



Strasbourg, 9 February 2007  
DH-DEV(2007)003

STEERING COMMITTEE FOR HUMAN RIGHTS  
(CDDH)

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

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Abridged Meeting Report

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**36th meeting**  
Strasbourg, Wednesday 7 February – Friday 9 February 2007

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**List of decisions taken by the DH-DEV at its 36<sup>th</sup> meeting**

**Human rights in a multicultural society**

- The DH-DEV held exchanges of views with Mr Niels MUIZNIEKS, member and Vice-Chair of the European Commission against Racism and Intolerance (ECRI), Ms Françoise TULKENS, judge at the European Court of Human Rights, and Mr Malcom EVANS, member of the Advisory Council of the ODIHR's Panel of Experts on Freedom of Religion or Belief.
- The Committee examined and endorsed the reports on 'hate speech' and 'the wearing of religious symbols in public areas' prepared by its two Working Groups and decided to append them to its activity report on human rights in a multicultural society;
- The Committee adopted its activity report on human rights in a multicultural society containing proposals for future activities in this field. It transmitted it to the CDDH for consideration and approval at its 64<sup>th</sup> meeting (10-13 April 2007).

**Other business**

- The Committee re-elected Ms Camilla BUSCK-NIELSEN (Finland) as Vice-Chair of the DH-DEV.

**Item 1:        Opening of the meeting, adoption of the agenda and adoption of the report of the 35<sup>th</sup> meeting**

1. The Committee of Experts for the Development of Human Rights (DH-DEV) held its 36<sup>th</sup> meeting in Strasbourg (Human Rights Building) on 7-9 February 2007, 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 16-18 May 2006 (document DH-DEV(2006)008).

**Item 2:        Discussion on the working groups' reports on hate speech and the wearing of religious symbols in public areas**

(i) Exchange of views with guests

2. Exchanges of views took place with :

- Mr Niels MUIZNIEKS, Vice-Chair of the European Commission against Racism and Intolerance (ECRI). Mr Muiznieks presented the ECRI's position on hate speech and the wearing of religious symbols and his intervention is contained in Appendix III.

- Ms Françoise TULKENS, judge at the European Court of Human Rights, on the two themes studied and the relevant case-law of the Court.

- Mr Malcom EVANS, member of the Advisory Council of the ODIHR's Panel of Experts on Freedom of Religion or Belief.

(ii) Adoption of the reports prepared by the Working Groups

3. The Committee examined the reports presented by its two Working Groups on 'hate speech' (document GT-DH-DEV A(2006)008) and 'the wearing of religious symbols in public areas' (document GT-DH-DEV B(2006)004). Further to a number of amendments, the Committee adopted the reports and decided to append them to its activity report on human rights in a multicultural society (document DH-DEV(2007)002) (see item 3).

**Item 3:        Discussion with a view to adopting the final activity report on human rights in a multicultural society, containing possible proposals for further work**

4. The Committee considered the draft activity report prepared by the Secretariat on the basis of the discussions of the DH-DEV and its Working Groups at their respective meetings (document DH-DEV(2007)002). It also discussed the possible future activities in the field of human rights in a multicultural society.

5. Following these discussions and some amendments to the aforementioned draft, it adopted its activity report and transmitted it to the Steering Committee on Human Rights (CDDH) for consideration and approval at its forthcoming 64<sup>th</sup> meeting of 10-13 April 2007.

**Item 4: Other business**

- *Election of the Vice-Chair*

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

**Item 5: Date of the next meeting**

7. The date of the next meeting will be fixed at a later stage by e-mail.

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Appendix I**LIST OF PARTICIPANTS****MEMBERS****ALBANIA / ALBANIE**

Ms Ledia HYSI, Director of Legal Affairs and Treaties Department

**ANDORRA / ANDORRE**

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

**ARMENIA / ARMENIE**

Ms Emma HAKOBYAN, Legal adviser of the legal department of the Ministry of Foreign Affairs of the Republic of Armenia

**AUSTRIA / AUTRICHE**

Ms Brigitte OHMS, Deputy Head of Division for International Affairs and General Administrative Affairs

**AZERBAIJAN / AZERBAIDJAN**

Mr Chingiz ASGAROV, Head of the Division of the Protection of Human Rights of the Department of Work with Law Enforcement Agencies of the Executive Office of President of the Republic of Azerbaijan

Ms Nailya RUSTAM-ZADE, Desk officier of International Law & Treaties Department, Ministry of Foreign Affairs

**BELGIUM / BELGIQUE**

M. Philippe WERY, Attaché, SPF Justice, Service des Droits de l'Homme

**BOSNIA AND HERZEGOVINA / BOSNIE ET HERZEGOVINE**

Mr Samir ŠLAKU, Expert Advisor, Ministry for Human Rights & Refugees

**BULGARIA / BULGARIE**

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

**CROATIA / CROATIE**

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

**CYPRUS / CHYPRE**

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

**CZECH REPUBLIC / REPUBLIQUE TCHEQUE**

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

**DENMARK / DANEMARK**

Ms. Astrid KJELDGAARD-PEDERSEN, Head of Section, Human Rights Division, Ministry of Justice

**ESTONIA / ESTONIE**

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

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**FINLAND / FINLANDE**

Ms Camilla BUSCK-NIELSEN, (Vice-Chairperson), Legal Officer, Ministry of Foreign Affairs

**FRANCE**

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

**GEORGIA/GEORGIE**

Mr Besarion BOKHASHVILI, Agent of the Government of Georgia to the European Court of Human Rights, Ministry of Justice

**GERMANY / ALLEMAGNE**

Mme Ulrike HÖFLER, Executive Assistant of the Federal Agent for Human Rights, Ministry of Justice

**GREECE / GRECE**

Ms Athina CHANAKI, Rapporteur, Ministry of Foreign Affairs, Legal Department

**HUNGARY / HONGRIE**

Mr Zoltán TALLÓDI, Co-agent of the Ministry of Justice and Law Enforcement before the ECHR

**ICELAND / ISLANDE** – Apologised / Excusé

**IRELAND / IRLANDE**

Mr Peter WHITE, Assistant Legal Adviser, Department of Foreign Affairs

**ITALY / ITALIE** – Apologised / Excusé

**LATVIA / LETTONIE**

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

**LIECHTENSTEIN** – Apologised / Excusé

**LITHUANIA / LITUANIE**

Mrs Jurga KASPUTIENE, First Secretary Human Rights and NGO Division of the Department of Multilateral Relations, Ministry of Foreign Affairs

**LUXEMBOURG** – Apologised / Excusé

**MALTA / MALTE** – Apologised / Excusé

**MOLDOVA**

Mr Victor LAPUSNEANU, Second Secretary of the Council of Europe & Human Rights Division, Ministry of Foreign Affairs and European Integration of the Republic of Moldova

**MONACO** – Apologised / Excusé

**NETHERLANDS / PAYS-BAS**

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

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

**NORWAY / NORVEGE**

Mme Kristin RYAN, Advisor, Department of Legislation, Norwegian Ministry of Justice

**POLAND / POLOGNE**

Ms Justyna CHRZANOWSKA, Third Secretary, Ministry of Foreign Affairs, Legal and Treaty Department

**PORTUGAL**

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

**ROMANIA / ROUMANIE** – Apologised / Excusé

**RUSSIAN FEDERATION / FEDERATION DE RUSSIE**

M. Vladislav ERMAKOV, Conseiller du Département de la coopération humanitaire et des droits de l'homme, Ministère des affaires étrangères de la Fédération de Russie

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

**SERBIA / SERBIE**

Ms Marija VUJNOVIC, Assistant Director, Agency for Human and Minority Rights

**SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE**

Mrs Jana VNUKOVÁ, Director of International Relations and Human Rights Department, International Law & European Law Section, Ministry of Justice

**SLOVENIA / SLOVENIE** – Apologised / Excusé

**SPAIN / ESPAGNE**

M. Ignacio BLASCO LOZANO, Agent auprès de la Cour européenne des Droits de l'Homme

**SWEDEN / SUEDE**

Ms Anna ERMAN, Legal Adviser, Ministry for Foreign Affairs

**SWITZERLAND / SUISSE**

Mme Dominique STEIGER LEUBA, Collaboratrice scientifique, Section droits de l'homme et Conseil de l'Europe, Département fédéral de justice et police

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

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

**TURKEY / TURQUIE**

Ms İşik BATMAZ, Legal Human Rights Expert, Ministry of Foreign Affairs

Mme Deniz AKÇAY, Adjointe au Représentant permanent de la Turquie auprès du Conseil de l'Europe

**UKRAINE** – Apologised / Excusé

**UNITED KINGDOM / ROYAUME-UNI**

Ms Helen RAE, Policy Advisor, Human Rights Division, Department for Constitutional Affairs

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**PARTICIPANTS**

**Parliamentary Assembly / Assemblée Parlementaire** - Apologised / Excusé

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

Mr Lauri SIVONEN, Advisor, Council of Europe

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

Mr Nils MUIZNIEKS, (Vice-President of the European Commission against Racism), Director, Advanced Social and Political Research Institute (ASPRI), University of Latvia

Ms Isil GACHET, ECRI, Directorate General of Human Rights - DG II / Direction Générale des Droits de l'Homme - DG II, Council of Europe/Conseil de l'Europe

Ms Claudi Lam, ECRI, Directorate General of Human Rights - DG II / Direction Générale des Droits de l'Homme - DG II, Council of Europe/Conseil de l'Europe

**The Conference of INGOs of the Council of Europe / La Conférence des OING du Conseil de l'Europe** – Apologised / Excusé

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**OTHER PARTICIPANTS**

**European Commission / Commission européenne** – Apologised / Excusé

**Council of the European Union / Conseil de l'Union européenne** – Apologised / Excusé

**Canada** – Apologised / Excusé

**Holy See / Saint-Siège**

R.P. Bernard BOUGON

**Japan/Japon** – Apologised / Excusé

**Mexico/Mexique** – Apologised / Excusé

**United States of America/Etats-Unis d'Amérique** – Apologised / Excusé

**The Organisation for Security and Co-operation in Europe (OSCE) / the Office for Democratic Institutions and Human Rights (ODIHR) / L'Organisation pour la sécurité et la coopération en Europe (OSCE) / le Bureau pour les institutions démocratiques et les droits de l'homme (ODIHR)**

Professor Malcolm EVANS, Member of the Advisory Council of the ODIHR's Panel of Experts on Freedom of Religion or Belief, Professor, Head of School of Law, University of Bristol

**The Office of the United Nations High Commissioner for Human Rights / Le Haut Commissariat des Nations Unies aux Droits de l'Homme** – Apologised / Excusé

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**OBSERVERS**

**Belarus** – Apologised / Excusé

**Republic of Montenegro / République du Monténégro**

Mr Nebojša VUČINIĆ, Faculty of Law, University of Montenegro

**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 (FIDH)** – 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**

Mr Shane MOFFATT, Coordinator, Human Rights Commission

**European Roma and Travellers Forum / Forum européen des Roms et des gens du voyage** Ms

Françoise ZAHN, European Roma and Travellers Forum (ERTF) / Forum européen des Roms et Gens du voyage (FERV), DG III - Cohésion Sociale / Social Cohesion, Conseil de l'Europe / Council of Europe

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

Rev. John MURRAY, Associate Staff Member

**European Court of Human Rights / Cour européenne des droits de l'homme**

Mme Françoise TULKENS, Juge, Présidente de la deuxième section de la Cour, European Court of Human Rights / Cour européenne des droits de l'homme, Council of Europe/Conseil de l'Europe

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

Ms Bissera ZANKOVA, Media expert, State Agency for Information Technologies and Communications

**Directorate General of Human Rights - DG II / Direction Générale des Droits de l'Homme - DG II Council of Europe / Conseil de l'Europe, F-67075 STRASBOURG CEDEX**

Mr Jeroen SCHOKKENBROEK, Head of Human Rights Intergovernmental Programmes Department / Chef du Service des programmes intergouvernementaux en matière des droits de l'homme

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

Ms Claire ASKIN, Administrative assistant / Assistante administrative, Human Rights Law and Policy Division / Assistante administrative, Division du droit et de la politique des droits de l'homme

Mrs Catherine VARINOT, Assistant / Assistante, Human Rights Law and Policy Division/Division du Droit et de la Politique des Droits de l'Homme

Mme Michèle COGNARD, Assistant / Assistante, Human Rights Law Intergovernmental Cooperation Division/Division de la Coopération Intergouvernementale en Matière de Droit de l'Homme

**Interpreters / Interprètes:**

Mme Amanda BEDDOWS

Mme Christine TRAPP

Mme Isabelle MARCHINI

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Appendix II

**ADOPTED AGENDA**

**Item 1:      **Opening of the meeting and adoption of the agenda and of the report of 35<sup>th</sup> meeting****

- Report of the 35<sup>th</sup> meeting of the DH-DEV DH-DEV(2006)008
- Specific and Ad hoc Terms of Reference of the DH-DEV as adopted by the Committee of Ministers DH-DEV(2007)001

**Item 2:      **Discussion on the working groups' reports on hate speech and the wearing of religious symbols in public areas****

(i) Exchange of views with Judge Françoise Tulkens, European Court of Human Rights

(ii) Working documents

*Hate speech*

- Working Group A – report on hate speech GT-DH-DEV A (2006)008
- Addendum to the Report on hate speech – replies of member states to the questionnaire prepared by the DH-DEV GT-DH-DEV A (2006)008  
Addendum

*The wearing of religious symbols in public areas*

- Working Group B – report on the wearing of religious symbols in public areas GT-DH-DEV B (2006)004
- Addendum to the Report on the wearing of religious symbols in public areas – replies of member states to the questionnaire prepared by the DH-DEV GT-DH-DEV B (2006)004  
Addendum

(iii) Information documents

*General*

- Compilation of texts of the Council of Europe and other Organisations relating to human rights in a multicultural society DH-DEV(2006)003rev
- 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
- Overview on Council of Europe action in interreligious and intercultural dialogue CDDH(2006)005

*Hate speech*

- Overview of existing standards, case-law and practice of monitoring bodies GT-DH-DEV A(2006)001
- The Right to offend and the right not to be offended, EUMC Newsletter GT-DH-DEV A(2006)005

- Hate Speech before the European Court of Human Rights by Mario Oetheimer GT-DH-DEV A(2006)006 (only available in French)
- Report of the Expert Seminar on combating racism while respecting freedom of expression (Strasbourg, 16-17 November 2006) CRI(2006)47
- The case law of the European Court of Human Rights on Article 10 ECHR relevant for combating racism and intolerance Background paper – session 3 of the ECRI Seminar of 16-17 November 2006
- Speech delivered by Judge Tulkens, European Court of Human Rights ECRI Seminar of 16-17 November 2006 (only available in French, translation underway) GT-DH-DEV A(2006)004
- Study on International Standards Relating to Incitement to Genocide or Racial Hatred for the UN Special Advisor on the Prevention of Genocide, by Toby Mendel
- Incitement to racial and religious hatred and the promotion of tolerance: report of the High Commissioner for Human Rights A/HRC/2/6
- Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance A/HRC/2/3

*The wearing of religious symbols in public areas*

- Civil and political rights, including the question of religious intolerance, Report of the UN Special Rapporteur on freedom of religion or belief, Asma Jahangir UN HRC document, E/CN.4/2006/5
- OSCE – Religious Symbols and International Human Rights Report and Recommendations GT-DH-DEV B(2006)003

**Item 3: Discussion with a view to adopting the final activity report on human rights in a multicultural society, containing possible proposals for further work**

Working document

- Draft final activity report on human rights in a multicultural society DH-DEV(2007)002

**Item 4: Other business**

- Election of the Vice-Chair of the DH-DEV

**Item 5: Date of next meetings**

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### Appendix III

#### Summary of the speech by Mr Muiznieks Vice-Chair of the European Commission against Racism and Intolerance (ECRI)

ECRI deals with issues of hate speech regularly in its country-by-country reports, in several general policy recommendations and in the results of commissioned research. It deals to a lesser extent with religious symbols in public areas, having no formal position on the subject, but it has touched upon this topic in its recent report on France, as well as in other reports.

#### Hate Speech

It is important to strike a balance between combating racist public and political discourse and protecting freedom of expression.

Freedom of expression is not an absolute right. This can be seen in the case-law of the European Court of Human Rights and the Convention itself, and ECRI urges for the adoption of criminal law provisions against racist expressions. The reason for this is that a direct verbal aggression aimed primarily at ethnic and religious minorities that violates the right to non-discrimination, if left unpunished, indirectly creates conditions in which groups are more likely to suffer from discrimination, and could lead to graver violations of human rights.

While stressing the necessity of combating hate speech, which is a prelude to disintegration and jeopardises a peaceful environment for everyone, especially those belonging to racial or ethnic minorities, ECRI underlines that the targets of racism, such as minorities or immigrants, should also be able to exercise their freedom of expression, without discrimination.

The law, although necessary, is insufficient in the field of hate speech. It is often a blunt instrument, as racists know the limits of the law and can use code to get their point across.

The media needs to exercise self-regulation, through codes of conduct or ethics, complaints bodies etc. Such soft law can contribute to combating racist expressions.

ECRI also highlights the importance of political leadership and the corrosive impact on society that hate speech emanating from political figures can have. As the results of Yves Camus' research, commissioned by ECRI has shown, racism in political discourse is quite common throughout Europe.

#### The wearing of religious symbols in public places

ECRI's mandate includes discrimination and intolerance on grounds of religion. However, no general standard exists - a case-by-case approach is taken.

Several general principles should be mentioned: the danger of stigmatisation of members of minority faith groups in general, and that of Muslims in particular. Since the terrorist attacks in the US, UK and Spain, and the murder of Theo Van Gogh, ECRI has detected a significant increase in Islamophobia in its country-by-country work, and this has been noted in its annual report.

There is a danger that restricting the wearing of religious symbols will be perceived as stigmatising Muslims as a group.

ECRI's third report on France, issued in 2005, noted the possible ill-effects of the French law on the wearing of religious symbols at school on Muslim girls who wear a headscarf, such as the danger of indirect discrimination and even social exclusion. ECRI approves the provision this law makes for dialogue before any disciplinary action is considered.

Human rights in a multicultural society in general

Human rights are not culture-bound. They are universal. Traditionally, human rights have always been protected from the actions of governments and public bodies, but it is also important to ensure protection from other individuals, from non-state actors.

It should be stressed that states have a positive obligation to protect individuals from acts against other individuals by non-state actors.

Existing instruments, such as the European Convention on Human Rights and its Protocol No. 12 are insufficient. We need to examine the way in which Protocol No. 12 is implemented, and the Council of Europe must make sure that it is not overtaken by organisations or institutions such as the European Union, with its Race Directive, where discrimination is concerned.

More is needed in the way of comparative work that can be used as a reference in this field. Training, education and awareness-raising are also necessary to ensure respect for human rights in a multicultural society.

It is important to strengthen the mechanisms that exist in the Council of Europe, such as the Framework Convention on National Minorities and ECRI.

Unfortunately, ECRI has limited resources and will not be able to produce a campaign that will outstrip the previous “All Different - All Equal” Campaign.

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