarves and religious symbols
Judges find workplace rules governing all political and religious clothing is not discriminatory

By Lizzie Dearden

The Independent (14.03.2017) - <http://ind.pn/2nog3IH> - The European Court of Justice has ruled that companies can ban employees from wearing the Islamic headscarf, but only as part of prohibitions including other religious and political symbols.

It is the first case of its kind amid a series of legal disputes over the right for Muslim women to wear the hijab at work.

“An internal rule of an undertaking which prohibits the visible wearing of any political, philosophical or religious sign does not constitute direct discrimination,” the court said in a statement.

“However, in the absence of such a rule, the willingness of an employer to take account of the wishes of a customer no longer to have the employer's services provided by a worker wearing an Islamic headscarf cannot be considered an occupational requirement that could rule out discrimination.”

The Luxembourg-based court found that a headscarf ban may also constitute "indirect discrimination" if people adhering to a particular religion or belief, such as Muslims, are put at a particular disadvantage.

But indirect discrimination is permissible if it is "objectively justified by a legitimate aim", such as a company's policy of neutrality, provided that the means of achieving it are appropriate and necessary.

François Fillon, the conservative candidate in the French presidential election, hailed the ruling as "an immense relief" that would contribute to "social peace".

But a campaign group backing the women said it could shut many Muslim women out of the workforce and European rabbis said the court had worsened rising hate crime by sending a message that "faith communities are no longer welcome".

The president of the Conference of European Rabbis, Chief Rabbi Pinchas Goldschmidt, said: "This decision sends a signal to all religious groups in Europe."

The United Sikhs advocacy group said the "disturbing" ruling allowed employers to override fundamental human rights.

Mejindarpal Kaur, the group's international legal director, said that although the ECJ only allowed for rules with "legitimate aims", "we fear that employers will treat it as a licence to discriminate at the point of hire".

Amnesty International welcomed the ruling on the French case that "employers are not at liberty to pander to the prejudices of their clients" but said bans on religious symbols opened "a backdoor to precisely such prejudice".

Two employees in Belgium and France had brought the case to the ECJ after being dismissed for refusing to remove their headscarves, which did not cover the face.

The Belgian woman had been working as a receptionist for G4S Secure Solutions, which has a general ban on wearing visible religious or political symbols, while the French claimant is an IT consultant who was told to remove her headscarf after a client complained.

The G4S dispute, which started in 2006, was originally based on an "unwritten rule" banning employees wearing signs of their political, philosophical or religious beliefs, and the company's workplace regulations were not updated until a day after the woman started wearing a hijab.

Although they apply to all beliefs, the ECJ said it was "not inconceivable" that such rules could be deemed indirect discrimination for targeting Islam over other religions and referred the issue back to the Belgian Court of Cassation.

The French claimant, a design engineer for Micropole, was asked to stop wearing her headscarf to maintain neutrality after a client's complaint but refused and was dismissed.

The ECJ referred the case back to the French Court of Cassation to establish whether the move was a "genuine and determining occupational requirement" and whether there were any formal rules in place that meet non-discrimination requirements.

The court's advocate general recommended that companies should be allowed to prohibit headscarves as long as a general ban on other symbols was in place, theoretically applying to Sikh turbans, Jewish kippas and Christian crucifixes.

Their advice in the French case was that a rule banning employees from wearing religious symbols when in contact with customers was discrimination, particularly when it only applied to Islamic headscarves.

Jonathan Chamberlain, an employment lawyer at Gowling WLG, said the decision brings the EU into line with what has been the UK's approach for several years.

"For example, it's fine for employers to have a dress code but it needs to be applied with some sensitivity and flexibility to take account of religious beliefs," he added.

"What is almost certainly never OK is for an employer to tell an employee to stop wearing a religious symbol because a particular customer has asked for it."

The Open Society Justice Initiative, a group backed by the philanthropist George Soros which had supported the women, said it was disappointed by the ruling.

A spokesperson said it "weakens the guarantee of equality that is at the heart of the EU's anti-discrimination directive".

Maryam Hmadoun, the initiative's policy officer, said: "In many member states, national laws will still recognise that banning religious headscarves at work is discrimination.

"But in places where national law is weak, this ruling will exclude many Muslim women from the workplace."

The Open Society Justice Initiative said all future cases on religious discrimination in workplaces inside the EU will be government by the ruling, which it feared would strengthen wider attempts at headscarf bans.

"When an employer singles out religious clothing this is direct discrimination, and such an aim is not neutral," a statement said.

"The supposed 'neutrality' is really discrimination, making the false claim that employers who allow staff to wear the headscarf are in some way not neutral."

The ruling, which sets an EU-wide precedent, came a day before the Netherlands' parliamentary elections, which have been dominated by issues of integration and identity.

Dutch MPs voted in support of a partial ban on full-face Islamic veils last year, but no law has yet been implemented, while prohibitions have been implemented in countries including France, Belgium and Bulgaria, and are being considered in Germany.

Attempts by local authorities in the French Riviera to ban so-called "burkinis" worn by Muslim women and impose fines generated fresh debate last year and have since been repealed by courts.

Press release of the European Court of Justice

<http://curia.europa.eu/jcms/upload/docs/application/pdf/2017-03/cp170030en.pdf>

European Court of Justice rules against the wearing of the headscarf in the private sector

European Parliament Anti-Racism and Diversity Intergroup (ARDI) (14.03.2017) - <http://bit.ly/2lZsRIR> - The European Court of Justice (ECJ) issued a ruling against two women employees who were dismissed because they wore the headscarf. *"An internal rule of an undertaking which prohibits the visible wearing of any political, philosophical or religious sign does not constitute direct discrimination,"* the court said in a statement. *"However, in the absence of such a rule, the willingness of an employer to take account of the wishes of a customer no longer to have the employer's services provided by a worker wearing an Islamic headscarf cannot be considered an occupational requirement that could rule out discrimination."*

The Court also ruled that a ban may also constitute *"indirect discrimination"* if people adhering to a particular religion or belief were specifically targeted. The Court added that indirect discrimination is permissible if it is *"objectively justified by a legitimate aim,"* such as a company's policy of neutrality, as long as the means of achieving it are appropriate and necessary.

The two cases concern two female Muslim employees in Belgium and France who had been dismissed for refusing to remove their headscarves, which did not cover the face.

The Belgian woman had been working as a receptionist for G4S Secure Solutions, which has a general ban on wearing visible religious or political symbols, while the French claimant is an IT consultant who was told to remove her headscarf after a client complained.

The case of the Belgian women stems from an "unwritten rule" where G4S banned employees from wearing signs of their political, philosophical or religious beliefs, although the company only updated its workplace regulations the day after the woman started wearing a hijab.

Although they rules apply to all beliefs, the ECJ said it was possible that such rules could be deemed indirect discrimination for targeting Muslims or other religious groups with visible manifestations of their faith and referred the issue back to the Belgian Court of Cassation.

Soraya Post, Co-President of ARDI, said: *"I welcome the decision that employers are not now allowed to pander to the prejudices of their clients. However at a time of increasing hate crimes against Muslims, this ruling sends the wrong signal and will lead to only further direct and indirect discrimination against Muslims both in the labour market and in society at large. Muslim women already face high levels of discrimination and difficulties in accessing the labour market according to the European Network Against Racism's Forgotten Women project and this decision will prevent more Muslim women from being able to access the labour market. Moreover in countries where national law doesn't provide appropriate safeguards, this ruling opens a Pandora's Box and will result in many Muslim women and those who wear visible manifestations of their faith being fired under the guise of neutrality. This is anything but neutrality."*

Sajjad Karim, Vice-President of ARDI, said: *"Today's ruling in effect makes Muslim women and people from other religious groups have to choose between their fundamental right to religious expression and access to the labour market. This is unacceptable and will only isolate people with religious convictions who wish to express their belief."*