Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 13851
06 July 2015

Freedom of religion and living together in a democratic society

Report[1]
Committee on Culture, Science, Education and Media
Rapporteur: Mr Rafael HUSEYNOV, Azerbaijan, Alliance of Liberals and Democrats for Europe

Summary

Our democratic societies are threatened by fanaticism and religious extremism, but also by xenophobia and rejection of anything different. Faced with this threat, States and religions should work together to foster dialogue and mutual respect.

Religions have a fundamental duty to promote the shared values and principles which underpin "living together". Within the framework of a "secularity of recognition", States should ensure that their neutrality remains inclusive and diversity-friendly, seek "reasonable accommodations" on controversial religious practices. The aim should be to guarantee equality that is effective in the right to freedom of religion and avoid any restrictions on this right which are not necessary in a democratic society.

Education is the key to combating ignorance, breaking down stereotypes, building trust and mutual respect and promoting sincere support for the shared values of living together. School should be a meeting point and a place for constructive dialogue between individuals of different beliefs, and help them open up to other visions of the world. In this context, States and religious communities should collaborate so that the teaching of religion becomes an opportunity for reciprocal listening and for developing critical thinking.

The Council of Europe should set up a stable platform for dialogue with senior representatives of religions and non-denominational organisations in order to foster active commitment by all the stakeholders in activities to promote living together.

1. Reference to committee: Doc. 13364, Reference 4022 of 31 January 2014.

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A. Draft resolution[2]

1. The Parliamentary Assembly notes that religion has gained renewed importance in European societies. Many beliefs and churches are developing in Europe alongside the religions which have influenced the history of our continent. The Assembly notes with great regret and anxiety that this continues to give rise to tensions, lack of understanding and suspicion, and even to xenophobic attitudes, extremism, hate speech and the most despicable violence. This vicious circle must be broken.

2. Churches and religious organisations are an integral part of civil society and must, with secular organisations, take part in the life of society. National authorities should take more account of religious communities' potential to work for dialogue, mutual recognition and solidarity. For their part, those communities have a fundamental duty, which they must fully assume, to promote the shared values and principles which underpin "living together" in our democratic societies.

3. Those values and principles consist mainly of profound respect for human dignity and the fundamental rights protected by our democratic constitutions and by the European Convention on Human Rights (ETS No. 5), as well as respect for democratic principles and the rule of law, including the principle of non-discrimination between the different groups which make up our plural societies. These values and principles are non-negotiable and they must prevail over any social or religious norms that counter them.

4. Religious affiliation is, for many European citizens, a key element of their identities. That affiliation is also expressed through worship and compliance with religious practices. Freedom to live according to those practices is one element of the right to freedom of religion safeguarded by Article 9 of the European Convention on Human Rights. That right coexists with the fundamental rights of others and with the right of everyone to live in a space of socialisation which facilitates living together. That may justify the introduction of restrictions on certain religious practices, but any restriction not necessary in a democratic society should be avoided.

5. Furthermore, the Assembly considers that the principle of secularity does not require the elimination of religion from social space; quite the contrary, this principle, properly interpreted and implemented, protects the possibility for the different beliefs, religious and non-religious, to coexist peacefully while all parties respect shared principles and values.

6. Legislatures and governments must take account of the fact that political decisions taken in the name of the "neutrality of the State" may, in practice, give rise to disguised discrimination against minority religions, which is incompatible with the right to freedom of religion and the principle of secularity. Worse, such decisions may give rise to a feeling amongst the members of the communities concerned that they are not considered full members of the national community.

7. Certain religious practices remain controversial within national communities. Albeit in different ways, the wearing of full-face veils, circumcision and ritual slaughter are divisive issues. Other religious practices may also provoke tensions, for example in the workplace. In this context, while it is aware that standards cannot be imposed, the Assembly invites States to seek "reasonable accommodations" with a view to guaranteeing equality that is effective, and not merely formal, in the right to freedom of religion. States should ensure that their neutrality remains inclusive and diversity-friendly.

8. Where the wearing of full-face veils is concerned, the Assembly refers to its Resolution 1743 (2013) on Islam, Islamism and Islamophobia in Europe and invites States to refrain from dictating general prohibitions and to prefer targeted policies designed to make Muslim women aware of their rights, help them to take part in public life and offer them the possibility of achieving social and economic independence.

9. As far as circumcision is concerned, the Assembly refers to its Resolution 1952 (2013) on children's right to physical integrity and, out of a concern to protect children's rights which the Jewish and Muslim communities surely share, recommends that member States provide for ritual circumcision of children not to be allowed unless practised by a person with the requisite training and skill, in appropriate medical and health conditions. Furthermore, the parents must be duly informed of any potential medical risk or possible contraindications and take these into account when deciding what is best for their child, bearing in mind that the child's interest must be considered the first priority.

2. Draft resolution adopted unanimously by the committee on 23 June 2015.

10. Where ritual slaughter is concerned, the Assembly is not convinced that legislation prohibiting this practice is really necessary, or that it would be the most effective way of ensuring the protection of animals; legislation which imposes strict requirements, like that of France and Germany, achieves a balanced reconciliation of the legitimate concern to protect animals from unjustified suffering and respect for the right to freedom of religion.

11. The Assembly is convinced that education is the key to combating ignorance, breaking down stereotypes, building trust and mutual respect and promoting sincere support for the shared values of living together. In this respect, the Assembly is aware that many factors are influential in the formation of the individual personality. Families and media, as well as cultural and religious communities themselves, should support the development of open-minded individuals, capable of critical thinking and of constructive dialogue with others. It is crucial to fight against intolerance on the web. School should also be a meeting point and a place for constructive dialogue between individuals of different – religious or secular – beliefs.

12. Referring to its Recommendation 1962 (2011) on the religious dimension of intercultural dialogue, the Assembly reminds States of their obligation to ensure that all the religious communities which accept shared fundamental values are able to benefit from an appropriate legal status guaranteeing the exercise of freedom of religion. In the Assembly's view, member States and religious communities should work together to promote coming together, dialogue and mutual respect: there is no better way of effectively combating all fanaticism and extremism, religious or anti-religious.

13. In this context, the Assembly recommends that member States:

13.1. ensure that religious communities and their members are able to exercise the right to freedom of religion without impediment and without discrimination, in accordance with Article 9 of the European Convention on Human Rights, and make sure, *inter alia*, that religious communities and their members are able, in compliance with the law, to:

13.1.1. practise their faith publicly and freely in places of worship designed for that purpose by themselves or in other places accessible to the general public, in accordance with their own rites and customs;

13.1.2. manage welfare institutions (hospitals, workshops for persons with disabilities, homes for elderly people, nursery schools, etc.), and schools and places of education;

13.1.3. make their opinion publicly known without being subjected to censorship;

13.2. promote the social integration of religious minorities and act at an early stage against those social, economic and political inequalities which affect those minorities;

13.3. put into practice a "secularity of recognition" and treat religious organisations as partners in the development of inclusive and mutually supportive societies, while respecting the principle of the independence of politics from religion and the rule of law; in this context:

13.3.1. develop projects in collaboration with religious communities to promote shared values and "living together", and involve those communities in the combating of all extremism and fanaticism;

13.3.2. give encouragement to projects jointly developed by several communities, *inter alia* with non-religious associations, with a view to strengthening the social fabric through, for example, the promotion of inter-community solidarity, attention being paid to the most vulnerable people and the fight against discrimination;

13.3.3. ensure that public service media firmly oppose any form of intolerance and discrimination based on religion or beliefs and contribute not only to fighting stereotypes, but also to upholding the vision of a pluralist, intercultural and inclusive democratic society;

13.4. promote in the school and extracurricular framework opportunities for people of different beliefs to meet and talk so that they can learn to express their religious identity without fear, but also without provoking others or prevaricating, and both open up to other visions of the world and learn to respect them even if they do not share them; in this context, co-operate with religious communities so that the teaching of religion becomes an opportunity for reciprocal listening and for developing critical thinking.

B. Draft recommendation[3]

1. The Parliamentary Assembly, referring to its Resolution … (2015) on freedom of religion and living together in a democratic society, and drawing attention to its Recommendation 1962 (2011) on the religious dimension of intercultural dialogue and Recommendation 1975 (2011) "Living together in 21st-century Europe: follow-up to the report of the Group of Eminent Persons of the Council of Europe", reiterates its support for an integrated approach to issues relating to "living together" and refers to the numerous proposals that those texts contain, not all of which have been followed by practical measures.

2. Convinced of the urgent need to step up the Council of Europe's action so that it can better support member States' efforts to combat the danger that fanaticism and religious extremism, but also xenophobia and rejection of anything different, represent to our democratic societies, the Assembly confirms its readiness to help to draw up a comprehensive Council of Europe strategy on this subject.

3. The Assembly further considers that, in this context, the Council of Europe should step up and make more substantial its co-operation with the main religious communities and the main European organisations representing the secular humanist and philosophical world. It consequently recommends that the Committee of Ministers:

3.1. set up a stable an officially recognised platform for dialogue between the Council of Europe and senior representatives of religions and non-denominational organisations in order to consolidate the existing relations with those partners and foster active commitment by all the stakeholders in activities to promote the Organisation's fundamental values, which underpin "living together";

3.2. include this initiative amongst the Council of Europe's action priorities and develop it speedily in consultation with the parties concerned, closely involving the Parliamentary Assembly in it; invite, if appropriate, the European Union and the United Nations Alliance of Civilizations, and possibly other partners, to contribute to it;

3.3. link to this platform for dialogue the holding of thematic meetings on the religious dimension of intercultural dialogue, which should be made more operational;

3.4. develop synergies between the platform and the thematic meetings on the religious dimension of intercultural dialogue with other Council of Europe projects and initiatives in the field of education, culture and youth, such as the "No Hate Speech Movement – Young People for Human Rights Online", "Education for Democratic Citizenship and Human Rights" and "Intercultural cities".

3. Draft recommendation adopted unanimously by the committee on 23 June 2015.

C. Explanatory memorandum by Mr Huseynov, rapporteur

1. Introduction: scope and aim of the report

1. The tragic terrorist attacks which took place on 7, 8 and 9 January 2015 in Paris,[4] the two deadly attacks of 14 and 15 February 2015 in Copenhagen,[5] but also profanations of Jewish and Catholic cemeteries in France and other violent actions targeting religious communities, reveal in a dramatic way the need to revert to the theme of "living together" in democratic societies.

2. Apart from being saddened and dumbfounded by these acts of barbarism, we must ask ourselves not only if they could have been avoided, but also what we are going to do to prevent other such events. Asking this question does not entail seeking to attach blame, or even holding ourselves guilty. The aim is simply to understand the situation better, so as to take effective action.

3. Understanding does not equate with justifying. There can be no possible justification for these acts; in particular there is no justification linked to the (real or professed) religious faith of the perpetrators. Killing, like profaning places of worship or cemeteries, is in no way an act of faith, and it quite simply offends against all religions and human reason to claim otherwise.

4. Understanding entails being capable of drawing distinctions: the young Muslims living in certain disadvantaged sink estates, who are disheartened and are seeking their place in the society, must not be confused with jihadist terrorists or anti-Semitic fanatics.

5. This brings me to the heart of the theme of this report: freedom of religion and living together in a democratic society. If a society were perfectly homogeneous from a cultural standpoint, including in religious matters, the question of freedom of religion would not be problematic. It is increasingly a subject of debate precisely because our European societies are plural and our cultural and religious identities are becoming more and more diverse.

6. Our Assembly's axiom is that such diversity and miscegenation of cultures are not only unavoidable but are also a treasure. We have asserted this repeatedly and in no uncertain terms.

7. We must stop being afraid of difference, renounce the idea that everything would be better if others were like us, and change our political discourse about the "identity" of the national community, understood as being monolithic and thus a negation of the plural nature of individual and collective identities. In short, we must stop wanting the "assimilation" of others, and promote recognition of diversity and the integration of all in an inclusive, plural society. That can be done only if we manage to build a consensus around the shared values – including interculturality[6] – on which living together is based.

8. This report could not cover this complex issue in all its many facets, including those which are a matter for democratic institutions and processes, but is intended to contribute to the wider-ranging consideration of these issues by the Parliamentary Assembly.

2. Religions and the right to freedom of religion

9. Religions are historical, social and cultural realities. They are far from being in decline and it is important to give them due consideration. In this section, I will take a look at a number of (sociological and legal) elements regarding religions and the way in which religion is protected by the European Convention on Human Rights (ETS No. 5, "the Convention").

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4. On 7 January 2015, two young Frenchmen entered the offices of the satirical weekly magazine *Charlie Hebdo* and killed 12 people. Among the victims were journalists, analysts, cartoonists and staff as well as two policemen exercising their duty. The killers were killed by the police two days later. On 8 January, another Frenchman shot and killed a policewoman in cold blood in Paris and, on 9 January, took more than 20 hostages in a kosher supermarket, immediately killing four of them, all Jewish. He was then killed by the police and the other hostages were freed.

5. During the first attack, which took place in a cultural centre where a debate on Islamism and freedom of expression was being held with the participation of the Swedish cartoonist Larks Viks, the film director Finn Nørgaard was killed and three police officers were wounded. The second attack took place outside the Great Synagogue: a Jewish security guard protecting dozens of guests attending a bar mitzvah was killed and two police officers were wounded.

6. I would like to refer in this respect to the report of our committee on "Identity and diversity within intercultural societies" (rapporteur: Mr Carlos Costa Neves, Portugal, EPP/CD), Doc. 13522. See also Resolution 2005 (2014) and Recommendation 2049 (2014).

2.1. Understanding religion and how strongly it is rooted in society

10. As Professor Jean-Paul Willaime[7] has stressed, religions provide resources in terms of identity and ethics, and they provide meaning in the three ways in which this is understood, for they provide:

– a sense of significance (the meaning of life and death, of happiness and unhappiness);

– a sense of direction (guiding behaviour);

– sensations (individual and collective ways of feeling individual and collective emotions).

11. Religious groupings, like all realities based on activism and belief, may give rise to intolerance, even fanaticism and violence. In these deviant forms, religions can pose a threat to democracy and human rights. That is unacceptable, but religious phenomena cannot be considered only in such forms or be demonised on such grounds.[8]

12. There are many more examples that prove that religions help us to live together. In all of our countries, we have examples of religious organisations encouraging people to rally together and take concrete action to help the weakest members of society, the deprived and those living in extreme precariousness (refugees, foreigners, Roma, abandoned children, the homeless, people with disabilities and the elderly…). Religious authorities are often in the forefront in reminding people of their duty of solidarity with their fellow citizens and in promoting fraternity among peoples. Similarly, religious leaders often advocate changing the current economic model and demand a more prudent management of ecological resources and in protecting the environment.

13. Moreover, not only our committee's report on "The religious dimension of intercultural dialogue" but also the accounts given by various experts we have heard[9] remind us of the religious response to extremism and of their commitment to cultural and religious diversity on the ground.

14. Mr Kbibech stressed that believers and humanists from all cultures and religions have a duty to bring communities and peoples together. Grand Rabbi Guigui pointed out that each religion must have its identity if it is to take root in a given country, and that the only way to prevent jihadism is to give each person an identity. Ms Marguerite A. Peeters, referring to Article 1 of the Universal Declaration of Human Rights,[10] insisted on the urgency that "in political speeches, in education and culture, we should highlight the things that all human beings have in common: conscience, reason and heart"; she also highlighted that, in these times of fragmentation, the heritage of non-Western cultures may help to free our cultures of their individualism and to promote a more complete human development.

15. I would like to mention in this respect what His Holiness Pope Francis said in his address to the Council of Europe of 25 November 2015: "The royal road to peace … is to see others not as enemies to be opposed but as brothers and sisters to be embraced."

16. Finally, it is essential to stress – as Professor Willaime does – that it is wrong to want to prevent religions from giving their opinion on subjects which are controversial (issues concerning sexuality, gender, filiation, surrogate motherhood, medically-assisted procreation and the risk of eugenics, the end of life and euthanasia, and scientific research without ethical limits …). Even when the stance they take is inconvenient,

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7. On 22 April 2015 in Strasbourg, the committee held an exchange of views with Professor Jean-Paul Willaime, Director of Studies at the Ecole pratique des hautes études (EPHE) of Paris. This sub-section draws mainly on his contribution (which appears in document AS/Cult/Inf (2015) 03, to which I refer the reader for a more detailed analysis).

8. In this connection, Professor Willaime draws an interesting parallel: "That would be like rejecting politics on the ground that political ideologies have led to totalitarianism."

9. On 30 September 2014 in Strasbourg, the committee held an exchange of views with Rabbi Moché Lewin, Executive Director of the Conference of European Rabbis, and Ms Elizabeta Kitanović, Executive Secretary for Human Rights and Communication of the Church and Society Commission, Conference of European Churches (CEC). On 11 March 2015 in The Hague, the committee held a hearing with the following participants: Ms Gabriella Battaini-Dragoni, Deputy Secretary General of the Council of Europe; Grand Rabbi Albert Guigui, Grand Rabbi of Brussels, permanent representative of the Conference of European Rabbis to the European institutions in Brussels; Mr Anouar Kbibech, President of the Gathering of French Muslims (Rassemblement des Musulmans de France – RMF), Vice-President of the French Council of the Muslim Faith (Conseil français du culte musulman – CFCM), Paris; Ms Marguerite A. Peeters, Consultor to the Pontifical Council for Culture, Director of the Institute for Intercultural Dialogue Dynamics, Brussels. The contributions submitted at this hearing appear in document AS/Cult/Inf (2015) 03.

10. This article reads as follows: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."

it is obvious that citizens who have religious beliefs have the right, just like everyone else and with the same limitations, to "freedom of expression". When acknowledging religions, States must also accept the possibility of disagreement, with all due respect for constitutional order. I will come back to this later.

2.2. The right to freedom of religion: meaning, scope and extent of protection

17. Of course, the right to freedom of religion is fundamental to the relation between States and religious groups. Freedom of thought, conscience and religion is protected under Article 9 of the European Convention on Human Rights, which reads as follows:

> *"1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.*
>
> *2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."*

18. Article 2 of Protocol No. 1 to the Convention (ETS No. 9) protects a particular aspect of freedom of religion, namely the right of parents to ensure the education of their children in conformity with their own religious convictions. It states that:

> *"… In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."*

19. Our report on "The religious dimension of intercultural dialogue"[11] includes a detailed analysis of the place of religion in European States and of the rules governing religious worship in Europe, and a presentation of the case law on Article 9 of the Convention. In October 2013, the Registry of the European Court of Human Rights published an updated overview of the Court's case law on freedom of religion.[12] On this basis, the paragraphs below highlight some key principles which should guide our work.

20. Freedom of thought, conscience and religion, enshrined in Article 9 of the Convention, is one of the foundations of a "democratic society" within the meaning of the Convention. The term "religion" must be considered in a non-restrictive sense: religious beliefs cannot be restricted to the "main" religions. The freedom enshrined in Article 9 is guaranteed equally to all religious groups and their members.

21. In its religious dimension, this freedom is one of the most vital elements that go into making up the identity of believers and their conception of life. Freedom of religion entails, *inter alia*, freedom to hold or not to hold religious beliefs and to practise or not to practise a religion.[13]

22. Article 9 has to be interpreted in the light of Article 11 of the Convention, which safeguards associations against unjustified State interference. Seen from this perspective, the believer's right to freedom of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention.[14] Participation in the life of the community is a particular manifestation of one's religion, which is in itself protected by Article 9 of the Convention.[15]

23. Freedom of religion has both an internal and an external aspect. On an "internal" level, this freedom is absolute. On an "external" level, religious freedom also means freedom to "manifest one's religion" alone and in private, or in community with others, in public and in the circle of those whose faith one shares.

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11. Doc. 12553 (rapporteur: Ms Anne Brasseur, Luxembourg, ALDE).
12. www.echr.coe.int/Documents/Research_report_religion_ENG.pdf; moreover, on 4 June 2014 in Paris, the committee held an exchange of views with Mr Lawrence Early, Jurisconsult, Registry of the European Court of Human Rights
13. *Kokkinakis v. Greece*, judgment of 25 May 1993, paragraph 31; *Buscarini and Others v. San Marino*, Application No. 24645/94, judgment of 18 February 1999 [Grand Chamber], paragraph 34.
14. *Hasan and Chaush v. Bulgaria*, Application No. 30985/96, judgment of 2 October 2000 [Grand Chamber], paragraph 62; *Metropolitan Church of Bessarabia and Others v. Moldova*, Application No. 45701/99, judgment of 13 December 2001, paragraph 115; *Holy Synod of the Bulgarian Orthodox Church (Metropolitan Inokentiy) and Others v. Bulgaria*, Applications Nos. 412/03 and 35677/04, judgment of 22 January 2009, paragraph 103.
15. *Hasan and Chaush*, op. cit., paragraph 62; *Perry v. Latvia*, Application No. 30273/03, judgment of 8 November 2007, paragraph 55.

24. Article 9 lists the various ways in which a religion or belief can be manifested, namely worship, teaching, practice and observance. On this level, the freedom in question is only relative, since public order may be affected or even threatened. Freedom of religion does not protect each and every act or form of behaviour motivated or inspired by a religion or a belief. Article 9 of the Convention protects a person's private sphere of conscience, but not necessarily any public conduct inspired by that conscience. Accordingly, it does not allow general laws to be broken.[16] However, any interference by a State in the exercise of the right to freedom of religion must be "necessary in a democratic society". This means that it must meet a "pressing social need".[17]

25. In exercising its regulatory power in this sphere and in its relations with the various religions, denominations and beliefs, the State has a duty to remain neutral and impartial; what is at stake here is the preservation of pluralism and the proper functioning of democracy.[18]

26. In the delicate matter of the establishment of relations between religious communities and the State, the latter in principle enjoys a wide margin of appreciation.[19] The Court determines the scope of that margin having regard to the need to secure true religious pluralism, which is inherent in the concept of a democratic society.[20] The Court has also held that where questions concerning the relationship between State and religions are at stake, on which opinion in a democratic society may reasonably differ widely, the role of the national decision-making body must be given special importance.[21]

27. Article 14 of the Convention and Article 1 of Protocol No. 12 (ETS No. 177) prohibit the State from treating differently, without an objective and reasonable justification, persons in relevantly similar situations. The State enjoys a certain margin of appreciation in assessing whether and to what extent the existing differences justify different treatment, but the difference of treatment must pursue a legitimate aim and satisfy the requirement of reasonable proportionality.[22]

28. Conversely, it follows from the case law on Article 14 that, in some circumstances, the failure to treat differently persons whose situations are significantly different may constitute a violation of this provision.[23] The Court accordingly takes into account the distinctive features of various religions (in terms of dogma, rituals, organisation, etc.) when those features may be of key significance in settling the dispute before it.

29. In a democratic society in which several religions (or several branches of the same religion) and belief systems co-exist within the same population, it may be necessary to place restrictions on freedom of religion in order to reconcile the interests of the various groups and ensure that everyone's beliefs are respected.[24]

3. Freedom of religion and religious practices

30. Although, on the whole, the legal systems of European States recognise various (religious and non-religious) beliefs and offer adequate protection, as Ms Kitanović (Conference of European Churches, CEC) told us, minority religious groups complain that it is not really possible for them to practise their religion without discrimination.

31. Therefore it is useful to point out that, in addition to the right to be constituted as a legal entity – which States should, without discrimination, guarantee to every Church and religious community – national legislation should – as the CEC asks[25] – guarantee other very concrete rights concerning the possibility to practise their religion freely, including the right for a religious community to:

– practise its faith publicly and freely, within its own self-designated houses of worship, or other places accessible to the general public, according to its own rites and customs;

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16. *Pichon and Sajous v. France* (Dec.), Application No. 49853/99.
17. *Sviato-Mykhaylivska Parafiya v. Ukraine*, Application No. 77703/01, judgment of 14 June 2007, paragraph 116.
18. *Metropolitan Church of Bessarabia and Others v. Bulgaria*, op. cit., paragraphs 115-116.
19. *Cha'are Shalom Ve Tsedek v. France*, Application No. 27417/95, judgment of 27 June 2000 [Grand Chamber], paragraph 84.
20. *Metropolitan Church of Bessarabia and Others v. Moldova*, op. cit., paragraph 119.
21. *Leyla Şahin v. Turkey*, Application No. 44774/98, judgment of 10 November 2005 [Grand Chamber], paragraph 109.
22. *Oršuš and Others v. Croatia*, Application No. 15766/03, judgment of 16 March 2010 [Grand Chamber], paragraph 149; *Savez crkava "Riječživota" and Others v. Croatia*, Application No. 7798/08, judgment of 9 December 2010, paragraphs 85-88.
23. *Thlimmenos v. Greece*, Application No. 34369/97, judgment of 6 April 2000 [Grand Chamber], paragraph 44. The Court refers to this case law in *Miroļubovs and Others v. Latvia*, Application No. 798/05, judgment of 15 September 2009.
24. *Metropolitan Church of Bessarabia and Others v. Moldova*, op. cit., paragraph 115.

– operate diaconal institutions (such as hospitals, working facilities for persons with disabilities, homes for the elderly, nursery schools, etc.) and schools (places of instruction);

– make its views known in public without being subject to censorship.

32. The accounts given by representatives of the Jewish and Muslim faiths that we have heard also concerned *de jure* or *de facto* restrictions on the possibility for believers to comply with certain "religious practices" that are considered essential to the expression of their identity and religious beliefs. As such practices are considered constitutive elements of religious beliefs, possible restrictions on them raise the question of whether they may not be violations of the right to freedom of religion.

33. Religious practices which I will consider in the present report are those that go beyond the "private sphere" and have, at least to some extent, a "public dimension". This is of course the case when the rights of persons other than the believers are at stake and, more generally, when the religious practice is implemented in a "public space".

34. Circumcision is one of those practices, but there are many others which raise questions. For example, beyond the specific problems raised by the full-face veil, religious attire or symbols which are worn ostensibly are frequently banned from schools and public (or even private) services to preserve the neutrality in relation to different beliefs and convictions. Other relevant prescriptions are those on food; in this respect ritual slaughter is of high importance for Jewish and Muslim communities. Religious practices which require believers not to work on certain days may also create tensions between employees and employers.

3.1. Circumcision

35. The practice of circumcision has been subject to much discussion in various countries.[26] After the adoption of Assembly Resolution 1952 (2013) on children's right to physical integrity, some readers misinterpreted the Assembly position, considering that it had called for a ban on the circumcision of young boys. It is important to clarify that this is not what the Assembly did. Instead, the Assembly called, *inter alia*, on Council of Europe member States to "clearly define the medical, sanitary and other conditions to be ensured for practices which are today widely carried out in certain religious communities, such as the non-medically justified circumcision of young boys" (paragraph 7.5.2).

36. However, this resolution – and namely its paragraph 2 – might raise the sensitive question of whether circumcision can be qualified as a "violation of the physical integrity of children"[27] or, in other terms, if circumcision per se raises an issue of compatibility with the right of children to their physical integrity. I believe it would be inaccurate to conclude in this sense. As a matter of fact, circumcision impacts on the physical integrity of children and entails a "permanent alteration" of the child's body (though a minor one); however, this is not a "violation per se" of the child's physical integrity.

37. In this respect, it could have been misleading that Resolution 1952 (2013) mentioned circumcision in the same list which also included, among others, female genital mutilation and early childhood medical interventions in the case of intersex children. These are of course very different kinds of "physical alterations" and, to my understanding, the Assembly never intended to equate them and the circumcision of young boys.

38. There is no need to discuss here the potential sanitary benefits of circumcision against its potential inconveniences. In European societies, in many cases the main – if not unique – reason for circumcision will be the religious belief of the parents. I believe it is perfectly understandable and acceptable that parents wish to share their faith with their children; and there is nothing wrong in their desire that their children form part of their religious community.

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25. See the document drawn up by the CEC on Minimum standards (minimal rights) for Churches and Communities of faiths and Religions.

26. Denmark, Sweden and Norway are currently considering banning the practice. In Germany, following the ruling by a regional court in Cologne that religious circumcision of boys amounted to bodily injury, the German Parliament passed a law which explicitly permits circumcision only under certain circumstances.

27. This paragraph reads as follows: "The Parliamentary Assembly is particularly worried about a category of violation of the physical integrity of children, which supporters of the procedures tend to present as beneficial to the children themselves despite clear evidence to the contrary. This includes, among others, female genital mutilation, the circumcision of young boys for religious reasons, early childhood medical interventions in the case of intersex children, and the submission to, or coercion of, children into piercings, tattoos or plastic surgery."

39. Of course, there must be agreement on the need to protect the child: the child's interest shall be considered predominant. For this reason, it is quite right that member States "regulate" circumcision as a medical act. In this respect:

– first, circumcision shall not be allowed unless it is practised by a person with the required training and skills, and under adequate sanitary and medical conditions. This shall remain a non-negotiable borderline;

– second, I believe that parents should take "informed decisions"; this means that, whatever the importance attached to the act from a religious standpoint, parents must be duly informed of any potential medical risk or contraindications and also take them into account when deciding what is best for their child.

40. To conclude on this question, I am sure that neither responsible religious authorities nor the communities themselves would ask parents to harm their child. Therefore, I also believe religious authorities themselves might wish to seek how best to reconcile religious tradition and children's rights, should there be specific medical reasons which clearly opposed practising circumcision.

3.2. The full-face veil: the S.A.S. v. France judgment

41. In its Grand Chamber judgment in the case of *S.A.S. v. France*,[28] the European Court of Human Rights held that a ban on wearing clothing designed to conceal one's face – in the instant case the full-face veil – in public areas in France did not breach the European Convention on Human Rights.

42. The Court found that the legal ban on concealing one's face constituted a "continuing interference" in the exercise of the rights guaranteed by Articles 8 (right to respect for private and family life) and 9 (right to respect for freedom of thought, conscience and religion) of the Convention. However, the ban complained of could be regarded as "proportionate".

43. The Court dismissed the arguments of the French Government relating to "public safety" and, as to the "protection of the rights and freedoms of others", the arguments relating to respect for gender equality and for human dignity. However, for the Court, wearing a veil that concealed one's face in a public space could undermine another value of an "open democratic society": the "living together".

44. In this connection, it indicated that the face played a significant role in social interaction and that the possibility of open interpersonal relationships was, by virtue of an established consensus, an indispensable element of community life. It was able to understand the view that practices or attitudes which might fundamentally call into question this possibility should not be allowed to develop. The Court therefore considered that the full-face veil represented a "barrier" that could be construed as breaching the "right of others to live in a space of socialisation which made living together easier".

45. Then, the Court noted that the question whether or not it should be permitted to wear the full-face veil in public places constituted a choice of society and that there was no common ground between the member States of the Council of Europe on this question.[29] In these circumstances, the respondent State has a wide margin of appreciation, and the Court has a duty to exercise a degree of restraint in its review of Convention compliance, since such review leads it to assess a balance struck by means of a democratic process within the society in question. The ban complained of could therefore be regarded as proportionate to the aim pursued, namely the preservation of the conditions of "living together".

46. In the framework of this report, I do not wish to adopt a position in respect of this judgment and its possible implications. I will confine myself to the following remark: the assertion of the "right of others to live in a space of socialisation which makes living together easier", although it provided a justification, in the case under consideration, for a restriction of freedom of religion, could also be a starting point for developing a new concept of the State's role in the promotion of "living together".

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28. Application No. 43835/11, judgment of 1 July 2014 [Grand Chamber]. The case concerned a French national living in France, who is a practising Muslim and who complained that she could no longer wear the full-face veil (the burqa or niqab) in public following the entry into force, on 11 April 2011, of Law No. 2010-1192 of 11 October 2010, whereas she wore the full-face veil of her own free choice, in accordance with her religious faith, culture and personal convictions.

29. To date, only France and Belgium have passed legislation prohibiting the wearing of the full-face veil in public places. Nonetheless, this issue is or has been a subject of debate in a number of European countries (paragraphs 40 to 52 of the judgment).

47. I will add that the Court recognised the significant negative impact of the blanket ban on the situation of women who chose to wear the full-face veil for reasons related to their beliefs and that many national and international human rights bodies regarded a blanket ban as disproportionate.[30]

48. It also underlined that a State which entered into a legislative process of this kind took the risk of contributing to the consolidation of stereotypes which affected certain groups of people and of encouraging the expression of intolerance, when it had a duty, on the contrary, to promote tolerance. The Court reiterated that remarks which constituted a general, vehement attack on a religious or ethnic group were incompatible with the Convention's underlying values of tolerance, social peace and non-discrimination and did not fall within the right to freedom of expression that the Convention protected.

3.3. Ritual slaughter

49. In various European countries, the ritual slaughter required by Jews and Muslims for religious reasons comes into conflict with the principle that an animal to be slaughtered, after being restrained, must first be stunned (i.e. plunged into a state of unconsciousness in which it is kept until death intervenes), in order to spare it any suffering.

50. In Switzerland, following a referendum on ritual slaughter, the Constitution was amended in 1893 to introduce Article 25.*b*, which prohibits the bleeding of animals before they are slaughtered without stunning them first. This provision, which applies to all types of slaughter and to all types of livestock, has forbidden ritual slaughter since 1894. Slaughter of animals without stunning is also banned in Iceland, Norway and Sweden.

51. Several States allow slaughter without pre-stunning, but under specific conditions, such as "immediate" post-cut stunning. In Germany no-stunning permissions can be granted to slaughterhouses, but only if they demonstrate they have local religious customers. In June 2011, the lower house of the Dutch Parliament voted in favour of banning "no-stunning" slaughter. The Jewish community strongly condemned this decision. In June 2012, the Dutch Senate rejected the bill and proposed, as a compromise, that a veterinarian had to be present during slaughter and the animal should die within 40 seconds.

52. In France, the derogation is subject to a number of conditions: ritual slaughter must take place in an authorised slaughterhouse; the operators must have a certificate of competence in protecting animals (CCPA) and must be authorised by an approved religious body (the Chief Rabbinate of France where Kosher slaughter is concerned); the animals must be immobilised by appropriate means of restraint before their blood is let.

53. At European level, ritual slaughter is authorised by the Council of Europe 1979 Convention for the Protection of Animals for Slaughter (ETS No. 102) and by the European Union Regulation 1099/2009 on the protection of animals at the time of killing (which applies from 1 January 2013, replacing Directive 93/119). This regulation allows the existing slaughter methods with no stunning for religious reasons to continue; however, national authorities can impose stricter rules, including refusing to exempt religious slaughter from pre-stunning regulations.

54. In this context and given the wide range of possible solutions, it is not easy to take a strong position one way or the other. Personally, I believe that the laws in countries such as France or Germany strike a balance between the legitimate desire to ensure that animals are not subjected to unjustified suffering and respect for the right to freedom of religion, which also entails the right to manifest one's religion by observing certain rites.[31]

55. Apart from the fact that the right to freedom of religion is a fundamental right, I believe that such solutions are the best way of responding to the concern to protect animals. Some States justify their choice – which no doubt meets the perceived need of their citizens – by explaining that it is always possible for the members of the religions concerned to import the meat that they require; however, I find this argument rather strange: for those who seek to protect animals, it should be preferable to ensure that strict safeguards are

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30. This position was expressed *inter alia* by the Parliamentary Assembly in Resolution 1743 (2010) and Recommendation 1927 (2010) on Islam, Islamism and Islamophobia in Europe, and by the Council of Europe Commissioner for Human Rights, for whom prohibition of the burqa and the niqab are inconsistent with European values of diversity and multiculturalism. The Court also mentions the United Nations Human Rights Committee's General Comments Nos. 22 and 28 concerning religious freedom and gender equality and the opinions of the French National Advisory Commission on Human Rights and of non-governmental organisations, such as the third-party interveners in proceedings before the Court.

31. *Cha'are Shalom Ve Tsedek v. France*, op. cit., paragraph 74.

offered (i.e. that they are established in their legal system) rather than shifting the problem on to other countries where ritual slaughter may be carried out without any specific constraints with regard to the protection of animals when they are slaughtered.

4. The place of religions in a democratic society

56. It would take too long – and would not be very useful with regard to the aims of the report – to make a detailed analysis of the attitude taken in the different States to other religious practices which create tensions. For example, a whole report could be devoted to the question of distinctive types of clothing – in particular but not only the Islamic headscarf. One need only think of the numerous judgments handed down by the European Court of Human Rights (some of which have already been mentioned) or, to mention only the case of France, of the amount of ink that flowed with regard to the "Baby Loup case",[32] or of the debates on issues such as the following: should a Muslim mother be allowed to wear her headscarf while accompanying children on a school outing?

57. As Mr Kbibech explained to us, the debates on "full-face veils", "national identity" or the "Islamisation of France," which stigmatise the Muslim community, may cause strong feelings of uneasiness among young Muslims: the constant doubts as to the compatibility of their "culture" and their "religious beliefs" with life in France pose a challenge to their identity. As a result, even those who were not asserting their difference in terms of their culture or in the way they worship find themselves compelled to assert the identity that is being imposed on them. This is a danger that we have to consider when discussing how to counter radicalisation.

58. Tensions may differ in intensity – and they may be reduced – also depending on the approach taken by the national authorities concerning the principle of secularity and its implementation. Moreover, the possible solution to several conflicts depends on the willingness – or not – to seek reasonable accommodation. I will address these questions in the following sections.

4.1. Towards a secularity of recognition

59. Our commitment to the principle of secularity is unquestionable. It is a pillar of our plural democratic societies and we must ensure that it is respected. Nevertheless, it has to be recognised that there is no one single way of understanding and applying secularity. As a result, these diverse understandings of secularity have an impact on the ways in which the place and role of religions are seen in our democracies. In this section I therefore reiterate almost *in extenso* Professor Willaime's analysis of this issue during his exchange of views with our committee, which I fully endorse.

60. The English language makes a clear distinction between *secularity* and *secularism*, between the *secular* State and the *secularist* State.[33] While a State's and its public authorities' secularity is a vital component of a liberal society, secularism is an ideological position seeking to promote a secularist order in the name of individualist values proper to it. Secularity does not mean a secularist State, but a secular one, or, in democratic societies, a State that is neutral and impartial towards its nationals' religions and beliefs; in other words a State which, as a State, professes no particular religion or atheistic philosophy of life.

61. That secular State, whose secularity should extend to its institutions and public services (and their staff), need not have a secular society. The members of that society may opt for a very wide range of religions and philosophies, and States may take account in different ways of this component of civil society, making its contributions an integral part of public life.

62. That secularity, with the State in principle adopting a neutral position to people's concepts of life, rests on the following three elements:

– freedom of conscience, thought and religion, which includes the freedom to have, or not to have, a religion, freedom to change religion and freedom to practise or not to practise the chosen religion (limited solely by the need to comply with the law and to respect democracy and human rights);

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32. The case concerned the dismissal of Ms Fatima Afif, Deputy Director of the Baby Loup nursery in Chanteloup-les-Vignes, for having refused to take off her headscarf while working at the nursery. The French Court of Cassation, meeting in plenary, found, in a judgment dated 25 June 2014, that the dismissal was justified. The court held that, under the French Labour Code, a private company or an association could place restrictions on members of staff's right to manifest their religious beliefs if it was justified by the nature of the task at hand and if the measure was "proportionate to the aim pursued".

33. "Secularism vs. Secularity in Europe", www.strasbourgconsortium.org (2011).

– equality of rights and duties for all citizens, irrespective of their religious or philosophical identification, i.e. non-discrimination by the State and public authorities against people because of their religious or philosophical affiliations;

– the mutual independence of State and religions, meaning that not only is the State free vis-à-vis religions, but also religions are free vis-à-vis the State (subject to compliance with the law and human rights in a democracy).

63. Secularity which builds on these three principles is a common good for all, believers and unbelievers alike. The State's secular neutrality also betokens equitable treatment for the different faiths. However, the neutrality of both the State and the public authorities is not relativistic: it is rooted in the bedrock of common values of human rights, the rule of law, public safety and public morality.

64. Charles Taylor holds a very similar position. Speaking about "secularism" – a term that he equates with "*laïcité*" –, Taylor states that "State neutrality is to avoid favouring or disfavouring not just religious positions, but any basic position, religious or nonreligious". According to Taylor, "secularism" has to do with "the correct response of the democratic State to diversity" and implies three requirements or goals:[34]

– "no one must be forced in the domain of religion or basic belief";

– "there must be equality between people of different faiths or basic beliefs";

– "all spiritual families must be heard, included in the ongoing process of determining what the society is about (its political identity) and how it is going to realise these goals".

Taylor also adds a fourth goal: "to try as much as possible to maintain relations of harmony and comity between supporters of different religions and *Weltanschauungen*" ("worldviews"). I believe this approach should pave the way for constructive policies towards "living together".

65. The tragic events of 2015 in Paris and Copenhagen and those instances of terrorism claimed to be in the name of Islam show us that religions can be manipulated. Hence the importance of secularity as a defence against clerical and absolutist manoeuvring that may occur when religions want to impose their standards on their members by force, or even to extend those standards to society as a whole. Religions may lead to inward-looking communities, if they aim to "confine" their members within their network, cutting them off as far as possible from the society around them, or even conveying to them a view of world society – or of a specific society, such as Western society – as a diabolical reality to be shunned and combated.

66. However, in democratic countries, rather than adopting a merely defensive concept of secularity intended to protect society from religions, a proactive and inclusive concept of secularity should be embraced, which can positively take into account the contributions made by the religious components of society. Indeed, in Europe various forms of secularity prevail which recognise religions, namely forms of secularity which combine mutual independence for State and religions and an explicit taking into account of religions' place and role in society.

67. "Secularity of recognition" particularly means the social recognition of religious communities. Religions are socially recognised when they are regarded as specific social and cultural realities. There are five dimensions in which States give religions social recognition:

– a specifically *legal* dimension, with special legal frameworks being offered to them for their religious activities (including, in France, religious associations and religious congregations);

– a specifically *social* dimension, taking account of the contributions they make in the fields of social solidarity and education;

– an *ethical* dimension, consulting them on issues involving concepts of the human being;

– a more *political* dimension when States provide for partnership and co-operation relationships with religious groupings to work towards shared objectives;

– a more *symbolic* dimension when States get religions involved, or more often the majority religion, to mark national unity on certain occasions (deaths, disasters, …).

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34. Charles Taylor, "The meaning of secularism", *The Hedgehog Review*, autumn 2010, pp. 23-33 (published online at http://iasc-culture.org/THR/archives/Fall2010/Taylor_lo.pdf). See also "Why we need a radical redefinition of secularism*" in: The power of religion in the public sphere*, Jonathan VanAntwerpen and Eduardo Mendieta (editors), New York; Columbia University Press, 2011.

68. A secularity of recognition necessarily fosters constructive partnerships between the public authorities and religious communities as well as the willingness, in the context of such partnerships, to seek reasoned and reasonable solutions to the tensions that such opposing demands can create; solutions which would therefore help us to live together in harmony.

4.2. The concept of reasonable accommodation: the possibility of applying it in the domain of freedom of religion

69. When discussing member States' duties in relation to the effective guarantee of the right to freedom of religion, "reasonable accommodation" constitutes an interesting concept.[35] This concept first emerged in the United States and Canada in equality law as a means of handling religious diversity. It was then applied to other grounds of discrimination, primarily to disability.[36]

70. This concept holds that measures need to be taken in order to ensure effective equality and full enjoyment of rights. It is applied not to groups or categories of individuals, but on a case-by-case basis to individuals who are specifically and personally affected by regulations or measures which prevent the full enjoyment of their rights. Therefore, the objective is not to exclude the general application of the law, but to remove the barriers faced by persons in a situation of discrimination.

71. The duty of reasonable accommodation is generally accepted by Council of Europe member States when it applies to disability, as a corollary of the prohibition of indirect discrimination, but very few recognise this duty in other areas. It should, however, be noted that the accommodation principle is applied in many member States of the Council of Europe in practice, regarding flexible working hours and leave for religious holidays in the field of employment or regarding dietary requirements.

72. In the case of *Glor v. Switzerland*,[37] the Court, without expressly mentioning this duty as such, stated that Article 14 of the Convention "does not prohibit distinctions in treatment which are founded on an objective assessment of essentially different factual circumstances and which, being based on the public interest, strike a fair balance between the protection of the interests of the community and respect for the rights and freedoms safeguarded by the Convention". The Court then noted that "special forms of civilian service tailored to the needs of people in the applicant's situation are perfectly envisageable" and found a violation of Article 14 because of the Swiss authorities' failure "to strike a fair balance between the protection of the interests of the community and respect for the Convention rights and freedoms of the applicant".

73. As regards dietary requirements, the Court recently found a violation of Article 9 because the prison authorities had refused to provide the applicant with a vegetarian diet as required by his Buddhist convictions, referring in particular to "a positive duty on the State to take reasonable and appropriate measures to secure the applicant's rights under paragraph 1 of Article 9 of the Convention".[38]

74. In the case *Eweida and Others v. the United Kingdom*,[39] the applicants maintained that the right to freedom of religion also entails a duty of reasonable accommodation. Again, the Court did not formally recognise the concept, but established general principles which, at least implicitly, result in a duty of reasonable accommodation for employers with regard to the religious beliefs of their employees.

75. In particular, in the case of Ms Eweida, a British Airways employee who had been prevented by her employer from remaining in her post while visibly wearing a cross, the Court ruled that the British court had accorded too much weight to the employer's corporate image at the expense of the applicant's wish to manifest her religion and, therefore, that the criterion of proportionality had not been met in the case under consideration.

76. Conversely, in the case of the second applicant, Ms Chaplin, a geriatric nurse in a State hospital who had also been requested to remove her cross while on duty, the Court considered that the reason for asking her to remove the cross, namely the protection of health and safety on a hospital ward, was inherently more important than a corporate image and found that there had been no violation of Article 9 of the Convention.

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35. The following analysis is largely based on the analysis made by Mr Valeriu Ghiletchi (Republic of Moldova, EPP/CD) in the explanatory memorandum on the theme "Tackling religious intolerance and discrimination in Europe with a special focus on Christianity" (document AS/Ega (2014) 17, paragraphs 38-42).

36. See E. Bribosia, I. Rorive, L. Waddington, Reasonable Accommodation beyond Disability in Europe?, European Commission, 2013.

37. Application No. 13444/04, judgment of 30 April 2009.

38. *Vartic v. Romania* (No. 2), Application No. 14150/08, judgment of 17 December 2013.

39. Application No. 48420/10, judgment of 15 January 2013.

77. In the cases of Ms Ladele and of Mr McFarlane, who had been dismissed for refusing to carry out certain duties which they considered would condone homosexuality,[40] the Court dismissed the applicants' claim that they be afforded reasonable accommodation, considering that the right to freedom of religion could not justify impairment of other fundamental rights such as the right not to be discriminated against.

78. Based on this case law, it seems that the concept of reasonable accommodation can be used as a sort of corollary of the principle of non-discrimination; it helps courts to analyse a concrete situation and to verify whether, with a view to the effective implementation of this principle, it is necessary to adopt specific solutions in respect of the subjects concerned, taking account of the various interests at stake. One might see this as a sort of "justice for specific cases" but with the potential to be extended to similar cases. I would welcome such a development, namely a wise use of the principle of reasonable accommodation by the judiciary to correct indirect discrimination which could originate from regulations imposing disproportionate burdens on members of religious communities.

79. Heiner Bielefeldt,[41] United Nations Special Rapporteur on freedom of religion or belief, speaks about "diversity-friendly equality" and argues that the purpose of the principle of reasonable accommodation is "to overcome the indirectly discriminatory implications of those societal or legal norms that stem from the dominant religious traditions of a country and to create more suitable conditions for members of minorities, who should be able to live in accordance with their convictions". Within this framework, the "reasonableness" criterion implies the seriousness of the claims and is there to avoid their "inflation", and "accommodations" contribute to achieving "equality" in different societal contexts.

80. On this basis, I would like to suggest, in addition to the legal one, a more political approach: instead of giving the court the monopoly of seeking fair solutions, I believe that it is for political decision-makers to take constructive initiatives in this field and to provide guidance on how to facilitate living together by means of reciprocal efforts of accommodation. This does not concern exclusively believers: the principle of reasonable accommodation, for example in the workplace, can be of value for non-religious employees and shall be applicable to them.

81. I would also stress the need for reciprocity: it is not a case of religious communities asking on the one hand and the State responding on the other. The accounts we have heard also show that religious communities are prepared to fit into the legal framework of the host country; and are also prepared to meet with other communities: extremists and fanatics are the exception rather than the rule.

5. Conclusions

82. Living together in harmony is based on shared principles and values. Where the Council of Europe is concerned, these principles and values can be summarised as:

– a profound belief in human dignity which takes the form of respect for fundamental rights as recognised and protected by our democratic constitutions and by the European Convention on Human Rights;

– observation of democratic principles and the rule of law, which takes the form of acknowledgment of diversity and respect for the principle of non-discrimination between the different groups that make up our plural societies.

83. These principles and values, which are the product of our History, are non-negotiable and it is our common responsibility – whatever religious or non-religious worldviews we may embrace – not only to respect, but also to preserve and promote them. In this connection, there is no question of accepting "relativism". Unconditioned and resilient commitment towards effective guarantee of the fundamental rights of every person, steady respect of democratic principles and firm adherence to the rule of law are the benchmarks which apply to all members of the State community. Nevertheless, that does not mean that there is only one way of implementing our common principles and values in different contexts. This "contextualisation" is not intended to undermine them but to make them dynamic and vibrant.

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40. Ms Ladele, a registrar of births, deaths and marriages of the London Borough of Islington, was dismissed after her refusal to officiate at same-sex civil partnership ceremonies. Mr MacFarlane, a counsellor in a private company providing sexual and relationship therapy, was dismissed following his refusal to work with same-sex couples.

41. Heiner Bielefeldt: "Freedom of religion or belief: anacronistic in Europe ?"; in "*The RELIGARE Report – Belief, Law and Politics: what future for a secular Europe?"*, Ashgate (2014), pp. 55-65. This publication (which was edited by Marie-Claire Foblets, Katayoun Alidadi, Jørgen S. Nielsen and Zeynep Yanasmayan) includes the principal findings of the three-year RELIGARE project on religious diversity and secular models in Europe.

84. Deep down inside, we are each free to choose how we see the world and to choose our faith; in our relational life, this freedom goes hand in hand with the freedom of others. The right to freedom of religion of some cannot be imposed on others. Nevertheless, that does not mean that public areas should be seen as areas in which there should be no religion: that would be tantamount to imposing a new State religion on everyone. It is more a question of "making room" for encounters between various visions of the world. That is how I understand a secularity of recognition. Our role should be to build societies where all our fellow citizens, whatever their religion or cultural identity, live together with mutual respect and understanding.

85. In all our countries, albeit to differing degrees, encounters with "others", with those who are different, generate a social malaise; and mixing, notably as a result of immigration, is regarded by some people as synonymous with a decline in living conditions and is linked to all the problems: growing crime (trafficking, prostitution, violence, theft, vandalism) and insecurity in urban areas; unemployment; welfare system deficits and so on.

86. More generally, some people consider cultural and religious diversity as a threat of loss of what people term national identity, which seems to be understood most often as an immutable identity that is held sacred. As a result, many of our fellow citizens *de facto* come to desire the isolation and exclusion of members of communities characterised by such cultural and religious diversity, and even their elimination from social space.

87. Grand Rabbi Guigui told us that "the beauty and wealth of our society lie in its diversity" and that not only must we not be afraid of differences but we have a "right to difference". This means to me not only the right to be different and be accepted, but also the right to benefit from the difference of others that can enrich us.

88. The wide range of cultural and religious references creates tensions. That is not a reason for wishing to have societies where there is no diversity and for ghettoising everything that is different. Such tension can be resolved by dialogue and real determination to build society together. We must therefore foster encounters and partnerships.

89. As His Holiness Pope Francis told us: "This calls for mutual engagement in a far-ranging reflection aimed at creating a sort of new 'agora', in which all civic and religious groups can enter into free exchange, while respecting the separation of sectors and the diversity of positions, an exchange inspired purely by the desire of truth and the advancement of the common good."

90. We need to really get to know each other in order to join our strengths and build together social justice through responsive and inclusive policies. The prerequisite for this is mutual understanding and respect. Many factors are influential in the formation of the individual personality. Each family and each cultural and religious community has the responsibility and the duty to support the development of open-minded individuals, capable of critical thinking and of constructive dialogue with others; without their commitment we can hardly build up a pluralist but cohesive, democratic society.

91. Moreover, media in general and Internet in particular have a great influence in today's global information society. In the virtual agora, young people meet and develop peer-to-peer relationships which are crucial in the process of structuring their personalities and identities; but these encounters can also channel messages which deconstruct solidarity and instil fear and even hate of others. It is therefore crucial to fight against intolerance on the web and use the Internet to promote mutual recognition and respect. This issue falls outside the scope of the present report, but I would like to pay tribute to the Council of Europe project "No Hate Speech Movement – Campaign of Young People for Human rights Online".

92. The role of education and the presence of religion in schools are sensitive issues. At the risk of provoking a debate, I believe that we are not doing enough to teach about religion or to encourage encounters between religions in schools.

93. What would happen if, instead of removing all religious symbols from schools, we tried to explain them to one another? What would happen if instead of interpreting the presence of such symbols as a violation of our personal identity, we learned to interpret them as what people have to tell us about who they are? It is not the symbol in itself that is dangerous but the attitude we take when we wear it or reject it. We need to work on those attitudes and this can be done by fostering encounters and dialogue. A secularity of recognition perhaps requires more effort from States in this respect.

94. As political decision-makers, we are duty-bound to ensure that:

– the principles of democracy are upheld not just formally, but also in the deepest sense, thereby giving everyone a say in the process that determines our societies' choices;

– in this context, democratic principles are not used to justify a tendency towards "majoritarianism", which too often tends to ignore the needs and expectations of those in the "minority" or, worse, gives them the impression that they do not belong, that they do not have the same right to exist as those in the "majority".

95. To conclude, I believe that the Council of Europe should play a more active role in the promotion of the "living together". We have already put forward concrete proposals to the Committee of Ministers, *inter alia* in our Recommendation 1962 (2011) on the religious dimension of intercultural dialogue and our Recommendation 1975 (2011) "Living together in 21st-century Europe: follow-up to the report of the Group of Eminent Persons of the Council of Europe". Some of these proposals can be found again in the draft resolution and draft recommendation contained in the present report.