

Burkini Ban Issue in France:

Pro et Contra

- The recent escalation of veiling / unveiling discussion in the Fifth French Republic is a side effect of the recent terroristic attacks threatened all the country. It is not by chance that the main protests against burkini started in the regions where just couple of months ago a horrible event occurred. In 2016, a number of French municipalities banned the use of burkini, which sparked an international controversy. Although the issue of wearing religious symbols on public was discussed in the French society for many years, here with burkini we face very strange situation where huge part of society, including state officials and political parties welcomes the Burkini ban, while the judiciary ruled in opposite.
- What is burkini? A burkini or burqini is a type of swimsuit for women, designed Australian designer Aheda Zanetti, which covering the whole body except the face, the hands and the feet, while being light enough for swimming. They have been designed especially to accord with Islamic traditions of modest dress. And it get increasing popularity in countries with predominately Muslim population as well as in Asian countries where pale skin is considered desirable. Surprisingly it became popular also in Israel among the Jewish Haredi. Since burkini, despite it is registered trademark it is become generic term and there are also other types of Islamic swimwear, in particular Veilkini.
- There is no precise scientific research yet, but Islamic swimwear raises some safety concerns, since materials used in them in particular lycra may be unsafe in the water and may lead to the sinking. Another safety reason is the possible reaction of sea animals to the strange creatures in the sea. From the other side the burkini, stylistically, is not all that different from the wet suit used by scuba divers and often used by surfers and long distance swimmers. While it is associated with Muslim dress, and in particular with the Koran's pronouncement that "women should dress modestly," it is not traditional attire - having been invented only in 2004.

- French is not the first country with the burkini ban. The burkini was prohibited in Morocco in the public pools as violating the hygiene rules. In 2009 a woman was prevented from swimming in the public pools wearing burkini. And at that time the mentioned action was justified by reference to a law that forbids swimming in street clothes.
- Burkini as infringement of Secular Nature of the French Republic. In the 1905 constitution aims to separate Church and state. It enshrines secularism in education but also guarantees the freedom of religion and freedom to exercise it. The original text made no reference to clothing; nonetheless, the religious clothing issue is for a long time a source of contention in France, whose secular laws prohibit displays of religion in certain settings. In particular in 2004, religious symbols - including headscarves, yarmulkes, and large crosses - were banned from public schools. And in 2010, the country became the first in Europe to ban the burqas, a full-faced veils favored by some Muslim women, in public. The legal justification for the latter was the problem on identification of persons, which was done in the context of increasing suicide bombers attacks.
- Veiling and unveiling discussion in French society in the context of recent terrorist attacks. Burkinigate is divided French society. According to a BBC report, recent polls indicate that 64 percent of the French public supported the ban and that another 30 percent had no opinion. In particular, French Human Right organizations against Islamophobia, Muslim French citizens, are demanding the full elimination of the burkini ban as violating women and muslims rights. They are supported worldwide by human rights activists. Scores of protests from “burkini rallies” to a “wear what you want beach party,” organized on a makeshift beach in front of France’s embassy in London, were held in the weeks following the ban. At the same time public figures including the Prime Minister Manuel Vals described the burkini as "a political sign of religious proselytising". He also said that "The burkini is not a new range of swimwear, a fashion. It is the expression of a political project, a counter-society, based notably on the enslavement of women." The former President of the French Republic Nicolas Sarkozy is promising to fully prohibit burkini in the case of his election as a President in 2017. Marine Le Pen,

the president of National Front party urged that the ban be immediately adopted nationally.

- Legal dimension: The decisions of the several French municipalities banning the burkini were justified by the following argumentation that the mentioned ban was “necessary, appropriate, and proportionate” to preventing public disorder, arguing the swimsuit favored by some Muslim women could be interpreted as a provocation. Nevertheless, the French Conseil d’Etat the highest instance on this kind issues annuled the burkini ban as violating the human rights and contradicting the National legislation.
- Some conclusions: The issue of using religious clothing in public is the ongoing one in the French society. From the European Human Rights system perspective the banning of burkini is undue interference in the private life which is not necessary in the democratic society. From other point of view the further Islamization of the French society may really undermine its secular character, which in its turn may affect the whole system of human rights protection in all Europe. Simultaneously from worldwide perspective the very invention of burkini will allow hundred of thousand women across the world to exercise their internationally recognized rights without infringement of their freedom of religion and belief.