



**FINANCIAL  
TIMES**



## **ADJUDICATION**

by

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**EDITORIAL COMPLAINTS COMMISSIONER**

**Financial Times Limited**

## INTRODUCTION

1. This is an Adjudication of a complaint received from Ms Aisha Issa (“the Complainant”). She complains in respect of a letter (“the Letter”) published by the President of the French Republic, Emmanuel Macron, on the Letters Page of the *Financial Times* on 4 November 2020.
2. By way of summary, the complaint email describes itself as being a ‘Request for Correction and Apology following grave factual inaccuracies leading to racism / Islamaphobia’.
3. Before giving the procedural history of the complaint, some background is necessary to explain the context of the Letter.

## BACKGROUND

4. On 2 November 2020, the FT published an opinion piece (“the Article”) by its EU correspondent, Mehreen Khan. The piece concerned attitudes to Muslims in France, and bore the headline “*Macron’s war on ‘Islamic separatism’ only divides France further*”. Suffice to say the Article was highly critical of President Macron and his policies and rhetoric.
5. The Article attracted a number of complaints on grounds of inaccuracy – none of which were dealt with by me. As I have explained on countless previous occasions, my role is strictly appellate: complaints go to the Editor (or a senior Editor acting on her behalf), and are resolved by editorial at first instance. If the Complainant remains dissatisfied, then (but only then) can they appeal to me. In that sense, my role mirrors the appellate function of IPSO and IMPRESS, the main newspapers regulators in the UK (to which the FT does not belong).
6. Some of the complaints concerning the Article led to changes, but ultimately the decision was made by Roula Khalaf, the Editor, to remove the Article from FT.com. It was replaced with a statement from the FT saying:

*“The Financial Times has removed an opinion article from the website that was about France and its attitude toward Muslims after it emerged that it contained factual errors”*

7. However, notwithstanding its removal, the Article had been very widely read and discussed. It had also been the subject of complaints for inaccuracies that editorial deemed were well founded. Accordingly, President Macron was afforded an opportunity to have a ‘right of reply’ letter published under Clause 1.3 of the IPSO Code, responding to the criticisms in the Article.
8. President Macron’s letter is still available to read online at the URL: <https://www.ft.com/content/8e459097-4b9a-4e04-a344-4262488e7754> .

However, I set out its text here so that the complaint may be better understood:

**“Letter: France is against ‘Islamist separatism’ – never Islam”**

*“For its readers, and I am one, being informed by the Financial Times means being certain of accessing robust facts, rich analysis and reliable information, without needing to verify its veracity. Therefore, who could imagine that the statements made publicly by the head of a G7 member state could be distorted by this news organisation?”*

*And yet, that is what happened in a column published online yesterday. The piece misquoted me, substituting “Islamic separatism” – a term that I have never used – for “Islamist separatism”, which is a reality in my country. It accused me of stigmatising French Muslims for electoral purposes and of fostering a climate of fear and suspicion towards them.*

*I shall not discuss the questionable rigour of this article nor even the ideological foundations on which it is based. I simply wish to remind your readers of some simple facts, explain the situation of my country and the challenges it has to face.*

*For over five years now, and since the attacks on Charlie Hebdo, France has faced a wave of attacks perpetrated by terrorists in the name of an Islam that they have distorted. Some 263 people – police officers, soldiers, teachers, journalists, cartoonists, ordinary citizens – have been assassinated in our homeland. Most recently, an attack that fortunately did not result in any casualties once again targeted the premises of Charlie Hebdo; a history and geography teacher, Samuel Paty, was decapitated; in Nice, two women and a man were assassinated in a church.*

*Faced with this ill that is eating into our country, France has rallied with resilience, with determination.*

*Firstly, by standing firm on its principles. France has been attacked by Islamist terrorists because it embodies freedom of expression, the right to believe or not to believe and a certain way of life. The French people have risen up to say that they will not surrender any of France’s values, its identity, or its imagination. Nor any of these human rights that it proclaimed for the world, back in 1789.*

*Our nation has also rallied by tracking down the terrorists wherever they may be. The French army shows exemplary courage in the Sahel and its action against terrorist groups benefits all of Europe. Our intelligence and police services, which have paid a heavy price, prevent dozens of attacks each year. The whole state mobilises on the basis of laws discussed and voted on by parliament. For we will not surrender democracy, or the rule of law either.*

*But since 2015 it has become clear, and I said this even before I became president, that there are breeding grounds for terrorists in France. In certain districts and on the internet, groups linked to radical Islam are teaching hatred of the republic to our children, calling on them to disregard its laws. That is what I called “separatism” in one of my speeches.*

*If you do not believe me, read the social media postings of hatred shared in the name of a distorted Islam that resulted in Paty’s death. Visit the districts where small girls aged three or four are wearing a full veil, separated from boys, and, from a very young age, separated from the rest of society, raised in hatred of France’s values.*

*Speak to government prefects who are confronted on the ground with hundreds of radicalised individuals, who we fear may, at any moment, take a knife and kill people. This is what France is fighting against — designs of hatred and death that threaten its children — never against Islam. We oppose deception, fanaticism, violent extremism. Not a religion.*

*We say: “Not here in our country!” And we have every right to say this, as a sovereign nation and a free people. Against the terrorists who want to break us, we remain united. We can do without media articles that divide us.*

*I will not allow anybody to claim that France, or its government, is fostering racism against Muslims. France — we are attacked for this — is as secular for Muslims as for Christians, Jews, Buddhists and all believers. The neutrality of the state, which never intervenes in religious affairs, is a guarantee of freedom of worship. Our law enforcement forces protect mosques, churches and synagogues alike.*

*France is a country that knows what it owes to the Islamic civilisation: its mathematics, its science, its architecture all borrow from it, and I announced the creation of an institute in Paris to showcase this great wealth. France is a country where Muslim leaders speak out when the worst happens, and call on followers to fight radical Islamism and defend freedom of expression.*

*One can pretend not to see these realities, but one cannot ignore them indefinitely. For as Averroes, the 12th-century polymath, once wrote: “Ignorance leads to fear, fear leads to hatred, and hatred leads to violence.”*

*Therefore let us not nurture ignorance, by distorting the words of a head of state. We know only too well where that can lead.*

*Instead, let us prefer clear-headed rigour and rigorous work; enlightened wisdom.”*

## THE COMPLAINT

9. The Complainant first complained to the FT on 11 November 2020. She said:

*Dear Madam,*

*You published the above letter on November 4 in order for French President Emmanuel Macron to clarify information that he accused you – the Financial Times (FT) – of distorting.*

*Mr Macron’s letter received a huge amount of publicity, and was widely billed as a collection of “simple facts” (Mr Macron’s words) aimed at disproving the allegations that he (Mr Macron) was “stigmatising French Muslims for electoral purposes and fostering a climate of fear and suspicion towards them.”*

*In fact, Mr Macron’s letter was riddled with fake news, and provably so. Made up information was evidently used by Mr Macron to stigmatise French Muslims, and indeed to foster a climate of fear and suspicion towards them. Most alarming of all was this paragraph:*

*“Visit the districts where small girls aged three or four are wearing a full veil, separated from boys, and, from a very young age, separated from the rest of society, raised in hatred of France’s values.”*

*1/ I have fact checked this, and in fact there are zero cases of children “wearing a full veil” in France, let alone any aged “three or four”. Can you please correct and apologise for this misinformation?*

*Mr Macron has posted a French translation of his FT letter on the Élysée Palace web site in which he translates “full veil” to “voile intégral” which means burqa or niqab – items of dress which are banned in France. A mother or father would face prison if they forced a child to wear one.*

*2/ In fact, it is impossible to “visit the districts” where these allegedly fully-veiled children operate, because – provably – they do not exist. Can you please correct and apologise for this misinformation?*

*3/ In fact, there are zero examples of young girls who are “separated from boys, and, from a very young age, separated from the rest of society, raised in hatred of France’s values.” Can you please correct and apologise for this misinformation?*

*4/ Mr Macron’s deceitful words are, in the context of a letter about French Muslims, clearly designed to spread hatred against French Muslims. Hence the chillingly biological reference to “breeding grounds for terrorists in France”. Can you please correct and apologise for this hugely offensive claim based on misinformation?*

*5/ Mr Macron refers to “government prefects who are confronted on the ground with hundreds of radicalised individuals, who we fear may, at any moment, take a knife and kill people.” In the context of a letter about Muslims, Mr Macron is clearly – and without evidence – trying to give the impression*

*that all Muslims are potential killers. Can you please correct and apologise for this misinformation?*

*6/ Mr Macron writes: "We can do without media articles that divide us. I will not allow anybody to claim that France, or its government, is fostering racism against Muslims." In fact, Mr Macron does not have any power whatsoever to censor free speech opinions about his country, either in the UK, or in France. Can you please correct and apologise for this misinformation?*

*7/ Mr Macron writes of: "The neutrality of the state, which never intervenes in religious affairs, is a guarantee of freedom of worship." In fact, there are numerous examples of the French state intervening in religious affairs, not least of all in a swathe of legislation concerning the Muslim faith and its practice in France that Mr Macron is at this very moment introducing in France. Can you please correct and apologise for this misinformation?*

*As a responsible publisher, and in line with the FT Editorial Code, I would respectfully ask you to publish these corrections and apologies without delay. French Muslims do not deserve to be stigmatised by a British publication, least of all one that is evidently using fake news to do so.*

*I look forward to your considered reply to my questions listed 1-7, offering any possible justification for Mr Macron's fake news, if appropriate. I will in turn refute it with easily checked evidence. I live in the kind of area that you have portrayed as a "breeding ground for terrorists in France" and have every right to expose dishonest claims about it."*

10. The complaint was handled on behalf of editorial by Suzanne Blumson, the Corrections Editor, who responded in the following terms:

*"Thank you for your letter.*

*We looked into the statements made by Emmanuel Macron in his letter to the FT, including his point about young girls wearing the full veil, before publication. We note that he made a similar statement in his speech on October 2. We also note that French authorities have been objecting for some time to clandestine, unsafe locations where they said that young girls, removed by their parents from registered schools teaching the French curriculum for "home education", were taken during the day for instruction by unqualified people. Officials say the government has closed several such locations in the past two years. In reference to your first three points, illegal institutions and acts, including making young girls wear full veils, are in many cases by nature hidden from view.*

*On your last point, we have not yet seen the legislative proposals referred to in Mr Macron's speech. He suggested that there would be regulation of the financing and management of mosques and Islamic associations (in line with that for other religious establishments) but that ensuring "responsible worship" through the training of imams would be a matter for the Conseil français du culte musulman.*

*In your other comments, you are ascribing motives to the words Mr Macron uses rather than questioning their factual accuracy. His letter constitutes a piece of political comment and opinion that is normal for the letters page and we consider the words are within the bounds of legitimate freedom of expression on the part of a head of state. We also think there is strong public interest in such political pronouncements by the French president being published in the media. If you wish to express your opinions about the president's letter and contribute to this debate, I invite you to submit your own letter, which we will consider for possible publication according to our usual criteria such as editing the content for length purposes.*

*Regards, Suzanne Blumsom, corrections editor*

11. The Complainant was dissatisfied with the resolution of her complaint by the Corrections Editor, and so appealed to me on 24 November 2020 (although a misspelled email address meant it was a little delayed in reaching me):

*“I write to complain about a very serious breach of the FT Code that your colleagues appear reluctant to rectify, and call for remedy.*

*On November 11 I sent a letter pointing to numerous examples of fake news in a letter (referenced above) that was ostensibly complaining about fake news, while also spreading hatred against French Muslims.*

*The letter was in clear breach of the FT Code in regards to Accuracy (Sections 4.12 a and 7.1) and the linked IPSO Code in relation to Accuracy (Section 1i and 1ii) and Discrimination (Section 12.) I offer clear evidence of this below.*

*<https://www.ipso.co.uk/editors-code-of-practice/>  
I asked for evidence to justify the following principal inaccuracy:*

*That there are cases of three and four-year-old girls in France wearing the “full veil” while being “raised in hatred of France’s values”.*

*This is a sensational claim that would make a front-page news story if it were true. There are not even cases of ISIS, Al-Qaeda or the Taliban forcing pre-pubescent children into burkas or niqabs (both of which are banned in France).*

*Yet the FT has published claims – while providing no evidence whatsoever – that the French Republic contains entire districts where radicalised Muslim children under-5 wear “full veils”.*

*The claim is patently not true. There is not a shred of evidence to support it. I have investigated the claim in full – there are denials from the French Interior Ministry, the French Police, French prosecutors,*

*and all other prominent organisations. All are baffled by the claim, and agree it would make a front page news story if it were true.*

*Yet, when I very reasonably complained to the FT Corrections Editor, I was told that the FT continues to believe that there are cases of children under-5 wearing “full veils” in France.*

*This is not good enough. Under the rules of the FT Code / IPSO Code, if claims published as facts cannot be justified by unequivocal evidence, then they must be corrected, and indeed apologised for.*

*This is especially the case when the made-up “facts” are quite obviously spreading hatred against some five million law-abiding French citizens who are Muslims.*

*All of these extracts from the FT letter breach the FT Code / IPSO Code and should be corrected and apologised for:*

*“Visit the districts where small girls aged three or four are wearing a full veil, separated from boys, and, from a very young age, separated from the rest of society, raised in hatred of France’s values.”*

*“government prefects who are confronted on the ground with hundreds of radicalised individuals, who we fear may, at any moment, take a knife and kill people.”*

*“there are breeding grounds for terrorists in France”*

*“I will not allow anybody to claim that France, or its government, is fostering racism against Muslims.”*

*[The French state] “never intervenes in religious affairs”.*

*Again, I asked your Corrections Editor to justify such claims with verifiable evidence, but she could not.*

*I provide my correspondence [below] asking your Corrections Editor for evidence.*

*That a distinguished newspaper of record like the FT should be publishing hate-spreading fake news without evidence is – I would respectfully contend – a matter of huge public interest.*

*Thus the results of my complaint and call for corrections and an apology will be made available to other media organisations.*

*May I remind you in the meantime of the FT Code sections to which my complaint applies:*

*4.12 (a) facts are clearly distinguished from interpretations, estimates, opinions and other types of non-factual information.*



*7.1 As a general rule of thumb, we require at least two independent sources for each story.*

*2.1 Compliance with the IPSO's Editors' Code of Practice  
The first section of this code is concerned with 1. Accuracy*

*i/ The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.*

*ii/ A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and – where appropriate – an apology published. In cases involving IPSO, due prominence should be as required by the regulator.*

*12. Discrimination. The press must avoid prejudicial or pejorative reference to an individual's, race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability.*

*I look forward to a detailed reply: one that either offers verifiable evidence for the contested "facts", or an appropriate remedy – that is to say corrections and apologies."*

## **DISCUSSION**

12. It will be seen that the complaint on appeal sets out four elements of the FT Editorial Code said to be applicable and which the Complainant considers have been breached. They are Article 4.12(a) and Article 7.1 of the FT Editorial Code itself, and Clauses 1 (Accuracy) and 12 (Discrimination) of the IPSO Code which is annexed to (and incorporated into) the FT Code. I can deal with the first two of these – Articles 4.12(a) and 7.1 of the FT Code – in fairly short order.

### **Article 4.12 (FT Code)**

13. Article 4.12 begins "*The author of any investment recommendation in editorial content that is submitted for publication must ensure that in that recommendation (to the extent applicable):*

*a. Facts are clearly distinguished from interpretations, estimates, opinions and other types of non-factual information."*

14. It will be immediately apparent that President Macron’s Letter was not in any sense an “investment recommendation”, so Article 4.12 is entirely inapplicable on the facts of this case. In any event, it would add little to Clause 1.4 of the IPSO Code, which in similar terms (of more general applicability) provides that *“The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.”*

### **Article 7.1 (FT Code)**

15. Article 7.1 of the FT Code does not apply to the Letter either. Article 7 concerns ‘Sourcing & Attribution’, and Article 7.1 says in terms:

*“As a general rule of thumb, we require at least two independent sources for each story. Editorial employees should familiarise themselves with the FT Sourcing and Attribution Policy, which can be found on the FT intranet.”*

16. It is clear from the terms of Article 7.1 that the FT Sourcing & Attribution Policy (which is distinct from the FT Editorial Code) governs sourcing and attribution by editorial employees, who are professional journalists who write stories for the FT. It does not – cannot – govern letters written by readers to the Letters Page. Those who are not FT employees or contributors are under no obligation to follow the FT Sourcing & Attribution Policy any more than they are obliged to obey the FT Social Media Policy. This is true of all readers, up to and including Presidents of the French Republic.

### **IPSO Code & the Letters Page**

17. The two complaints under Clauses 1 and 12 of the IPSO Code require a little further elucidation.
18. Articles 1.2 and 2.1 of the FT Code indicate who is bound by the FT Code (and by extension the IPSO Code), namely “FT editorial employees and freelance contributors” (emphasis added):

- a. Article 1.2: *“This places a responsibility on every FT editorial employee and contributor to conduct her/himself according to practices which reinforce the FT’s reputation for accuracy, truthfulness, honesty and authority”* (emphasis added);
- b. Article 2.1: *“FT editorial employees and freelance contributors must comply with IPSO’s Editors’ Code of Practice, a copy of which is set out in Annex I”* (emphasis added).

19. The Preamble of the IPSO Code at Annex I includes a paragraph that states:

*“It is the responsibility of publishers to apply the Code to editorial material in both printed and online versions of their publications. They should take care to ensure it is observed rigorously by all editorial staff and external contributors, including non-journalists.”*

20. Taking these Articles and Clauses together, it is clear that the obligations of the Code extend to FT editorial employees and external ‘contributors’ (even if the ‘contributor’ is not a professional journalist). It would – for example – extend to an OpEd published by a professional politician or lobbyist. If a world leader agreed to be commissioned to write an editorial, that would be in-scope because in agreeing to a commission, contributors thereby accept the Code applies.

21. However, I do not consider that the same can be said for a person who submits a letter to the Letters Page for publication, any more than it applies to those many FT readers who leave comments ‘below the line’ on FT.com. Such readers who write in to the Editor – whether old-fashioned handwritten letters in green ink or digital missives – are not ‘contributors’ to the FT in the sense connoted by the IPSO Code. The FT permits and facilitates this user-generated content to published (online, sometimes in print), but there are important differences:

- a. it is not commissioned by the FT;
- b. nor does it go through the process of reporting, editing and review as editorial content prepared by FT employees and freelance contributors;
- c. it is labelled, read and understood by readers to be the views of other readers of the FT, and not material which the FT has itself commissioned or edited as its own content. Here, the Letter’s headline began “Letter: ”.

22. This conclusion is supported by the fact that Article 3.1 of the FT Code requires all FT editorial employees and contributors to “cooperate and comply” with any lawful enquiries I may make, and requirements I may impose, as a function of my investigations and Adjudications. I consider I have no such power over a mere reader (let alone a world leader) simply because he wrote a ‘right of reply’ letter to the Editor and had it published on the Letters Page under Clause 1.3 of the IPSO Code. It cannot be correct that submission to my jurisdiction is a condition-precedent for a complainant exercising rights under Clause 1.3.
23. That is not to say that the FT Code has no application to what is published on the Letters Page. The Letters Page is still subject to limited acts of editorial control, in that only a small number of letters received by the Editor are published at all. Of those selected for publication, many have to be lightly edited (not least, for tone and for length). The Letters Page is a curated sample of readers’ responses to matters in the news and the coverage of the FT. That engages editorial judgment which is capable of being subject to scrutiny by me.
24. On that basis, while I consider a letter-writing reader is not a ‘contributor’ who is themselves bound by the FT & IPSO Codes, the editorial conduct of FT employees in preparing and editing the Letters Page for publication (both in print and online) is properly subject to the FT & IPSO Codes.
25. However, this requires careful focus for the purposes of my Adjudication. It follows from what I have said above that I am not judging whether or not a **reader** (who has written a letter the FT has chosen to publish) has complied with the IPSO Code: I am judging the **FT’s editorial department** as to its compliance with the FT and IPSO Codes in relation to publishing that letter.
26. I suspect that insofar as the Complainant is hoping that I will find President Macron personally and directly in breach of the IPSO Code, or indeed the FT Sourcing & Attribution Policy, she is likely to be disappointed. But that task is not within my jurisdiction. I am the FT Editorial Complaints Commissioner: I have jurisdiction to consider the compliance of FT editorial employees and contributors only, and readers (however famous) who write letters are not subject to the Code or to my Adjudications.

27. A final important provision is contained within both the FT Code (Articles 1.6 and 1.7) and the IPSO Code (in the Preamble), namely the general approach to applying the standards articulated. Articles 1.6 and 1.7 of the FT Code say that:

*“1.6 The FT’s general ethical standards, set out below, are aimed at protecting the rights of individuals and organisations, and also the public’s right to know.*

*1.7 They should not be interpreted so narrowly as to compromise the FT’s commitment to respect the rights of individuals and organisations, nor so broadly that they constitute an unnecessary interference with freedom of expression or prevent publication in the public interest.”*

28. The equivalent passage in the Preamble to the IPSO Code provides that:

*“[The Code] balances both the rights of the individual and the public’s right to know. To achieve that balance, it is essential that an agreed Code be honoured not only to the letter, but in the full spirit. It should be interpreted neither so narrowly as to compromise the commitment to respect the rights of the individual, nor so broadly that it infringes the fundamental right to freedom of expression – such as to inform, to be partisan, to challenge, shock, be satirical and to entertain – or prevents publication in the public interest.”*

29. Just as I have no jurisdiction over readers of the FT (even readers who write to the Letters Page) who are not commissioned ‘contributors’, I have no general jurisdiction to fact-check or adjudicate statements by world leaders or others who appear in the news. A person who did have that role might have had a very busy time in recent years, with several leading figures in the worlds of politics and business embracing novel and deconstructionist approaches to truthfulness, with others dissembling and lying in rather more traditional ways.

30. Many of the falsehoods spouted by global figures will have been reported by newspapers, not so as to endorse the untruth spoken, but to report on the fact of the untruth being spoken by the world leader. While the wisdom of

newspapers doing this has been open to question, the mere fact of a world leader saying something untrue, or outrageous, or repugnant is still capable of being newsworthy, not least as it reflects on the character of that individual.

31. For example, if the Prime Minister of Ruritania (a fictional nation) makes a series of dishonest slurs against an ethnic minority in his country threatening to dispossess them of key assets on the grounds of an entirely fictional conspiracy theory about their influence in the economy, it may well be newsworthy to report those remarks. Not only because the citizens of Ruritania should know what their Prime Minister says (in that they will one day vote on her suitability for re-election), but the international community has an interest in knowing her views to guide their own attitudes to her government, in relation to economic sanctions, foreign investment, or even military intervention.
32. In other words, I wish to make clear that it is not *intrinsically* a breach of the IPSO Code to report untruths falling from the mouths of world leaders, or others, as long as the attribution of the untruth is clear and the FT does not adopt or endorse the untruth in its reporting. The public interest is often served by the FT communicating to its readership and the global public the views and words of world leaders, even where for an FT editorial to adopt the same position would put it in danger of an adverse adjudication under the FT Code.
33. One of the ways in which governments can be accurately reported by the FT is through reported quoted speech in the bodies of news articles and editorials, but the Letters Page also gives an opportunity for readers – many of whom are newsworthy individuals – to say something in their own words. Readers of the FT know and understand that the Letters Page represents the views and speech of the readers whose names appear at the foot of each letter, and does not itself connote endorsement by the FT of what is said in that letter.

## **Clause 1**

34. Clause 1 (Accuracy) of the IPSO Code has 5 sub-clauses, of which the first four are potentially relevant to this Adjudication:

- “1.1 *The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.*
- 1.2 *A significant inaccuracy, misleading statement or distortion must be corrected promptly and with due prominence, and - where appropriate - an apology published. In cases involving IPSO, due prominence should be as required by the regulator.*
- 1.3 *A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.*
- 1.4 *The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.*
- 1.5 *A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published.”*

**Framework: Clauses 1.1 and 1.2 (Three Errors: Pre- & Post-Publication)**

35. I have had cause on several previous occasions<sup>1</sup>, starting with the *Berkley Adjudication*, to explain the difference between inaccuracy breaches under Clause 1.1 as distinguished from those under Clause 1.2:

*“However, it is important to understand what exactly constitutes a breach of Clause 1 (Accuracy):*

*[...] Clause 1.1 will only be breached if the Press has not taken care to avoid publishing inaccurate information. It is a rule against slapdash journalism that is negligent about setting out the facts. It is not a rule which is breached*

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<sup>1</sup> A list of my previous Adjudications, as well as the text of the FT Editorial Code, can be found on this public page on FT.com (currently being updated): <https://aboutus.ft.com/company/our-standards/editorial-code>

*by the mere presence of any inaccuracy however minor. It is breached only by such inaccuracies that a careful newsroom could and should have avoided publishing.*

*[...] Clause 1.2 will only be breached if the Press has refused to properly correct, clarify or apologise for a ‘significant inaccuracy, misleading statement or distortion’. Clause 1.2 is therefore different to Clause 1.1 in two material respects: first, the inaccuracy must be ‘significant’; and second, the breach is not one of negligent omission, but intentional refusal to amend”.*

36. I also construed Clause 1.1 – and its relationship to the rule in *Charleston v News Group Newspapers* [1995] 2 AC 65 – in the *Chandler Adjudication*. In essence, I held that in determining inaccuracy under Clause 1.1 or 1.2 an article must indeed be read as a whole, including the headline, but that Clause 1.1 imposed an additional obligation that the headline should match the text (comparing them separately) so as to prevent abuse of the rule in *Charleston*.

37. At other times, starting with the *Portes Adjudication*, I have given a more detailed exposition of the three forms of error that Clause 1 (Accuracy) seeks to prevent (namely ‘inaccurate’, ‘misleading’ and ‘distorted’):

*“Whether a statement is ‘inaccurate’ (in the narrow sense of factually wrong, and requiring a correction) can be judged by comparing the published information to a provably true version of the information. If they differ, and the difference is ‘significant’, a correction will be directed.*

*A statement will be ‘misleading’ where the objective reasonable reader of the FT would take away an erroneous belief about the subject of that statement, even though the statement was true. The words “John Doe has been caught in bed with woman who isn’t his wife” may be perfectly true because John Doe has never married, but if a reasonable reader would take away that John Doe is both married and having an extra-marital affair, the statement is misleading. Significant misleading statements will require clarification, not correction, given that the information is not intrinsically inaccurate.*

*What then of ‘distorted’? It clearly is intended to mean something distinct from ‘misleading’. My provisional view is that whereas a misleading statement misinforms the reasonable reader about the factual content of that statement, a ‘distortion’ is an assembly of statements that are neither inaccurate, nor*



*misleading, but collectively give an impression that a reasonable and fair-minded person in possession of all the facts would not have. To say of Adolf Hitler that he was a vegetarian, liked dogs, painted watercolours, and never cheated on his wife might not be inaccurate or misleading in any of the specifics, but would give the most grossly distorted view of his character.*

*An alleged distortion therefore requires me to find the limits of fair and reasonable views of an article's subject matter, to see if the article (although the facts are true) is a distortion of the picture generally. Partly for the reasons discussed above, I will be much more wary of doing so where the complaint is about an OpEd (where readers should expect a columnist to be giving a particular, subjective view on 'the truth') than in the news sections (where there is a reasonable presumption of objectivity and fairness)."*

### **Framework: Clause 1.3 (Right of Reply)**

38. Clause 1.3 has, by contrast, never previously arisen for adjudication. It's requirement – that the FT should give a “fair opportunity to reply” to those directly affected by a “significant inaccuracy” – is pertinent here, because the Letter written by President Macron was quite clearly a Clause 1.3 ‘right of reply’.
39. The ‘right of reply’ is a recognized feature of human rights law and practice in the area of press freedom and personality rights. The European Court of Human Rights has on several occasions characterized the ‘right of reply’ on behalf of a person who has been the subject of defamatory media coverage, even holding that – in some cases – there will be a positive obligation on a Contracting State to compel the media to publish a ‘right of reply’ (see the judgment of the Second Section in *Melynychuk v Ukraine* (App No 28743/03) on 5 July 2005, and the more recent *Eker v Turkey* (App No 24016/05) [2017] ECHR 941<sup>2</sup>).
40. It is right and proper that the FT – and other newspapers who follow the IPSO Code or equivalent codes of self-regulation – should bind themselves to offer on a voluntary basis a ‘right of reply’ where they accept (either before or following adjudication by a press regulator) that they have made a significant inaccuracy in their coverage of a person. That is what Clause 1.3 guarantees.

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<sup>2</sup> I am indebted to the recent research of Dr Felix Hempel (University of East Anglia), whose doctoral thesis was concerned with the ‘right of reply’, for bringing this decision of the Strasbourg Court to my attention.

41. The ‘right of reply’ is an important facet of the personality rights (including right to reputation) of the person affected, and a facet of their own free expression rights to put their truth in their own words. The right of reply gives effect to the individual’s human rights under both Articles 8 and 10 ECHR. The caselaw establishes that time is of the essence if ‘right of reply’ is to be effective.
42. If the vindication that a ‘right of reply’ offers is not to be fundamentally undermined, it would be inappropriate for a newspaper to interfere in it more than is absolutely necessary. A newspaper cannot, consistently with its duties under Clause 1.3, edit the right of reply to soften the criticism of its reporting, or gut the content to obscure or diminish the individual’s own account. It is essential that the ‘right of reply’ gives broadly-unfettered opportunity to the person directly affected to tell their own side of the story in their own terms.
43. Therefore, even compared to the Letters Page in general, the obligations of FT editorial employees will be somewhat constrained in the editorial preparation of a letter which constitutes a ‘right of reply’ under Clause 1.3. That is not to say that the obligations under Clause 1 (whether Clause 1.1 or 1.2) or Clause 12 or any other Clause of the IPSO Code do not subsist in respect of the publication of a ‘right of reply’, but the obligations must be considered in that unusual context. The editing of a ‘right of reply’ will necessarily be lighter touch and less interventionist than the editing of a fresh piece commissioned by FT editorial.
44. This interpretation of the ‘right of reply’, and the requirement for speedy publication as a facet of vindication *even at the expense of the verification of facts asserted by the individual in their right of reply* is supported by the decision in *Ediciones Tiempo SA v Spain* (12 July 1989):

*“Furthermore it takes the view that Article 10 of the Convention cannot be interpreted as guaranteeing the right of communication companies to publish only information which they consider to reflect the truth, still less as conferring on such companies powers to decide what is true before discharging their obligation to publish the replies which private individuals are entitled to make. Having regard to the fact that a reply, to be effective, must be distributed immediately, the Commission considers that the veracity of the facts asserted in the reply could not be checked in any great detail at the time of publication...”* (emphasis added)

### ***Framework: Clause 1.4 (Fact vs Comment)***

45. I have also not had previous cause to comment in any significant detail on the proper construction of Clause 1.4. It requires the Press (here the FT) to distinguish between “comment, conjecture and fact”.
46. In reality, this is not a particularly onerous obligation. Like most newspapers, the FT separates out articles in the News section which are almost entirely fact, save for quotes and similar third-party opinions clearly expressed. By contrast, it operates opinion pages which are recognisable as such (although editorials also often include facts). But the mischief is against FT readers being *mised* as to whether something is an assertion of fact endorsed by the FT, or whether the reader is able to recognize the content as subjective comment or speculation upon which different people might take different views.

### ***Clause 1.5 (Reporting Litigation)***

47. Clause 1.5 is not directly in issue on this Adjudication, but it is the natural corollary of Clause 1.3. Where a claimant seeks vindication of her personality rights (such as right to reputation) and the internal mechanisms of the newspaper (and any appeal to IPSO or IMPRESS or, in the case of the FT, to me) does not satisfy her, it may become a matter for the Courts. In such a case, the outcome of that litigation should be published fairly and accurately to the original readership of that same publication. Clause 1.5 provides for this: it is therefore the sibling provision to Clause 1.3 which arises after (rather than instead of) recourse to the Courts.
48. Indeed, after I had finished drafting this Adjudication but before I had delivered it, Lord Justice Warby (the judge-in-charge of the Media & Communications List of the High Court of Justice in London) handed down a significant judgment in *Duchess of Sussex v Associated Newspapers* [2021] EWHC 510 (Ch), compelling the defendant to publish a summary of the court’s judgment as part of the vindication of the claimant’s privacy and intellectual property rights. Warby LJ did not consider it important that Clause 1.5 was confined to defamation (now governed by a power under s.12 of the Defamation Act 2013). The mechanism for effective vindication straddles all the personality rights.

## APPLICATION TO THE FACTS

49. The following passages in the Letter by President Macron are those complained about in this complaint (I have added paragraph numbers for ease of reference, and **bold text** refers to words specifically subject to the complaint):

[8] *But since 2015 it has become clear, and I said this even before I became president, that **there are breeding grounds for terrorists in France**. In certain districts and on the internet, groups linked to radical Islam are teaching hatred of the republic to our children, calling on them to disregard its laws. That is what I called “separatism” in one of my speeches.*

[9] *If you do not believe me, read the social media postings of hatred shared in the name of a distorted Islam that resulted in Paty’s death. **Visit the districts where small girls aged three or four are wearing a full veil, separated from boys, and, from a very young age, separated from the rest of society, raised in hatred of France’s values.***

[10] *Speak to government prefects who are confronted on the ground with hundreds of radicalised individuals, who we fear may, at any moment, take a knife and kill people. This is what France is fighting against — designs of hatred and death that threaten its children — never against Islam. We oppose deception, fanaticism, violent extremism. Not a religion.*

[11] *We say: “Not here in our country!” And we have every right to say this, as a sovereign nation and a free people. Against the terrorists who want to break us, we remain united. **We can do without media articles that divide us.***

[12] *I will not allow anybody to claim that France, or its government, is fostering racism against Muslims. France — we are attacked for this — is as secular for Muslims as for Christians, Jews, Buddhists and all believers. **The neutrality of the state, which never intervenes in religious affairs, is a guarantee of freedom of worship.** Our law enforcement forces protect mosques, churches and synagogues alike.”*

50. Although reformulated somewhat in the appeal, it is convenient to consider the seven different aspects of complaint identified by the Complainant in her original complaint to the FT (the numbering from 1/ to 7/ is the Complainant’s own numbering). It is most convenient for me to deal with complaint no. 4 to complaint no. 7, before turning my attention to complaints no.1 to no.3.

## Complaints No. 4 to No. 7

51. Some aspects of the Complainant's complaint about the Letter cannot be dealt with as 'inaccuracies' in the strict sense of that term (explained in the *Berkeley Adjudication* cited above). The facts cannot be compared to an objective verifiable truth or official record to establish which is correct. While they might be 'misleading' or a 'distortion' (also within Clause 1), they are not strictly-speaking 'inaccuracies'. In each case, I may have to assess the 'meaning' of the words complained of – from the perspective of an ordinary & reasonable reader of the FT – in a similar way to a libel judge (see my *Wessendorff Adjudication*).
52. Taking first the Complainant's complaint about the Letter at [11] and [12] saying "*We can do without media articles that divide us. I will not allow anybody to claim that France, or its government, is fostering racism against Muslims*". Of this the Complainant says (complaint no. 6) "*In fact, Mr Macron does not have any power whatsoever to censor free speech opinions about his country, either in the UK, or in France. Can you please correct and apologise for this misinformation?*". But to an ordinary & reasonable reader of the FT, this passage in the Letter is not claiming that President Macron has the power of a censor: it is an exhortation that a free press should not exercise its freedom of expression to publish articles that (in his opinion) divide rather than unite, and a rhetorical declaration that as President he will not stand idly by in the face of his government being accused of Islamophobia. It is a criticism of the earlier FT Article for being 'divisive'. Under Clause 1.4 I consider that it is clearly comment (not a statement of fact), and is certainly not the statement of inaccurate fact – a claim of power to censor – that the Complainant suggests.
53. Similarly, the passage in the Letter at [10] saying "*Speak to government prefects who are confronted on the ground with hundreds of radicalised individuals, who we fear may, at any moment, take a knife and kill people*". This is still a recognisable comment – it is expressing an opinion that Islamist extremism is a problem in France (a subjective opinion upon which reasonable people can disagree) – but insofar as it contains a factual assertion, it is along the lines that 'there exist hundreds of radicalized Muslims in France who may injure or kill', at least in the fearful perception of 'government prefects'.

54. That *might* be capable of being accurate or inaccurate, but the Complainant’s case (complaint no. 5) is put far too high: “*In the context of a letter about Muslims, Mr Macron is clearly – and without evidence – trying to give the impression that all Muslims are potential killers. Can you please correct and apologise for this misinformation?*”. The quote says ‘hundreds of radicalized individuals’ in the context of an estimated 3 to 6 million Muslims in France. The Complainant’s meaning – that “all Muslims are potential killers” – is manifestly unreasonable. It imputes a meaning which the text cannot possibly bear.
55. In the true meaning, I have no basis to believe the text is inaccurate: the FT itself has previously reported in 2015 that the UK has 3,000 individuals on security service watchlists of potential extremists<sup>3</sup>, and it is hard to believe the number in France (a country of broadly similar size of population) would be so significantly different that an estimate of ‘hundreds’ would be inaccurate.
56. It is not clear to me that Complainant (in her complaint no. 4) is alleging the Letter at [8] – “*there are breeding grounds for terrorists in France*” – is inaccurate, as opposed to offensive and a breach of Clause 12. However, I do not find that this is a statement which is capable of being an ‘inaccuracy’ in the strict sense. “Breeding grounds for terrorists” is a clearly subjective comment on the existence in France of the necessary preconditions for extremism to grow. It is not a claim that I can objectively judge to be ‘inaccurate’ or not.
57. Similarly, I cannot possibly adjudicate – on the basis of accuracy/inaccuracy in the strict sense on the philosophical/legal claim in the Letter at [12] that “*The neutrality of the state, which never intervenes in religious affairs, is a guarantee of freedom of worship.*”. Of this, the Complainant says (complaint no. 7) that “*In fact, there are numerous examples of the French state intervening in religious affairs, not least of all in a swathe of legislation concerning the Muslim faith and its practice in France that Mr Macron is at this very moment introducing in France. Can you please correct and apologise for this misinformation?*”.

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<sup>3</sup> <https://www.ft.com/content/35a081fa-bea9-11e4-8d9e-00144feab7de>

58. The answer to whether or not the Republic of France ever ‘*intervenes in religious affairs*’ is not like the correctness of who won the 1998 FIFA World Cup or the birthplace of Napoleon: an answer that is either right or wrong, and which I can assess by checking the official record. It would require at least one doctoral thesis to approach this question, because – even if the sentence challenged had only one undisputed meaning, rather than resting on the highly ambiguous word ‘*intervenes*’ – it is a complex mixed question of law, history, theology and sociology.

59. Article 1 of the Constitution of the Fifth Republic (adopted 4 October 1958), requires the Republic of France to be secular, to ensure equality of citizens without distinction of religion, and that it shall respect all beliefs. More controversially, the *Loi du 9 décembre 1905 concernant la séparation des Églises et de l’État* (“the 1905 Law”) set a framework for secularism in the context of almost half a millennium of anti-clericalism in France, and the painful divorce of the modern nation state from the clutches of the Vatican. This has given rise to the modern French secularist doctrine of “*laïcité*”.

60. Article 1 of the 1905 Law provides that:

*“La République assure la liberté de conscience. Elle garantit le libre exercice des cultes sous les seules restrictions édictées ci-après dans l’intérêt de l’ordre public.”*

[The Republic assures freedom of conscience. It guarantees the freedom to exercise one’s religious belief only subject to the restrictions enacted below in the interest of public order]

61. The restrictions mentioned in Article 1 of the 1905 Law are primarily set out in its Articles 25 to 36. These include regulating public symbology (including campanology), prohibiting the use of buildings used for worship for political purposes, and prohibiting seditious words being used by religious ministers.

62. In the context of what was – then and now – one of the most ambitious declarations of state secularism in post-Reformation Europe, the notion of State ‘non-intervention’ in religion is a broad topic for debate. Compared to

other EU member states which have established state religions (Malta, Denmark, Greece), the French 1905 Law is highly non-interventionist. France certainly sits at the opposite end of the spectrum to European neighbours such as England, which fully emancipated its Roman Catholics only in 1829, and still retains the Church of England as its established state religion, complete with a standardised liturgical text in the ‘Book of Common Prayer’.

63. Therefore, against that background, when a single sentence of a Letter by the President of the French Republic says “*The neutrality of the state, which never intervenes in religious affairs, is a guarantee of freedom of worship.*” it does not mean, nor would an ordinary & reasonable reader of the FT take it to mean, that the French Republic never does anything that could be said to affect religion. It means that French law gives the widest possible latitude to religious practice and belief, declining to take any positive or active position in matters of doctrine or dogma, and limiting its role to the preservation of public order.

64. That is not to say that the Letter is correct, indisputably or otherwise. Many might well suggest that the French ban on face coverings (whether Islamic veils, or balaclavas, or other forms or mask or helmet without due cause) – challenged but upheld both by the Conseil d’Etat and the European Court of Human Rights – is an interference in religious observance, not only by effect but by design. Critics of *laïcité* might suggest that the Republic’s attitude to religion is not always neutral as to *which religion* is being considered, and that France’s Catholic background continues to affect the practical operation of the 1905 Law.

65. Indeed, there is room for political argument along these lines over the proposal in the President’s speech of 2 October 2020 which has given rise to such controversy. The policy objective is that France will see more of its Imams trained in France (rather than in Turkey, Algeria and Morocco), certifying that training, and regulating compliance with it. President Macron’s speech<sup>4</sup> said:

*“And so what we’ve agreed with the French Council of the Muslim Faith [CFCM] is that within a maximum of six months it will finalize work that broadly started six months ago and which is essential. That job*

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<sup>4</sup> <https://www.diplomatie.gouv.fr/en/coming-to-france/france-facts/secularism-and-religious-freedom-in-france-63815/article/fight-against-separatism-the-republic-in-action-speech-by-emmanuel-macron>



*consists firstly in accrediting training for imams in our country, secondly in shouldering a religious responsibility, which will be that of certifying imams, and thirdly in writing a charter non-compliance with which will bring about imams' suspension. The organization of the Hajj pilgrimage will provide necessary funding. We've done some very major work with Saudi Arabia to regulate it, and there too, work has been done by the CFCM and AMIF [Muslim Association for French Islam], precisely to build a solution that will enable us to get funding and organize this training.*

*It is not the state that will do what I am describing here, on the basis of the principle of separation; it will be achieved through the French Council for the Muslim Faith. But I have confidence in it; we have given it a huge responsibility. But at the same time, as I told them together with the minister two days ago, we are putting enormous pressure on them, because we cannot afford to fail. I think this is what we need now.* (emphasis added)

66. Compare this passage to the sentence in the Letter by President Macron saying *“The neutrality of the state, which never intervenes in religious affairs, is a guarantee of freedom of worship.”* Whether these statements (the Letter and the earlier speech) are entirely compatible with each other (as President Macron would no doubt say) or entirely contradictory (as I understand the Complainant would say) is not a simple question of fact with a binary answer: ‘accurate’ or ‘inaccurate’. It is a complex multi-factorial question, based on subjective views of French law, history, politics, theology and sociology.
67. Could all of these facets of the complaint (complaints no.4 to 7) instead be considered under the other forms of vice: that they are ‘misleading’ or a ‘distortion’?
68. Following the definition I first adopted in the *Berkeley Adjudication*, having found the facts incapable of being objectively ascertainable under the strict meaning of ‘inaccuracy’, they are unlikely to be any more so for the purposes of showing them to be ‘accurate’ individually but ‘misleading’ in the aggregate.
69. My conclusion in respect of complaints no. 4 to 7 inclusive is that I do not consider they are ascertainable statements of pure fact at all, at least not bearing the meanings that the Complainant alleges. I therefore do not consider them ‘inaccurate’ or ‘misleading’.

70. What then of ‘distorted’? I had occasion in the *Libi Adjudication* to reconsider the *Berkeley Adjudication* definition of ‘distortion’ based on submissions from the FT Senior Legal Counsel, Nigel Hanson, which I accepted had some force:

*“The further objection is that my definition of ‘distorted’ requires the ‘reasonable reader’ to be in possession of ‘all the facts’, which is itself a subjective definition (what are ‘all’ the facts? Who decides what facts must be included in the mix?) and cuts against editorial judgment and freedom. I can appreciate the concern, but this may be a matter of infelicitous phrasing, rather than a real obstacle to adjudication.*

*The FT’s submission is that ‘distortion’ means “a statement or series of statements that, when a publication is read and considered in its entirety, bear(s) for the ordinary and reasonable FT reader in possession of important relevant facts pertaining to the particular matter in question and in-existence and available prepublication, a meaning that significantly and insupportably twists or misrepresents the true position or state of affairs”. This represents that ‘distortion’ is still (being in Clause 1) a species of ‘inaccurate’ or ‘misleading’ information. I accept this submission.*

*It is important to recognise that while the latitude afforded editorial will be at its greatest in opinion pieces, there is also a wide discretion afforded to editorial as to the picture painted with true facts. Where there are not many or major elements of a story that are false, it will be very rare that a news article will be outside the bounds of that editorial discretion. It is not for me to substitute my view for that of the editor.”*

71. It should be clear from the earlier Adjudications on this issue that ‘distortion’ does not mean merely ‘something with which a complainant disagrees’. It has a much more extreme meaning more akin to ‘something with which no fair-minded and objective person would agree’.

72. Given this is not a news item, but clearly subjective opinion in a Letter, I would only be prepared to consider the sentences complained of in complaints no.4 to no.7 a ‘distortion’ if – in aggregate – they painted a picture of France which was outside of the range of depictions that an honest and fair-minded person could propound. While there is plenty with which a reasonable person could disagree, I am not satisfied that this Letter fails that test of ‘distortion’ under Clause 1.

73. Indeed, insofar as the Letter represents a ‘right of reply’ under Clause 1.3 (as this Letter was, being a response to the Mehreen Khan Article which had been removed by the Editor on the grounds of inaccuracy), I would be less inclined to interfere in the editorial judgment involved in publishing the Letter even than I would have been to interfere if it had been an FT opinion editorial.

### *Complaints No.1 to No.3*

74. It follows that the only facets of the Complainant’s complaint I consider amenable to determination as accurate/inaccurate under Clause 1 are complaints no.1 to 3, which challenge the paragraph [9] of the Letter:

*“Visit the districts where small girls aged three or four are wearing a full veil, separated from boys, and, from a very young age, separated from the rest of society, raised in hatred of France’s values.”*

75. In the context of the Letter – paragraphs [8], [9] and [10] – this is a rhetorical passage. The exhortation “*Visit the districts...*” does, however, in my view articulate that there is a factual basis to what follows: girls aged 3-4 wearing a full veil, separated from boys (and indeed the rest of society). Whether they are raised in hatred of France’s values is a subjective comment, not a factual statement. The Complainant’s case (nos. 1 to 3) is very clear:

- 1/ *I have fact checked this, and in fact there are zero cases of children “wearing a full veil” in France, let alone any aged “three or four”. Can you please correct and apologise for this misinformation?*
- 2/ *In fact, it is impossible to “visit the districts” where these allegedly fully- veiled children operate, because – provably – they do not exist. Can you please correct and apologise for this misinformation?*
- 3/ *In fact, there are zero examples of young girls who are “separated from boys, and, from a very young age, separated from the rest of society, raised in hatred of France’s values.” Can you please correct and apologise for this misinformation?*

76. I must admit that I myself was highly sceptical of one aspect of this claim, namely the use of the term ‘full veil’ being used in respect of the head-coverings worn by girls of this age. As the Complainant noted in her complaint:

*“Mr Macron has posted a French translation of his FT letter on the Élysée Palace web site in which he translates “full veil” to “voile intégral” which means burqa or niqab – items of dress which are banned in France. A mother or father would face prison if they forced a child to wear one.”*

I took the same meaning of ‘full veil’ from a reading of the Letter. What is being alleged here is not only that girls of 3 and 4 years of age are wearing hijab, but that they were wearing a veil covering their faces (i.e. either a burqa or niqab).

77. As the Complainant said in her appeal to me:

*“This is a sensational claim that would make a front-page news story if it were true. There are not even cases of ISIS, Al-Qaeda or the Taliban forcing pre-pubescent children into burkas or niqabs (both of which are banned in France).*

*Yet the FT has published claims – while providing no evidence whatsoever – that the French Republic contains entire districts where radicalised Muslim children under-5 wear “full veils”.*

*The claim is patently not true. There is not a shred of evidence to support it. I have investigated the claim in full – there are denials from the French Interior Ministry, the French Police, French prosecutors, and all other prominent organisations. All are baffled by the claim, and agree it would make a front page news story if it were true.”*

78. However, I have learned that the FT did seek to fact-check this statement in advance of publishing the Letter on the Letters Page. Two public sources supported the claim, albeit that one of those public sources was the speech of President Macron which he himself delivered on 2 October 2020<sup>5</sup>.

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<sup>5</sup> English translation courtesy of the Elysee Palace website:  
<https://www.elysee.fr/emmanuel-macron/2020/10/02/fight-against-separatism-the-republic-in-action-speech-by-emmanuel-macron-president-of-the-republic-on-the-fight-against-separatism.en>

- a. The President Macron speech said (insofar as is relevant) as follows:

*“Since 2017, we’ve also stepped up the fight against radicalization, again through clear, precise and firm actions. At the end of 2017, counter-radicalization plans involving all the State services were deployed in 15 neighborhoods, quietly and extremely confidentially, in order to have the most effective approaches involving cooperation by all State services, judges on the ground and the intelligence services; 212 bars, 15 places of worship, four schools, 13 charity and cultural establishments were closed, hundreds of checks carried out and millions of euros seized in those districts. The results obtained led us to extend this approach nationwide. We have the results; the approach has proven its effectiveness. We’re extending it and are now conducting it throughout France. In each department, cells to combat Islamism and communities withdrawing into themselves were set up last winter. They’ve already enabled us to ban conferences organized by radical Islamist movements, financially curb a charity distorting its raison d’être to promote political Islam, and **elsewhere close a clandestine school where seven-year-old girls wore full-face veils, etc. etc.** In total, since 1 January 2020, 400 checks have been carried out and 93 closures ordered.”* (emphasis added)

- b. Separately, an article in *Le Parisien* published on 8 October 2020<sup>6</sup> on the closure of a clandestine school began as follows:

*“De l’extérieur, l’endroit semble assez petit, mais la baie vitrée opaque donnant directement sur l’avenue Edouard-Vaillant empêche de voir la taille des locaux. Sur la porte d’entrée est seulement inscrit « Apprendre et comprendre ». Et sur la fenêtre adjacente, une question interpelle les passants : « Tu sens comme un vide dans ta vie ? », suivi de « Cours de Coran et de langue arabe pour femmes, adolescents et enfants, Institut apprendre et comprendre ».*

*Ce jeudi midi, la préfecture de Seine-Saint-Denis a annoncé, dans le cadre de la « lutte contre l’islam radical », la fermeture de cet établissement de Bobigny qui proposait des cours d’arabe et de coran aux femmes et aux enfants.*

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<sup>6</sup> <https://www.leparisien.fr/seine-saint-denis-93/bobigny-une-ecole-clandestine-accueillant-des-dizaines-d-enfants-fermee-08-10-2020-8399259.php>

*Sur le réseau social Twitter, la préfecture décrit l'endroit comme une « école clandestine rassemblant dans des conditions inqualifiables plusieurs dizaines d'enfants hors de la loi et des principes républicains ».*

*Vingt élèves, en l'âge d'être scolarisés en primaire, se trouvaient sur les lieux jeudi matin, selon une source policière, précisant que l'effectif total pourrait atteindre 80 écoliers. Certains d'entre eux, âgés de « 3-4 ans » étaient « voilés », a-t-elle indiqué.*”

79. In rough English translation (I am certainly not fluent), this fourth paragraph of the *Le Parisien* story reads broadly as follows:

*“Twenty students, of primary school age, were found on-site on Thursday morning, according to a police source, pointing out that there could be an effective total of 80 students. Some of them, ages “3 to 4 years old” were “veiled”, she indicated.”*

80. Here, there was a further (i.e. third) source of corroboration considered by the FT, but it cannot be made available to me for confidential source protection reasons. The FT was not at the time of publication able to verify the authenticity of that corroboration to its own satisfaction. However, it knew the source and source did at least appear to corroborate what had been said in the fourth paragraph of the *Le Parisien* article. In circumstances where I am only assessing whether the FT breached its obligations by merely permitting President Macron to make the claim, I am sufficiently satisfied that the FT editorial staff discharged those obligations even absent this third source. Accordingly, I did not insist on the confidential source being disclosed.

81. Had this been an FT story or editorial by an employee or contributor, I might have taken a very strict view of the fact that the *Le Parisian* article refers to the 3-to-4-year-olds being veiled (but without clarifying if they were wearing niqab or hijab), and that the President’s speech of 2 October referred only to 7-year-olds not to children who were younger. These are discrepancies that trouble me, and – without being privy to the third source – I might still not be content to positively assert that these facts are true or have been established definitively.

82. But that is not the test on this Adjudication. This Adjudication must judge whether the FT breached its duties in permitting these facts to be included in the ‘right of reply’ Letter on the Letters Page.
83. This was not an FT employee or contributor writing a news article or editorial. It is a Letter from the President of France about conditions in the country of which he is Head of State, and in respect of which he is himself a source of official information. It was written as part of a ‘right of reply’ to a since-deleted FT Article that criticized him personally. The burdens on FT editorial of fact-checking a matter in relation to a letter on the Letters Page are materially different, as I have explained above. Furthermore, the subject matter – clandestine schools – is one which is by its very nature opaque and difficult to report. This all affects the duty of FT editorial staff on the Letters Page.
84. Insofar as the correct question for me to answer on this Adjudication under Clause 1.1 is “*did the FT breach its duty to take care in publishing the Letter including these facts?*” I am satisfied that to that question, the answer is ‘no’. I am satisfied that FT editorial did sufficient fact-checking prior to publication to permit the Letter to include that passage at paragraph [9].
85. I might have come to a very different conclusion in respect of the same facts if included in an FT editorial or news story by an FT employee or a contributor, but a ‘right of reply’ letter published only on the Letters Page (and so identifiably a ‘reader response’) connotes a different standard for the reasons I have given above. The ‘meaning’ of such a letter is not that the FT says it has definitively confirmed it as true, only that the FT has given a reader (here, the President of France) the opportunity to say that it is true. By doing so, the FT was complying with Clause 1.3, and was not in breach of Clause 1.1.
86. The Complainant’s complaint and appeal repeatedly demand that the FT produce to her any evidence of the facts stated in paragraph [9] of the Letter. That is not something the FT is compelled to do even where it has breached Clause 1. The FT has to be satisfied that what it publishes meets its standards: it does not have to disclose underlying reporting material (which may be confidential) save where ordered to do so by a court of competent jurisdiction.

87. If there is no breach under Clause 1.1 (failure of the duty to take care before publication), can there be a breach under Clause 1.2 (refusal to correct after publication)? This is a difficult question. The Complainant cannot be required to prove a negative (even the ones she has asserted i.e. that no such school or pupils exist). No further evidence to confirm or contradict the statement has changed the position since publication. Absent an initial finding of breach under Clause 1.1, I have no basis to find a breach of Clause 1.2.

88. In conclusion, I retain a healthy skepticism as to the specific claim that clandestine schools – at least more than one of them – has seen girls aged 3 and 4 years of age (as opposed to older girls) in full niqab or burka (as opposed to in hijab). However, given the context of this Letter – which was a Right of Reply under Clause 1.3, by the Head of State of the country being discussed in the Letter – I am satisfied that by conducting the fact-checking it did, FT staff overseeing the Letters Page adequately discharged their editorial duties under Clause 1 by permitting the Letter to be published in the form it took.

89. There is a final point which underpins my conclusion. The IPSO Code and the FT Code are a balancing exercise which must protect the public's right to receive information as much as the FT's to impart it. Not everything said by a major world leader is either factually uncontested, or even passably true. Even that which falls from their lips and is arguably true is often not wise. But there is a public interest in sharing – unedited, as reported speech, not endorsed by FT editorial – what is said by the most powerful men and women in the world. Even independently of his personal right of reply under Clause 1.3, there is a public interest in sharing the unexpurgated views of President Macron on Islamist extremism in France. Sharing the President's statements allows others to receive information as to his views, including to contest the truth of his words, which is why the Complainant was offered the opportunity to respond on the Letters Page herself.

90. Accordingly, the complaint under Clause 1 of the IPSO Code is dismissed.



## Clause 12

91. Clause 12 of the IPSO Code concerns Discrimination, and has two parts:

*“12.1 The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability.*

*12.2 Details of an individual's race, colour, religion, gender identity, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.”*

92. I have only had to consider a very limited number of complaints which so much as referenced Clause 12 (Discrimination): see in particular the *Kay Adjudication*, which involved a discussion of anti-Semitism. But that case involved references – alleged to be coded references – to a particular individual's purported Jewish heritage. The Complainant was not the subject of the article, but the article did concern an identified individual.

93. IPSO operates a general rule of standing that requires complaints (except under Clause 1) to be from the individual who is subject of the article, although it makes an exception for significant complaints in the public interest.

94. The FT does not have such restrictive rules of standing. Anyone can make a Clause 12 complaint to the FT. In this sense the FT and IPSO operate differently.

95. However, in the construction of what Clause 12 covers, there is no difference between the FT and IPSO (because it is the same Code operated by both). Clause 12 prohibits “*prejudicial or pejorative reference to an **individual's** [protected characteristics, such as race or religion or sexuality]*”. It does not prohibit prejudicial or pejorative reference to groups, be they ‘racial minorities’, or ‘religious groups’, or ‘sexual/gender identities’.

96. This is the first ‘group-based’ Clause 12 complaint I have received since I joined the FT, but IPSO has much greater experience of the issue<sup>7</sup>, not least its controversial refusal of the complaint about Katie Hopkins referring to migrants as ‘cockroaches’<sup>8</sup>.
97. That is not to say that the FT has *carte blanche* to publish rancid screeds inciting violence and intolerance to protected minorities. It is regulated by the criminal law, but also sets itself general standards in the FT Code above and beyond the specific prescriptions of the IPSO Code.
98. In the *Labate Adjudication*, recognizing that there was a lack of any express provision prohibiting plagiarism (since corrected by the addition of Article 7.2 of the FT Code: see the *Tierno Adjudication* and the *Butta Adjudication*), I was prepared to ‘read-in’ such a prohibition through the general obligations of “honesty and authority” articulated in Articles 1.2 and 1.4 of the FT Code.
99. In the unlikely event that there had been an FT article so revolting in its attacks on minority groups that no reasonable editor could possibly consider it consistent with those Articles of the FT Code, I might – exceptionally – be minded to find a breach of the Code on that basis.
100. But this is not an optimal solution. The limits on free expression of a newspaper, even in voluntary self-imposed codes of practice like the FT or IPSO Codes, must be clearly articulated so journalists can regulate their behavior.
101. Accordingly, the Editor and the Committee that oversee my work – who share responsibility for the content of the FT Editorial Code – have indicated to me that they will be considering whether to introduce a new express clause of the FT Code to give protection to minority groups who share a protected characteristic, just as Clause 12 of the IPSO Code protects individuals from pejorative reference to protected characteristics.

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<sup>7</sup> See, for example, this blogpost by its complaints officer John Buckingham: <https://www.ipso.co.uk/news-press-releases/blog/ipso-blog-how-clause-12-discrimination-works/>

<sup>8</sup> IPSO Adjudication 02741-15 *Greer v The Sun* <https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02741-15>

102. However, on the basis of Clause 12 as it is (as drafted by the IPSO Code Committee, not by the FT), I could not possibly find any breach by this Letter. It mentions no individual, and makes no pejorative or prejudicial reference to any protected characteristics at all. Indeed, the purpose of the Letter is to expound the French President's belief that his concern is not Islam or practicing Muslim citizens, but only those extremists who support Islamist sedition.

103. Whether or not that sentiment is accepted by the Complainant and others, the stated aim of the Letter is not discriminatory against Muslims. Even if Clause 12 covered 'group discrimination', this Letter would not be in breach. The Complainant's view of President Macron's policies and motivations are for her, but I can only ever adjudicate on what is actually published on the pages of the FT, not what lies in the mind or heart of the author. I do not accept that its alleged purpose – which the Complainant describes as being “*to stigmatise French Muslims, and indeed to foster a climate of fear and suspicion towards them*” – is borne out by the text. Its express aim is deny that purpose.

104. In these circumstances, the Clause 12 complaint must be dismissed.

### **Conclusion**

105. For the reasons given above, I have rejected the Complainant's complaints under all four limbs, being Article 4.12 and Article 7.1 of the FT Code & Clause 1 (Accuracy) and Clause 12 (Discrimination) of the IPSO Code.

106. However, the Letters Page frequently adds links at the bottom of letters to those letters which respond to it. In those circumstances, I would advise (but, having found no breach of the FT Code, not compel) the FT to append a link to this Adjudication (which will be published on FT.com) to the online version of the Letter so that the criticisms advanced by the Complainant and my discussion of them can be read by those readers who are interested.

**GREG CALLUS**  
**Editorial Complaints Commissioner**  
***Financial Times***  
**5 March 2021**