



Strasbourg, 26 May 2006

DH-DEV(2006)008

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

**COMMITTEE OF EXPERTS FOR  
THE DEVELOPMENT OF HUMAN RIGHTS  
(DH-DEV)**

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**Meeting Report**

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**35th meeting, Tuesday 16 May – Thursday 18 May 2006**

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**List of decisions taken by the DH-DEV at its 35<sup>th</sup> meeting**

**Human rights in a multicultural society**

- The DH-DEV decided that future work on human rights in multicultural society should focus on (i) Hate speech and (ii) the wearing of religious symbols in public places;
- It created two working groups to examine further these topics and decided on their composition:

*Working group A on hate speech:* Andorra, Armenia, Austria, Belgium, Czech Republic, France, Germany, Hungary, Ireland, Latvia, Moldova, Slovakia, Switzerland, Turkey, United Kingdom, as well as the Holy See and the Conference of European Churches (KEK) as observers;

*Working group B on the wearing of religious symbols in public areas:* Azerbaijan, Cyprus, Finland, France, Georgia, Greece, the Netherlands, Russian Federation, Sweden, Switzerland, United Kingdom, as well as the Holy See and the Conference of European Churches (KEK) as observers;

They will meet in Autumn 2006 and prepare reports to be transmitted to the DH-DEV.

- It prepared a questionnaire on hate speech and another one on the wearing of religious symbols. Member states are invited to reply to them by 31 July 2006 (Appendix IV);
- It adopted an outline for the reports to be produced by the working groups (Appendix V);
- It invited the CDDH to consider organising a seminar in 2007 with a view to enabling civil society to be associated to its work on human rights in a multicultural society.

**Other business**

- It elected Ms Camilla BUSCK-NIELSEN (Finland) as Vice-Chair of the DH-DEV;
- It designated the following nine member states which will appoint experts to the *Group of experts on human right defenders*: Croatia, France, Greece, Ireland, Lithuania, Moldova, Norway, Russian Federation, Spain. This Group will meet after the Colloquy on human rights defenders to be held in November 2006.

**Item 1:       Opening of the meeting and adoption of the agenda**

1.     The Committee of Experts for the Development of Human Rights (DH-DEV) held its 35<sup>th</sup> meeting in Strasbourg (Human Rights Building) on 16-18 May 2006, with Ms Jolien SCHUKKING (Netherlands) in the Chair. The list of participants can be found in Appendix I. The agenda as adopted and the references to the working documents appear in Appendix II. Before starting its work, the Committee formally adopted the report of its last meeting of 12-14 October 2005 (document DH-DEV(2005)009).

2.     The Proceedings of the seminar marking the entry into force of Protocol No. 12 to the European Convention on Human Rights and the Manual on Human Rights and the Environment was distributed. As for the manual, member states were reminded that they were encouraged to translate, print and distribute it as foreseen in the Final Activity Report (CDDH(2005)016 Addendum II, paragraph 12, see also Information Note on the Translation and Dissemination of the Manual in Appendix III).

**Item 2:       General discussion on issues relating to human rights in a multicultural society**

3.     Mr Paul VAN SASSE VAN YSSELT (Netherlands), responsible for the organisation of the International Conference on Fundamental Rights in a Pluralistic Society held in The Hague on 20-21 November 2003, introduced the topic on the basis of the Policy Paper produced by the Dutch government following the conference (document DH-DEV(2006)004).

4.     In his concluding remarks, Mr Van Sasse Van Ysselst noted that in pluralistic societies instances where the different rights and interests at stake diverged were not uncommon. He recalled that all rights were interconnected and interdependent and that any hierarchy between them would be unacceptable. Instead, a balance between the different rights and interests involved has to be found. In this respect, he underlined that the European Court of Human Rights takes account of the different national situations and leaves a margin of appreciation to states as to the way they strike a fair balance. He was of the view that the Council of Europe should facilitate the exchange of best practices between states about the way they avail themselves of this margin of appreciation in such matters (an outline of his presentation can be found in Appendix VI).

5.     Mr Thomas HAMMARBERG, Commissioner for Human Rights, shared his views on possible areas where intergovernmental work would be welcome in a multicultural context and indicated that guidance on how to strike a balance between competing human rights, in particular freedom of expression and freedom of religion, would be most useful.

6.     The Commissioner first indicated that both hate speech and the wearing of religious symbols in public areas called for a more systematic approach from member states. While acknowledging that tensions could arise in a multicultural context between Articles 9 and 10 of the Convention, he recalled that the Convention should be seen as a whole and that other rights could be affected, in particular through discriminatory treatments which are prohibited by Article 14 and Protocol No. 12. He also drew attention to the relevance of Article 17, which prohibits any abuse of rights, especially in the context of hate speech.

7.     Noting from the Court's case-law regarding hate speech that a wide margin of appreciation is left to states in striking a fair balance between the different rights and interests at stake, the Commissioner was of the view that it would prove useful to have some guidance

from the Council of Europe on how to achieve such balance in concrete cases. As regards the public display of religious symbols, he drew attention to the report of the UN Special Rapporteur on freedom of religion or belief, Ms Asma Jahangir, where the need was expressed for some criteria which would assist states in balancing competing interests.<sup>1</sup>

8. More generally, he indicated that the aim should always be to avoid discrimination and, in the context of multicultural societies, he called on states not to lose sight of the rights of minorities whenever making the majority's position prevail. He also underlined the importance of keeping in mind the gender perspective in such contexts.

9. Finally, he referred to the non-judicial solutions which should also be explored such as mediation and preventive measures. He concluded that in a multicultural context only strong grounds could justify any restriction on a person's right to manifest his or her individuality and that freedom of expression should not be misused at the expense of minorities. An exchange of views took place afterwards.

10. Mr Ulrich BUNJES from the Central Division of the Directorate General on Education, Culture and Heritage (DGIV) informed the Committee about ongoing activities with regard to intercultural dialogue and particularly the White Paper on intercultural dialogue. He indicated that the CDDH was invited to contribute to these activities from a human rights perspective (see Appendix VII). An exchange of views with the DH-DEV members followed his presentation.

11. A tour-de-table was held aiming at sharing national experiences of member states in tackling hate speech and the wearing of religious symbols in public areas. Most members indicated that their national legislation prohibited hate speech although the definitions adopted did not appear to be identical. By contrast, most members reported that the wearing of religious symbols was not regulated by their national law. A few countries however specified that school regulations could impose certain restrictions on the wearing of religious symbols under certain conditions. A number of members stated that their countries had not been faced with difficulties about the wearing of religious symbols in public areas yet.

12. The Committee also had a preliminary discussion on possible outcomes of its work. Many members expressed the view that there was no need for new standard-setting instruments such as conventions or protocols. On the other hand, it could be useful to recall existing human rights standards and to provide national authorities with some guidance as to how these standards should be applied in concrete cases arising in the context of a multicultural society. The Committee agreed to resume consideration of this question once it has examined in substance the themes to be retained for further work (see below).

### **Item 3:            Consideration of the themes to be retained for further work**

13. The Committee held an exchange of views on themes to be retained for further work. Referring to the document of the Secretariat (DH-DEV(2006)002), the Committee agreed with the proposal of the CDDH to focus on (i) Hate speech and (ii) the wearing of religious symbols in public places.

14. Bearing in mind the problems faced by European societies as well as other activities carried out within the Council of Europe, it considered that these were the two prominent topics on which further work could usefully be carried out. In the light of the Secretariat's

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<sup>1</sup> E/CN.4/2006/5, 9 January 2006.

document, it was of the view that other topics such as freedom of association or the protection of women and children against violence were already been appropriately dealt with in other fora of the Council of Europe and were less directly linked to the question of human rights in a multicultural society. The Committee also underlined that it would be essential to take account of already existing instruments, such as Recommendation Rec(97)20 on hate speech, and initiatives (e.g. the White Paper on intercultural dialogue). Moreover, while retaining these two main topics, the Committee did not exclude examining other themes if the need was felt at a later stage in its work.

15. The titles of the themes and their scope were discussed. As regards hate speech, it was felt that future work should focus on the balancing of competing rights and interests. Insofar as the second theme was concerned, it was decided to leave the title as given by the CDDH and not seek to define the exact range of issues covered at this stage (clothing or symbols for personal use or, more generally, the public display of such symbols, for instance).

Item 4: Working methods for future meetings on this activity

16. Considering that the drafting of documents on these two themes would be more practical and efficient within smaller groups of experts, the Committee decided to establish two working groups to examine in substance one of the two selected themes each. It prepared one questionnaire per theme on national examples and practices with a view to facilitating the working groups' discussions; the deadline for replying to these questionnaires has been set for **31 July 2006** (see Appendix IV). The groups will be composed as follows:

- Group A – Hate speech:

Andorra, Armenia, Austria, Belgium, Czech Republic, France, Germany, Hungary, Ireland, Latvia, Moldova, Slovakia, Switzerland, Turkey, United Kingdom, as well as the Holy See and the Conference of European Churches (KEK) as observers.

- Group B – The wearing of religious symbols in public areas:

Azerbaijan, Cyprus, Finland, France, Georgia, Greece, the Netherlands, Russian Federation, Sweden, Switzerland, United Kingdom, as well as the Holy See and the Conference of European Churches (KEK) as observers.

Other observers to the DH-DEV will also be allowed to participate.

17. The Committee adopted an outline for working group reports (see Appendix V).

18. The Committee invited the CDDH to consider holding a seminar allowing civil society, journalists and representatives of different faiths to contribute to its work.

19. The Committee regretted that neither the European Commission against Racism and Intolerance (ECRI) nor the Steering Committee on the Media and New Communication Services (CDMC) had been able to send an observer to their meeting. It expressed the wish that both should have the opportunity to attend the meetings of the working groups.

20. The Croatian member informed the Committee about a Conference on tolerance and discrimination, including the issue of the holocaust, which is currently being organised with the OSCE and which should take place on 22-24 October 2006 in Dubrovnik. She proposed to inform the DH-DEV about the outcome of this conference.

**Item 5: Other business**

- *Election of the Vice-Chair*

21. The Committee elected Ms Camilla BUSCK-NIELSEN (Finland) as Vice-chair. The terms of office is of one year, renewable once.

- *Designation of member states to participate in the Group of experts on human rights defenders*

22. The Secretariat informed members of the DH-DEV that, in accordance with the action plan adopted at the 3<sup>rd</sup> Summit by Heads of State and Government of the Member States (Warsaw, 16-17 May 2005)<sup>2</sup>, the Secretary General was planning, in collaboration with the Commissioner for Human Rights, to hold, on 13-14 November 2006, a colloquy on the protection of the right of individuals and the promotion of the engagement of non-governmental organisations to defend actively human rights. The outcome of the colloquy will be examined by a group of nine experts who will submit a report to the CDDH and make possible suggestions on future work in this field. The CDDH had entrusted the DH-DEV with the task of designating the members of this group at this meeting.

23. The following member states were designated to appoint experts to the Group of experts on human right defenders:

Croatia, France, Greece, Ireland, Lithuania, Moldova, Norway, Russian Federation, Spain.

24. Other countries may participate at their own expense. Azerbaijan, Belgium and the United Kingdom have already indicated that they might do so.

**Item 6: Date of next meetings**

25. The dates for the meetings of the two working groups will be fixed at a later stage by email.

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<sup>2</sup> Document CM(2005)80 final, "I - PROMOTING COMMON FUNDAMENTAL VALUES: HUMAN RIGHTS, RULE OF LAW AND DEMOCRACY [...] 2. *Protecting and promoting human rights through the other Council of Europe institutions and mechanisms* - As the primary forum for the protection and promotion of human rights in Europe, the Council of Europe shall - through its various mechanisms and institutions - play a dynamic role in protecting the right of individuals and promoting the invaluable engagement of non-governmental organisations, to actively defend human rights [...]".

Appendix I**LIST OF PARTICIPANTS****ALBANIA / ALBANIE** – Apologised / Excusé**ANDORRA / ANDORRE**

M. Andreu JORDI TOMÀS, Agent, Ministère des Affaires Etrangères, de la Culture et de la Coopération, ANDORRA LA VELLA

**ARMENIA / ARMENIE**

Ms. Liana GRIGORIAN, Attaché, Legal Department, Ministry of Foreign Affairs, , YEREVAN

**AUSTRIA / AUTRICHE**

Ms Brigitte OHMS, Deputy Head of Division for International Affairs and General Administrative Affairs, Bundeskanzleramt-Verfassungsdienst, WIEN

**AZERBAIJAN / AZERBAIDJAN**

Mr Hamid NASIBOV, Attaché, Human Rights, Democratisation and Humanitarian Problems Department, Ministry of Foreign Affairs, BAKU

**BELGIUM / BELGIQUE**

M. Philippe WERY, Attaché, SPF Justice, Service des Droits de l'Homme, 115 Boulevard de Waterloo, BRUSSELS

**BOSNIA AND HERZEGOVINA / BOSNIE ET HERZEGOVINE**

Ms Zikreta IBRAHIMOVIĆ, Deputy Attorney General, Public Ministry of Bosnia and Herzegovina, SARAJEVO

Mr Subašić SABIT, Head of Department for Planning and Analysis, Ministry of Foreign Affairs of Bosnia and Herzegovina, SARAJEVO

**BULGARIA / BULGARIE**

Mme Yordanka PARPAROVA, Expert Direction des Droits de l'homme, Ministère des Affaires Etrangères, SOFIA

**CROATIA / CROATIE**

Ms Romana KUZMANIĆ OLUIĆ, First Secretary, Department for the UN and Human Rights, Ministry of Foreign Affairs and European Integration, ZAGREB

**CYPRUS / CHYPRE**

Ms Eleonora NICOLAIDES, Senior Counsel of the Republic, Office of the Attorney-General, Law Office of the Republic of Cyprus, NICOSIA

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

Mr Martin BOUČEK, Deputy Director, Department of Human Rights, Ministry of Foreign Affairs, PRAGUE 1

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**DENMARK / DANEMARK**

Ms. Moya-Louise LINDSAY-POULSEN, Head of Section, Human Rights Division, Ministry of Justice, COPENHAGEN

**ESTONIA / ESTONIE**

Ms Riina PIHEL, Counsellor of Human Rights Division, Legal Department, Ministry of Foreign Affairs, TALLINN

**FINLAND / FINLANDE**

Ms Camilla BUSCK-NIELSEN, Legal Officer, Ministry of Foreign Affairs, Legal Department, HELSINKI

**FRANCE**

Mme Marie-Gabrielle MERLOZ, Rédactrice, Direction des Affaires juridiques – sous-direction des droits de l’homme - , Ministère des Affaires Etrangères, PARIS

**GEORGIA/GEORGIE**

Ms Irine BARTAIA, Agent of the Government of Georgia to the European Court of Human Rights; Head of the Department of the State Representation to the ECHR, Ministry of Justice, Department of the State Representation to the ECHR, TBILISI

**GERMANY / ALLEMAGNE**

Ms Ulrike HÖFLER, Executive Assistant of the Federal Agent for Human Rights, Ministry of Justice, Bundesministerium der Justiz, BERLIN

**GREECE / GRECE**

M Elias KASTANAS, Rapporteur, Service Juridique Ministère des Affaires Etrangères, ATHENS

**HUNGARY / HONGRIE**

Dr. Tamás TÓTH, Head of the Department of Human Rights and Foreign Relations, Ministry of Justice, BUDAPEST

**ICELAND / ISLANDE**

Ms Dís SIGURGEIRSDOTTIR, Legal Expert, Office for Legal Affairs, Ministry of Justice, REYKJAVIK

**IRELAND / IRLANDE**

Mrs Emer KILCULLEN, Assistant Legal Adviser, Legal Division, Department of Foreign Affairs, DUBLIN

**ITALY / ITALIE**

M. Roberto BELLELLI, Judge, Legal Adviser to the Ministry of Foreign Affairs, Ministero delli Affari Esteri, Servizio del Contenzioso Diplomatico e dei Trattati, ROME

**LATVIA / LETTONIE**

Mr Zigmārs ZILGALVIS, Third Secretary, Human Rights Division, Ministry of Foreign Affairs, RIGA

**LIECHTENSTEIN** – Apologised / Excusé



**LITHUANIA / LITUANIE**

Mr Darius STANIULIS, Head of the Human Rights and NGO Division, Ministry of Foreign Affairs, VILNIUS

**LUXEMBOURG** – Apologised / Excusé

**MALTA / MALTE**– Apologised / Excusé

**MOLDOVA**

Mrs Rodica POSTU, Second Secretary, Directorate of Council of Europe and Human Rights, Ministry of Foreign Affairs and European Integration of the Republic of Moldova, CHISINAU

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M. Jean-Laurent RAVERA, Administrator, Cellule des Droits de l'Homme et des Libertés Fondamentales, Département des Relations Extérieures, Ministère d'Etat, MONACO

**NETHERLANDS / PAYS-BAS**

Ms Jolien SCHUKKING, (Chairperson/Présidente), Agent for the Government of the Netherlands, Ministry of Foreign Affairs, THE HAGUE

Mr Paul VAN SASSE, Legal Advisor, Ministry of the Interior and Kingdom Relations, HAGUE

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Ms Kristin RYAN, Higher Executive Officer, Department of Legislation, Norwegian Ministry of Justice, OSLO

**POLAND / POLOGNE**

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**PORTUGAL**

Mr José DE SOUSA E BRITO, Judge at the Constitutional Court (emeritus), Palacio Raton, LISBON

**ROMANIA / ROUMANIE** – Apologised / Excusé

**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

Ms Tatiana SMIRNOVA, Head of the Division for European Cooperation, Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, MOSCOW

Mr Alexiy VLASOV, Second Secretary of the Department for Humanitarian Cooperation and Human Rights, Ministry of Foreign Affairs, MOSCOW

**SAN MARINO / SAINT-MARIN** – Apologised / Excusé

**SERBIA AND MONTENEGRO / SERBIE-MONTENEGRO**

Ms Jelena MARKOVIĆ, Deputy Minister, Ministry for Human and Minority Rights, BELGRAD

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**SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE**

Ms Jana VNUKOVÁ, Head of Foreign Relations and Human Rights, Ministry of Justice, BRATISLAVA

**SLOVENIA / SLOVENIE** – Apologised / Excusé

**SPAIN / ESPAGNE**

M. Ignacio BLASCO LOZANO, Agent auprès de la Cour européenne des Droits de l'Homme, Abogacia del Estado ante el TEDH, Ministry of Justice, MADRID

**SWEDEN / SUEDE**

Ms Inger KALMERBORN, Government Agent, Senior Legal Adviser, Ministry for Foreign Affairs, STOCKHOLM

Ms Pernilla GLANS, Legal Adviser, Ministry for Foreign Affairs, STOCKHOLM

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M. Frank SCHÜRMAN, Chef de la Section Droits de l'Homme et du Conseil de l'Europe, Agent du Gouvernement devant la Court, Section droits de l'homme et Conseil de l'Europe, Département fédéral de justice et police, BERNE

Ms Caroline TRAUTWEILER, Adjoint au Représentant Permanent de la Suisse auprès du Conseil de l'Europe, Représentation Permanente du Conseil de l'Europe, STRASBOURG

**"The Former Yugoslav Republic of Macedonia" / "l'Ex-République yougoslave de Macédoine"**

Ms Sanja ZOGRAFSKA-KRSTESKA, Head of Council of Europe, OSCE and European Multilateral Affairs Unit, SKOPJE

**TURKEY / TURQUIE**

Mr Nihan ÇETIN, Legal Human Rights Expert, Ministry of Foreign Affairs, Dışişleri Bakanlığı, BALGAT-ANKARA

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**UKRAINE** – Apologised / Excusé

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**EUROPEAN COMMISSION / COMMISSION EUROPEENNE**

Apologised / Excusé

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**OBSERVERS / OBSERVATEURS**

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**Canada** – Apologised / Excusé

**Japan/Japon** – Apologised / Excusé

**Mexico/Mexique** – Apologised / Excusé

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**Amnesty International** - Apologised / Excusé

**International Commission of Jurists (ICJ) / Commission internationale de Juristes (CIJ)**

– Apologised / Excusé

**International Federation of Human Rights / Fédération internationale des Ligues des Droits de l'Homme** – Apologised / Excusé

**European Coordinating Group for National Institutions for the Promotion and Protection of Human Rights / Groupe de coordination européenne des institutions nationales pour la promotion et la protection des droits de l'homme** – Apologised / Excusé

**Conference of European Churches / Conférence des Eglises européennes**

Rev. John MURRAY, Associate Staff Member, STRASBOURG

\* \* \*

**OTHER PARTICIPANTS**

**Council of Europe Office of the Commissioner for Human Rights / Bureau du Commissaire aux Droits de l'Homme**

Mr Thomas HAMMARBERG, Commissioner for Human Rights / Commissaire des Droits de l'Homme

Mr Lauri SIVONEN, Member of the Office / Membre du Bureau

**European Commission against Racism and Intolerance / Commission européenne contre le racisme et l'intolérance (ECRI)**

Apologised / Excusé

**Steering Committee on the Media and New Communication Services / Comité directeur sur les médias et les nouveaux moyens de communication (CDMC)**

Apologised / Excusé

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**Parliamentary Assembly / Assemblée Parlementaire**

Mr Rudiger DOSSOW, Secretariat of the Parliamentary Assembly / Secretariat

**Directorate General of Human Rights - DG II /**

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Mr Jörg POLAKIEWICZ, Head of the Human Rights Law and Policy Division / Chef de la Division du droit et de la politique des droits de l'homme, Secretary of the DH-DEV / Secrétaire du DH-DEV

Mr Gerald DUNN, Lawyer/Juriste, Human Rights Law and Policy Division/Division du Droit et de la Politique des Droits de l'Homme, Co-secretary of the DH-DEV / Co-secrétaire du DH-DEV

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**Interpreters / Interprètes:**

Mr Philippe QUAINÉ

Mme Sally BAILEY

Mme Martine CARALY

Appendix II**ADOPTED AGENDA****Item 1: Opening of the meeting and adoption of the agenda**

- Annotated Agenda (35<sup>th</sup> meeting of the DH-DEV) DH-DEV(2006)006
- Report of the 34<sup>th</sup> meeting of the DH-DEV DH-DEV(2005)009

**Item 2: General discussion on issues relating to human rights in a multicultural society**Working documents

- Human rights in a multicultural society – possible themes for further work DH-DEV(2006)001
- Relevant excerpts from the meeting reports of the CDDH DH-DEV(2006)002
- Compilation of texts of the Council of Europe and other Organisations relating to human rights in a multicultural society DH-DEV(2006)003
- Excerpts from the Report of the International Conference on Fundamental Rights in a Pluralistic Society (The Hague, 20-21 November 2003) DH-DEV(2006)004
- Human rights in a multicultural society - Contribution of the European Social Charter Secretariat DH-DEV(2006)005
- 
- Dialogue, tolerance and education: the concerted action of the Council of Europe and the religious communities CommDH(2006)3
- The Roma, Sinti and Travellers in Europe CommDH(2006)1
- Overview on Council of Europe action in interreligious and intercultural dialogue CDDH(2006)005

**Item 3: Consideration of the themes to be retained for further work****Item 4: Working methods for future meetings on this activity****Item 5: Other business**

- Election of the Vice-Chair
- Designation of member states to participate in the Group of Specialists on human rights defenders - DH-S-DDH (see annotated agenda)

**Item 6: Date of next meetings**

Appendix III

**INFORMATION NOTE  
ON THE TRANSLATION AND DISSEMINATION  
OF THE MANUAL ON HUMAN RIGHTS AND THE ENVIRONMENT  
FOR THE ATTENTION OF DH-DEV MEMBERS**

Relevant excerpt from the Final Activity Report on Human Rights and the Environment (DH-DEV(2005)006rev, para. 12):

*“The translation of the manual into the official languages of the Council of Europe, English and French, and its publication will be ensured by the Secretariat. For the purpose of wider dissemination, member States should be invited to prepare translations into the languages of the member States and to ensure the manual’s dissemination at the national level. The English and French versions of the manual as well as any other translations transmitted by the member States to the Secretariat should be made available to the public on the Council of Europe’s website.”*

**1. Translation**

Member states are encouraged to prepare translations of the manual. For this purpose, a formal authorisation must be obtained from the Council of Europe Directorate of Communication and Research. This is only a formality whose primary aim is to avoid several translations into the same language being prepared and to indicate on the Council of Europe’s website the languages in which the manual exists and who distributes it (see 4. below). Requests for authorisation should be addressed to Ms Edith Lejard-Boutsavath, Directorate of Communication and Research, by email (edith.lejard@coe.int). Please note that any translation must cover the whole manual and not just excerpts.

**2. Layout**

The original files with the appropriate layout and illustrations of the English and French versions will be sent to those member states having translated the manual. They should ensure that the translation is adapted to the format of the original versions. The Information and Publishing Support Unit of the Directorate General of Human Rights can provide assistance on this matter.

The secretariat will check that the covers and copyright page of the translated versions meet a number of compulsory requirements (e.g. copyrights of the Council of Europe original text and of the cover photograph must be indicated on the back of the title page; indication on the back of the title page that the original text was prepared by the Council of Europe and that the translation is unofficial and under the member state’s sole responsibility).

**3. Dissemination**

Printing and distribution should be ensured by member states. Around 10 copies of the translated manual should be sent to the Council of Europe. The translated versions of the manual may be distributed free of charge or at a price not exceeding the printing costs.

Should the publication of a translated version be entrusted to a private publisher commissioned by the authorities, a new contract will need to be agreed between this publisher and the Council of Europe.

#### **4. Availability on the Council of Europe website**

All translations will be made available on the Council of Europe human rights website as well as on its publications website. For this purpose, the details of the authorities from which the manual can be obtained should be communicated to the secretariat.

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Any questions pertaining to this issue should be addressed to the secretariat ([gerald.dunn@coe.int](mailto:gerald.dunn@coe.int)).

Appendix IV

**QUESTIONNAIRES**

**Questionnaire – religious symbols**

1. In your country, do you have specific legislation or regulations governing the wearing of clothing or symbols which may express religious or cultural views? Please provide details.
2. Can you provide information on any other methods, initiatives or reflection processes regarding issues that may arise in relation to the wearing of clothing or symbols which may express religious or cultural views?
3. Can you provide details of national and international case-law concerning your country relating to such issues?
4. We would also be interested in the details of any measures or initiatives to promote awareness and tolerance of religious and cultural diversity in your country. Please list the most important ones.

**Questionnaire – hate speech**

1. In your country, do you have specific legislation or regulations prohibiting hate speech or other means used to incite hatred? If so, please provide details, particularly on the definitions used.
2. Can you provide information on any other methods, initiatives or reflection processes concerning hate speech (e.g. codes of conduct)?
3. Do you have specific criminal legislation prohibiting blasphemy?
4. Can you provide details of national and international case-law concerning your country relating to the issues mentioned in questions 1 and 2?
5. We would also be interested in the details of any measures or initiatives to prevent hate speech and promote tolerance. Please list the most important ones.

Please send your replies before **31 July 2006** by email to the Secretariat ([gerald.dunn@coe.int](mailto:gerald.dunn@coe.int) and [catherine.mcgahan@coe.int](mailto:catherine.mcgahan@coe.int)).



Appendix V

**OUTLINE FOR WORKING PARTY REPORTS**

- Competing rights and interests at stake;
- Applicable international human rights instruments;
- Principles from the case-law of the European Court of Human Rights and practice of Council of Europe and other international human rights mechanisms
- Identification of methods and factors taken into account when balancing the competing interests involved
- Examples of best practices (e.g. position paper, preventive action, non-judicial procedures and involvement of civil society).

Appendix VI

**Introduction on the theme ‘Human Rights in a Multicultural Society’ for the Committee of Experts for the Development of Human Rights (DH-DEV), Strasbourg, 16 -18 May 2006**

Mr Paul B.C.D.F. van Sasse van Ysselt

Ladies and gentlemen,

Should blasphemous cartoons be banned, subordinating the freedom of speech to religious freedom? Should a teacher's religious freedom give way to the religious freedom of her pupils, obliging her to take off her muslim headscarf in school? To what extent can a school or association propagate its own (religious) identity without discriminating against others of being banned?

These are questions regarding various incidents and developments related to the increasing pluralism of society that cause considerable societal and political commotion nowadays. Questions, which directly affect the meaning of our constitutions and especially the fundamental rights thereof. Questions, which go straight to the heart of the Member States as democratic states under the rule of law.

It was a series of more or less tragic events in the Netherlands that motivated the Dutch cabinet to organise an international conference (2003) during her presidency of the Committee of Ministers of the Council of Europe in 2003, and to write a policy paper on these questions (2004). You should have received a copy of the conference speeches and of the paper. As you may have noticed, it was Ms De Boer-Buquicchio who during the Conference concluded that the theme was an excellent candidate for further intergovernmental work within the Council of Europe. These days, we give follow-up to this suggestion, which didn't lose anything of importance last two years. On the contrary, I should say.

Against this background it might be fruitful to present you a short introduction on the theme against this Dutch background. I'm delighted to have the opportunity to do so.

**Background**

As I said, some special events motivated the Dutch cabinet to organise the mentioned Conference and to write a policy paper on the issue. What did these events concern? Some of them concerned e.g. statements by imams about homosexuality (El Moumni) and the position of women and very negative comments by politicians on the nature of Islam (e.g. by Hirsi Ali) and the meaning of fundamental rights such as the prohibition of discrimination.

*- Practical example: Islam-based comments on homosexuality*

In a television broadcast on 3 May 2001, Imam El Moumni called homosexuality 'harmful to Dutch society' and a 'contagious disease'. Many reacted by condemning his comments – some of them with very heated arguments - in the media. 49 reports of an offence were submitted to the Public Prosecutions Department in respect of the Imam's comments. The Public Prosecutions Department then opened a case against the Imam on the grounds of the violation of article 137c and 137d of the Criminal Code, namely defamation on the grounds of homosexual orientation and inciting hatred of or discrimination against a group of people because of their homosexual orientation. On 8 April 2002, the court acquitted the Imam. The

court of appeal confirmed the first court's judgement.
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*- Practical example: comments, not based on religion, about religion*

In an interview with the newspaper de Trouw in 2002, Ms Hirsi Ali described Islam as 'backward according to some criteria'. She also called the Prophet Mohammed 'perverse', in view of his marriage to the minor Aïsjā, and a 'tyrant'. Thirteen reports of an offence and 600 complaints were submitted to the Public Prosecutions Department. On 23 April 2003 the Public Prosecutions Department decided not to prosecute.

It has therefore proved to be the case that the legal system is slow to use religion as a reason for limiting freedom of speech. Nor is this surprising since it is just as slow to restrict opinions that are based on the freedom of religion and that contribute to the social debate.

Anyhow, people have taken up positions and hardened their points of view. This has led to either significant social resistance or support in the Netherlands. (These and other positions have contributed to a forbidding climate.) Relationships between various populations have been put under pressure and latent tensions have surfaced. The murder of Theo van Gogh some years later was probably one of the deploring climaxes. And also the multicultural society as such stands squarely at the centre of discussion; support for it no longer goes without saying.

- For the case of the Netherlands you might know that more than 18 percent of the Dutch population now comes from a non-Dutch background, half of these come from non western countries. One million of the 16 million inhabitants are Muslim.

This does not detract from the fact that the social and political changes in the Netherlands are taking place at a rapid pace for reasons other than '11 September' and demographic developments. Individualisation, secularisation and the postmodernisation of society, among other things, have contributed to the pluralism of society. Nevertheless, the increased migration will be at least one of the *major* elements that poses us for the questions as already referred to.

### **Aim of the policy paper?**

Debate about social issues is of vital importance in a democratic state under the rule of law. Even if this is about matters that relate to the exercising of constitutional freedoms. Debate forms the core of the functioning of our democracy and is essential for maintaining a pluralistic society. Debate sometimes shows that there is serious dissatisfaction and uncertainty.

Dissatisfaction, about the way in which different groups in our society make use of their fundamental rights and about the judicial assessment of that use.

Uncertainty, about the boundaries of the freedoms guaranteed by fundamental rights and the way in which various fundamental rights relate to one another.

- If there continues to be dissatisfaction about constitutional provisions as such, then there is a need to consider whether choices made in the past when the fundamental rights were shaped fit in with our current pluralistic society. This question affects the Constitution as the backbone of the democratic state under the rule of law. The government bears a particular responsibility for the quality thereof.

- The policy document has also been prompted by a motion from parliament, in which the government was asked to issue a policy document on the area of tension between the prohibition of discrimination, the freedom of speech and religious freedom.

- In addition, the policy document aimed at implementing the commitment made by the Cabinet to issue a position paper on wearing clothing and jewellery that may express religious or ideological beliefs.<sup>3</sup>

Against this background, the aim of the policy document was to give impetus to the answering of the question whether there is, in the Dutch pluralistic society, enough balance in the reciprocal relationship between fundamental rights, in particular in the case of (discriminatory) statements which are (partly) based on religious or ideological beliefs? The paper dealt especially with the issues of:

- (a) (discriminatory) statements which are (partly) based on religious or ideological beliefs, and
- (b) the wearing of clothing and jewellery that may express religious or ideological beliefs.

## Method and conclusions

The cabinet therefore analysed legislation and case-law of the Supreme Court and European Court in an informative way for the public. It made for example clear that not all fundamental rights issues concerning the Multicultural society concern also a conflict of rights, but instead thereof a problem of the examining of the scope of the rights or the interpretation of legitimate aims in concrete cases. It also drew different conclusions from this analysis, which you can find in the policy paper. Some of them I will repeat:

- The Constitution does not need to be amended.
- There is no need to establish a hierarchy of fundamental rights.
- The reciprocal relationship between fundamental rights offers scope for tackling problems that arise from the increasing pluralism of society, such as discrimination, avenging family honour and female genital mutilation.
- Case law offers guidelines and criteria for the (indirect) weighing up of interests relating to fundamental rights, such as the prohibition of discrimination, religious freedom and the freedom of speech.
- Legislation and jurisprudence show that religious freedom and freedom of speech do not constitute a licence to discriminate on the grounds of, for example, homosexual orientation.
- Laying down regulations governing clothing which may express religious views is not desirable, unless this is urgently required for reasons of functionality, safety or the exercising of authority in an impersonal manner.
- Confidence in judicial pronouncements must be improved by means of better communication about these. Interpretation by briefing judges and prosecutors requires structural attention.
- It is necessary to support and actively disseminate the values of the democratic state under the rule of law, including by requiring attention to be paid to modern and shared citizenship both in education and via integration courses.

## Afterwards

The policy paper was debated for one and a half day in parliament and was received very well. The debate even led to a motion which asked the government to develop an Action Plan for the promotion of knowledge and understanding of fundamental rights. In that context some actions are taken:

- (a) The government introduced a very well functioning website ([www.zestienmiljoenrechtters.nl](http://www.zestienmiljoenrechtters.nl)) containing a kind of 'fundamental rights game' with different cases of conflicting rights. The concept was later used for a television program.

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<sup>3</sup> Parliamentary documents II 2003/04, Annex - Official Report no. 1073, pp. 2267-2268 and Official Report no. 59, pp. 3880-3896.

- (b) Developed a pamphlet or fact sheet on fundamental rights and democracy, which is used for the national ceremony on naturalization.
- (c) Is financing the investigation for the establishment of a human rights institution in the Netherlands
- (etc.)

More general, the policy paper functions as a position paper of the government for different fundamental right issues, about which the government is asked to give his opinion (by parliament for example). So, it was for example used for the cabinet's' statement on the freedom of expression after the Danish cartoon crisis and is now used as source for the reaction on a report on Islamic activism (WRR).

### **What next? What could we do?**

The last general conclusion of the conference was the call upon towards the Council of Europe to facilitate:

- Exchange between states of best practises
- About the way they use their margin of appreciation,
- Especially in the following fields:
  - o Freedom of expression/ freedom of religion or belief vs other rights and responsibilities
  - o Religious manifestation I the public domain

In this sense the priorities of the CDDH seem to be well chosen. But it is up to you and the chairperson to talk about this theme these days. I just hope to have given you some impression of the cause and questions concerning the theme of this expert group.

I thank you for your attention

Appendix VII  
**Oral presentation on Council of Europe activities  
promoting intercultural dialogue**

Speaker's notes

1. The Warsaw Summit (May 2005) firmly introduced “intercultural dialogue” into the portfolio of Council of Europe activities and priorities (“Declaration”, point 6; “Action Plan”, section III.6).
2. The strategy was formulated fully in the “Faro Declaration” (**document**), adopted in October/November 2005. Briefly, the Faro strategy comprises the following elements:
  - Intercultural dialogue is an *essential component* of the mission to promote human rights, democracy, the rule of law, and social cohesion. All activities in the area of intercultural dialogue are firmly based on the values and the vision of the Council of Europe. We will never compromise our values.
  - Intercultural dialogue is a *transversal task*. As a matter of principle, the Council of Europe will use all means that our Organisation has at its disposal, in order to promote intercultural dialogue. In other words, we will “mainstream” intercultural dialogue.
  - It is a *three-tiered approach*: We must promote intercultural dialogue within European societies; between European societies; and between Europe and the neighbouring regions.
  - Since every dialogue is a cooperative task, we will pursue this strategy with *appropriate partners* – governmental (intergovernmental) organisations, parliamentary bodies, local and regional authorities as well as civil society organisations, plus appropriate partners based in neighbouring regions.
3. Transversal task: Intercultural dialogue touches upon virtually all major policy areas: the protection and promotion of human rights; the strengthening of democracy and the rule of law; policies and programmes in the field of education, culture and cultural heritage and youth; the strengthening of social cohesion.
  - Legal instruments that set certain standards for the interaction between majority and minority cultures, such as the Framework Convention for the Protection of National Minorities or the European Charter for Regional or Minority Languages;
  - Statutory activities like the case-law of the European Court of Human Rights, or the reports of the European Commission against Racism and Intolerance (ECRI), monitoring the quality of intercultural interaction;
  - Long-term action programmes, e.g. those focussing on teacher training for intercultural learning and history teaching (e.g. “Image of the other in history teaching”; “The new challenge of intercultural education – religious diversity and dialogue in Europe”), inter-community relations (in the framework of the CDMG), the programme for the development of monitoring and communication tools of national programmes for Roma in South East Europe, or specific programmes run by the North-South Centre, the European Centre for Modern Languages and the two European Youth Centres of the Council of Europe;
  - Distinct high-visibility initiatives like the Ministerial conference in Faro (2005), the colloquy of the Commissioner for Human Rights on “Dialogue, tolerance and education: the concerted action of the Council of Europe and the religious communities” (Kazan, February 2006), the 3rd Intercultural Forum (Bucharest, March 2006) or the forthcoming colloquy on intercultural and interreligious dialogue (Nizhniy Novgorod, 2006);
  - Individual activities that are part of other programmes of activities but have a clear relevance for the promotion of intercultural dialogue, such as the “European Language Portfolio”;

- Ad hoc activities like meetings with representatives of non-European international organisations, which often lead the way to more structured programmes.

The Coordinator for intercultural dialogue has been nominated in November 2005.

4. Partner institutions/organisations to conduct dialogue with neighbouring regions:

- UNESCO (“Faro Platform”)
- ALECSO
- Anna Lindh Euro-Mediterranean Foundation for the Dialogue between Cultures

Additional contacts with

- EU (→ “European Year of Intercultural Dialogue” 2008, cf. Article 9: “may cooperate”)
- OIF
- UN (→ “Alliance of Civilizations”)

5. The “White Paper on intercultural dialogue” has the aim of formulating a coherent and long-term policy for the promotion of intercultural dialogue within Europe and between Europe and neighbouring regions. It was agreed by the Committee of Ministers in April 2006 (**document**). The White Paper will provide policy guidelines and examples of good practice and will be developed in an open and inclusive process of consultation with member states, the Parliamentary Assembly, expert committees, local and regional authorities, civil society organisations and international partners. A tool to stimulate a coherent and coordinated long-term engagement by all partners concerned. The document will be ready by autumn 2007.

- CDDH (DH-DEV?) is emphatically invited to participate in this exercise (together with a dozen other steering committees). Three steps: (1) we evaluate the past recommendations, surveys, strategic documents etc that have been produced in the past (additional suggestions welcome); (2) the Secretariat will consult all member states on their intercultural dialogue strategy – copy to all steering committees (summer 2006); (3) CDDH (DH-DEV?) invited to comment on draft text (autumn/winter 2006). DG II is involved in Task Force.
  - CDDH has a lot to contribute. “Human rights in a multicultural society” is a key topic. “Hate speech” is currently under discussion at PACE level, but even more so outside the Organisation (UN, OSCE, OIC and others).

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16/05/2006