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The protection of minors against excesses of sects

Report[1]
Committee on Legal Affairs and Human Rights
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Summary

The Committee on Legal Affairs and Human Rights is of the opinion that more measures must be taken at national and European level to counter the excesses of sects which affect minors.

Without seeking to define the term "sect", the committee puts forward a series of measures to identify more effectively the extent of the phenomenon of sects and to combat abuse of minors by sects. It condemns in particular the "excesses of sects", namely acts and techniques which seek to place individuals in a state of psychological or physical submission, and stresses that these excesses can lead to violations of the fundamental rights of minors in terms of their right to life, their physical integrity, their family and social links and their education.

Unfortunately, in Europe, there are no comprehensive data on the scale of this problem, and action taken in this regard by the European institutions and the national authorities has been very limited. Only a few States have passed legislation to prevent and punish excesses of sects (Belgium, France and Luxembourg) and a number of others (in particular Austria, Germany and Switzerland) have adopted smaller-scale measures, primarily in the field of surveillance.

The Council of Europe member States should step up their efforts to protect minors against the excesses of sects. Amongst other things, they should compile statistics on the scale of the phenomenon of sects, set up national surveillance centres in this regard, ensure effective monitoring of private schools and home schooling, make abuse of weakness a criminal offence, and carry out large-scale awareness-raising activities. It is also recommended that national parliaments set up study groups on the phenomenon of sects so that the public at large is made more aware of this issue. In addition, the committee believes that it would be helpful to set up a working group in the Council of Europe for the purposes of exchanging information and good practices.

1. Reference to committee: Doc. 12595, Reference 3776 of 20 June 2011.

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A. Draft resolution[2]

1. The Parliamentary Assembly underlines the commitment of the Council of Europe to a policy for the protection of minors, which has led to the adoption of a number of conventions in this area, including the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201), the Convention on Action against Trafficking in Human Beings (CETS No. 197) and the European Convention on the Exercise of Children's Rights (ETS No. 160).

2. The Assembly itself has adopted texts on child protection and welfare, including Recommendation 1551 (2002) "Building a 21st century society with and for children: follow-up to the European Strategy for children (Recommendation 1286 (1996))", Resolution 1530 (2007) and Recommendation 1778 (2007) "Child victims: stamping out all forms of violence, exploitation and abuse" and Resolution 1952 (2013) and Recommendation 2023 (2013) on children's right to physical integrity.

3. The Assembly is particularly concerned about the influence which sect-like movements can have on minors, given the latter's vulnerability. It strongly condemns the "excesses of sects", namely acts which have the purpose or effect of creating, maintaining or exploiting a state of psychological or physical submission in an individual, causing harm to that individual or for society. Such excesses may cause human rights violations, particularly in terms of the health, physical and psychological integrity, schooling and social and emotional development of minors, who are often removed from their family environment and/or cut off from any outside contact.

4. The Council of Europe has always promoted a culture of "living together" and the Assembly has spoken out on several occasions in favour of freedom of thought, conscience and religion, as well as in favour of minority religious groups, including those which have recently appeared in Europe, in particular in Recommendation 1396 (1999) on religion and democracy and Recommendation 1804 (2007) on State, religion, secularity and human rights and in Resolution 1846 (2011) and Recommendation 1987 (2011) on combating all forms of discrimination based on religion. The Assembly also, however, addressed the illegal activities of sects and certain new religious movements in Recommendation 1178 (1992) on sects and new religious movements and in Recommendation 1412 (1999) on illegal activities of sects.

5. The Assembly notes that the phenomenon of excesses of sects affecting minors is ever more present in Europe. It is concerned by the lack of comprehensive data on the subject, especially in central and east European countries, and the lack of practical and effective action against the phenomenon in most Council of Europe member States. To date, only a few States have passed specific laws to combat excesses of this kind (Belgium, France and Luxembourg) or have taken action in terms of monitoring and information (in particular, Austria, Germany and Switzerland). Even though historical factors mean that some countries have preferred not to legislate in this area and, in most cases, instead support the activities of non-governmental organisations (NGOs) and/or churches (Catholic, Orthodox or Protestant) in terms of providing information and assistance for the victims of excesses of sects, the problem seems sufficiently serious to warrant greater efforts by the authorities.

6. The Assembly therefore calls on the member States to:

6.1. sign and/or ratify the relevant Council of Europe conventions on child protection and welfare;

6.2. gather accurate and reliable information about cases of excesses of sects affecting minors, where appropriate in crime and/or other statistics;

6.3. set up or support, if necessary, national or regional information centres on sect-like religious and spiritual movements;

6.4. provide teaching in the history of religions and the main philosophies in schools;

6.5. make sure that compulsory schooling is enforced and ensure strict, prompt and effective monitoring of all private education, including home schooling;

6.6. carry out awareness-raising measures about the scale of the phenomenon of sects and excesses of sects, in particular for judges, ombudsmen's offices, the police and welfare services;

6.7. adopt or strengthen, if necessary, legislative provisions punishing the abuse of psychological and/or physical weakness, and enabling associations to join proceedings as parties claiming damages in criminal cases concerning excesses of sects;

2. Draft resolution adopted by the committee on 3 March 2014.

6.8. support, including in financial terms, the action of private bodies which provide support for the victims of excesses of sects and their relatives and, if necessary, encourage the establishment of such bodies.

7. The Assembly also calls on national parliaments to set up study groups on the phenomenon of sects and its impact on minors.

B. Draft recommendation[3]

1. The Parliamentary Assembly, referring to its Resolution … (2014) on the protection of minors against excesses of sects, recommends that the Committee of Ministers:

1.1. conduct a study of the scale of the phenomenon of sects affecting minors at European level, on the basis of information provided by the member States;

1.2. set up a working group to exchange information between member States on excesses of sects affecting minors and to develop good practices for preventing the problem;

1.3. seek to improve co-operation at European level with a view to implementing joint activities to prevent excesses of sects and protect minors against them.

3. Draft recommendation adopted by the committee on 3 March 2014.

C. Explanatory memorandum by Mr Salles, rapporteur

1. Introduction

1.1. Procedure

1. The motion for a resolution on "The protection of minors against sectarian influence" presented by Mr Christos Pourgourides and others (Doc. 12595)[4] was referred to the Committee on Legal Affairs and Human Rights on 20 June 2011 and, at its meeting in Paris on 7 September 2011, the committee appointed me rapporteur.

2. In order to shed light on the relevant issues, the committee held a hearing on the subject in Paris on 6 September 2012, with the participation of the following experts:

– Professor Sophie van Bijsterveld, University of Tilburg, member of the Senate, Netherlands;

– Mr Georges Fenech, member of the French National Assembly, former President of MIVILUDES;

– Mr Maksym Yurchenko, lawyer, Family and Personality Protection Society, Ukraine.

3. In March 2013, a questionnaire was sent to the member States' parliamentary delegations, through the European Centre for Parliamentary Research and Documentation (CERDP),[5] with a view to gathering more data about the scale of the phenomenon of sects and current legislation protecting minors against the dangers of sects. I also made two fact-finding visits to meet representatives of institutions and civil society involved in combating excesses by sects and protecting children: firstly, to Stockholm (Sweden), on 12 December 2012,[6] and, secondly, to Berlin (Germany),[7] on 7 June 2013.

1.2. Issues and terminology

4. The motion for a resolution underlines the commitment of the Council of Europe to a policy for the protection of minors and its achievements in this field. It stresses the need to study the question of the influence of sects on minors on a European level, given that sect-like phenomena may cause human rights violations, particularly in the spheres of health, education and respect for personal freedoms. Owing to their vulnerability, children and teenagers may easily fall victim to both physical and psychological ill-treatment.

5. A number of studies have demonstrated that it is impossible to reach a consensus on the definition of "sect". It clearly cannot be said that all activities carried out by "sects" are illegal, even though some of these groups' activities may appear dubious. What interests us in the context of this report are the "excesses of sects", which, according to the French Inter-Ministerial Mission for Vigilance and Action against Sectarian Excesses (MIVILUDES), are characterised by "the use of pressure or techniques which have the purpose or effect of creating, maintaining or exploiting a state of psychological or physical submission in an individual, causing harm to that individual or for society". This term, while not defined in French legislation,[8] was also used by the Conference of International Non-governmental Organisations (INGOs) of the Council of Europe in its recommendation of 27 January 2011.[9] On the other hand, the Belgian Centre for Information and Opinions on Harmful Sectarian Organisations (CIAOSN/IACSSO) talks of the "phenomenon of harmful sectarian organisations".[10]

1.3. Minors and excesses of sects

6. Among other things, excesses by sects can impact on minors' family relations, their social, spiritual and moral welfare and their health or may engender violence, including of a sexual nature, in the guise of doctrine or education.[11] According to the MIVILUDES, despite the complexity of the phenomenon of excesses of sects

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4. Doc. 12595.
5. See http://assembly.coe.int/Conferences/2012Strasbourg/Pdf/PrioritiesProgrammeECPRD2012-2013E.pdf.
6. See press release of 13 December 2012.
7. See press release of 10 June 2013.
8. MIVILUDES, Guide, La protection des mineurs contre les dérives sectaires, La documentation française, Paris, 2010, pp. 15 and 16.
9. Recommendation on Sectarian Excesses and Violations of Human Rights (CONF/PLE(2011)REC1), adopted on 27 January 2011.
10. www.ciaosn.be/missions.htm.
11. CIAOSN/IACSSO (Belgium), Rapport bisannuel 2007-2008 [Biennial report, 2007-2008], Brussels, p. 20.

affecting minors, three classic scenarios may be distinguished: 1) when the child is in a family where the parents are followers of a sect-like movement; 2) when the child is taken into the care of a practitioner/follower of such a movement; 3) when the minor/teenager is beguiled by the alternative and absolute statements of members of those movements, which may prompt them to break off all links with their family.[12] When a minor is subjected to practices involving "excesses of sects", the following can generally be seen: isolation and exclusion from society (break-up of parents, breakdown of relations between parents and children, parental child neglect, social isolation, confinement as a result of home schooling or private schooling), physical harm (physical ill-treatment, sexual abuse, denial of sleep or rest because of long religious ceremonies), inadequate diets (for instance, no animal proteins or cooked food), interruption of treatment and denial of conventional care (including refusal of compulsory vaccinations or of transfusions), discontinuation of schooling (for example dropping out), major changes in the behaviour of the child, indoctrination or stereotypical language or not thinking for oneself.[13] Mental destabilisation always occurs in these cases, although it may be combined with other criteria (excessive financial demands, breakdown of relations with one's environment, undermining of physical integrity, indoctrination of children, antisocial speech, public order offences, etc.).[14]

2. International legal instruments concerning child protection

7. Accordingly, we should consider the current state of the Council of Europe's activities in the respective areas of child protection and freedom of thought, conscience and religion. To date, the Council of Europe has only rarely focused on the issue of excesses of sects. However, it has always fought for the best interests of the child, as illustrated by numerous conventions[15] and Committee of Ministers recommendations[16] in the area of the rights of the child. In addition, the Council of Europe promotes a culture of "living together"[17] and the Parliamentary Assembly has spoken out on several occasions in favour of freedom of thought, conscience and religion, deploring all forms of discrimination and intolerance towards minority religious groups, including those which have recently appeared on our continent.[18]

8. It should also be noted that the United Nations Convention on the Rights of the Child (UNCRC), adopted in New York on 20 November 1989 and ratified by all the Council of Europe's member States, is the founding text regarding child protection in international law.[19] The obligations arising under the UNCRC are fairly general and require implementing measures (legislative, administrative and others) at national level. While the UNCRC does not directly deal with the question of excesses of sects affecting children, it does consider a number of relevant issues in this context: the child's personal relations (Article 9.3), access to justice (Article 12.2), the right to express views freely (Articles 12 and 13), freedom of thought, conscience and religion (Article 14), health (Article 24.1), education (Articles 28 and 29), and protection against sexual exploitation and violence and all other forms of exploitation (Articles 24, 32 and 36). The Convention's preamble points out *inter alia* that "the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding": this principle is particularly important to reiterate in view of the total commitment demanded by certain religious movements, which can lead to the breaking off of links with families, or the complexity of situations involving a separation of the parents because one of them is a follower of such a movement.

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12. Supra note 8.
13. Report by the Parliamentary Committee of Inquiry, L'enfance volée, Les mineurs victimes des sectes, French National Assembly, December 2006, Report No. 3507.
14. Ibid.
15. For a list of these conventions, see *inter alia*: www.coe.int/t/dg3/children/keyLegalTexts/conventionsonchildrensrightsList_en.asp.
16. See inter alia Recommendation No. R (91) 9 of the Committee of Ministers to member States on emergency measures in family matters, adopted on 9 September 1991. For a list of recommendations in this field, see inter alia: www.coe.int/t/dg3/children/keyLegalTexts/CMRec_en.asp.
17. See *inter alia* the report by the Group of Eminent Persons of the Council of Europe: Living together: Combining diversity and freedom in 21st-century Europe .
18. See *inter alia* Recommendation 1396 (1999) on religion and democracy and Recommendation 1804 (2007) on State, religion, secularity and human rights, and also Resolution 1845 (2011) and Recommendation 1987 (2011) on combating all forms of discrimination based on religion, based on a report by our colleague on the committee, Mr Tudor Panţiru (Romania, SOC), Doc. 12788.
19. http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&lang=en.

3. The activities of the Parliamentary Assembly regarding protection of children from abuse

9. The Assembly has spoken out on several occasions in favour of child welfare and protection.[20] In its Resolution 1530 (2007) "Child victims: stamping out all forms of violence, exploitation and abuse", it voiced its concern over the high numbers of children who are victims of "violence, ill-treatment, exploitation, trafficking, trade in their organs, child prostitution and child pornography", particularly because of "their vulnerability, their legal incapacity as minors and the inadequacy of the legal and social protection they receive". It called on the member States to take steps to consolidate child protection, create a national body to collect information on child victims of abuse and set up an "observatory of ill-treatment" operating at both national and European levels.

10. In addition, in its Recommendation 1778 (2007) "Child victims: stamping out all forms of violence, exploitation and abuse", the Assembly urged the Committee of Ministers to adopt a convention aimed *inter alia* at protecting children against "all interference with their bodily or psychological integrity, whatever the cause and form" and this call remains valid,[21] despite the adoption, in October 2007, of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No. 201, "Lanzarote Convention").[22] The Assembly had also requested, in a previous recommendation in 2002, that the Committee of Ministers envisage setting up a computerised European data centre on missing children, to centralise information on disappearances and provide the police, families, voluntary organisations, etc. with the necessary information and assistance for their location and recovery,[23] but the Committee of Ministers took the view that it was premature to follow up this proposal.[24] Recently, the Assembly considered the issue of the right of children to physical integrity in Resolution 1952 (2013) and Recommendation 2023 (2013).[25] In the latter, it called on the Committee of Ministers to "take fully into account the issue of children's right to physical integrity when preparing and adopting its new strategy for the rights of the child …, in particular as regards the fight against all forms of violence against children and the promotion of child participation in decisions concerning them".

4. Freedom of religion and the other European Convention on Human Rights provisions applicable to the activities of "sects"

11. There are no rules at European level specifically governing the activities of "sects" or "new religious movements", the exercise of which falls within the scope of Article 9 (freedom of thought, conscience and religion), Article 10 (freedom of expression) and Article 11 (freedom of association) of the European Convention on Human Rights (ETS No. 5, "the Convention"). Article 9 comprises two paragraphs, the first defining the rights to be protected and the second specifying the restrictions or reservations that may be legitimately applied to the freedom to manifest one's religion or beliefs set out in the first paragraph. The first paragraph enshrines every person's right to freedom of thought, conscience and religion; this right implies the freedom to change religion according to one's conscience.[26] That said, the right to manifest one's religion may be limited, if that limitation is "prescribed by law" and "necessary in a democratic society" on one or more of the grounds for limitation listed (Article 9.2 of the Convention). So while the European Court of Human Rights ("the Court") generally recognises that proselytism is protected under Article 9 of the Convention, it has accepted that improper proselytism may be prohibited or restricted.[27]

12. Restrictions may also apply to the exercise of freedom of expression and association (Article 10.2 and Article 11.2 of the Convention). Furthermore, other provisions of the Convention may be applicable here, in particular: Article 14 (of the Convention) and Article 1 of Protocol No. 12 (prohibition of discrimination), Article 2 of Protocol No. 1 (right of parents to ensure education and teaching in conformity with their own

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20. See, for example, Recommendation 1121 (1990) on the rights of children. For the list of Assembly resolutions, see: www.coe.int/t/dg3/children/keyLegalTexts/paceResolution_en.asp.
21. Reply from the Committee of Ministers adopted on 6 February 2008, Doc. 11554 of 3 April 2008, particularly paragraphs 8 and 9 of appendix 2 to the reply.
22. For further information, see: www.coe.int/t/dghl/standardsetting/children/default_EN.asp.
23. Recommendation 1551 (2002) "Building a 21st century society with and for children: follow-up to the European Strategy for children (Recommendation 1286 (1996))", paragraph 7.
24. Reply from the Committee of Ministers adopted on 16 April 2003, Doc. 9792.
25. See also the report on the subject by the Committee on Social Affairs, Health and Sustainable Development, Rapporteur: Ms Marlene Rupprecht (Germany, SOC), Doc. 13297, in particular paragraphs 61-62 of the report on the omission of certain medical treatments by Jehovah's Witnesses.
26. "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".
27. *Minos Kokkinakis v. Greece*, Application No. 14307/88, judgment of 25 May 1993.

religious and philosophical convictions) or Article 17 (prohibition of abuse of rights and freedoms set out in the Convention by the State or private individuals). However, "excesses of sects" may violate the rights and freedoms safeguarded by the Convention, particularly absolute rights, such as those in Article 2 (right to life), Article 3 (prohibition of torture), Article 4 (prohibition of slavery and forced labour) and the right to freedom and security (Article 5) or the right to respect for private and family life (Article 8).

13. The case law of the Court regarding sects could be described as very liberal. Firstly, the Court refrains from giving a definition of sects and recognises the existence of religious minorities in general. Secondly, the Court has never ruled on the issue of the prohibition of any religious movement. Even when evidence concerning practices of sects which are punishable under criminal law is brought before it, it confines itself (being unable to do otherwise because of its very specific role) to analysing the lawfulness, necessity and proportionality of the measures taken by the national authorities.[28] The small number of judgments regarding the issue mainly concern education,[29] child custody,[30] freedom of religion,[31] freedom of expression[32] and "deprogramming" of sect leaders.[33] Analysis of the case law in this area shows that most of the judgments delivered concern Jehovah's Witnesses (in particular with regard to Article 9 of the Convention).

14. The Court has never issued judgments directly concerning minors who have been victims of the influence of sects either directly or through their parents or persons caring for them. This absence of judgments can be put down in part to the specific nature of proceedings before the Court. While the Convention (Article 34) provides for "any person" (hence also minors) to submit applications to the Court on their own behalf, it does not relieve them of the obligation to exhaust all domestic remedies. Under domestic law, however, minors face a problem related to lack of legal capacity to act. That said, it is hard to imagine a situation in which parents or legal guardians who are followers of a sect would turn to the courts to protect the children concerned against themselves.

5. Stance of European bodies on the phenomenon of excesses of sects

5.1. The initiatives of the Assembly

15. The issue of "sects" appeared in an Assembly text for the first time in 1992. This topic, which was then the focal point of a report by our committee, initiated by Sir John Hunt (United Kingdom),[34] is clearly beset by problems of terminology, if not the impossibility of defining the word "sect". As the rapporteur noted, "sects themselves object to this designation … and prefer the term *new religious movement* or even *religion*". Although it is not possible to give a legal definition of religion, any more than of sects, there are some distinguishing features. The rapporteur pointed out *inter alia* that "while a religion implies free, informed consent on the part of those who join it, people joining certain sects may be free when they join it, but are not informed, and, once they are informed, they are usually no longer free"; it is here that the issue of fundamental freedoms and human rights arises.

16. Accordingly, Recommendation 1178 (1992) on sects and new religious movements, was adopted by the Assembly on the basis of that report. It advocated measures to inform the public of the nature and aims of sects; to that end, Council of Europe member States should set up "independent bodies" to "collect and circulate this information".[35] Moreover, the member States were invited to take legislative measures assigning corporate status to sects, but this suggestion did not receive the backing of the Committee of Ministers.[36]

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28. See, for instance, *Mouvement Raëlien Suisse v. Switzerland*, Application No. 16354/06, judgment of 13 July 2012, paragraphs 17-21 and 76-77.
29. See, in particular, *Folgerø and Others v. Norway*, Application No. 15472/02, judgment of 29 June 2007 (violation of Article 2 of Protocol No. 1), and *Efstratiou v. Greece*, Application No. 24095/94, and *Valsamis v. Greece*, Application No. 21787/93, judgments of 18 December 1996 (non-violation of that article).
30. See, in particular, *Hoffmann v. Austria*, Application No. 12875/87, judgment of 23 June 1993; *Palau-Martinez v. France*, Application No. 64927/01, judgment of 16 March 2004; *Vojnity v. Hungary*, Application No. 29617/07, judgment of 12 February 2013 (violations of Article 8 in conjunction with Article 14), and *Ismailova v. Russia*, Application No. 37614/02, judgment of 6 September 2007 (non-violation).
31. For instance, *Jehovah's Witnesses of Moscow and Others v. Russia*, Application No. 302/02, judgment of 10 June 2010 (violation of Articles 9 and 11).
32. Judgment in *Mouvement Raëlien Suisse v. Switzerland* (non-violation of Article 10), supra note 28.
33. *Riera Blume and Others v. Spain*, Application No. 37680/97, judgment of 14 October 1999 (violation of Article 5).
34. Report on sects and new religious movements, Doc. 6535.
35. Recommendation 1178 (1992), paragraph 7.ii.

17. This recommendation also emphasised the protection of minors. To that end, it called on member States to: 1) include objective information concerning religions in the basic educational curriculum; 2) specifically regarding cases of child abductions – ratify the European Convention on recognition and enforcement of decisions concerning custody of children and on restoration of custody of children (ETS No. 105) and adopt legislation giving it effect; 3) more rigorously apply existing legislation concerning the protection of children; additionally, those belonging to a sect must be informed that they have the right to leave.

18. The second initiative on this topic was the 1999 report by Mr Adrian Nastase (Romania, Socialist Group) on "Illegal activities of sects"[37] prompted by a number of serious incidents in the meantime (such as the killings connected to the Solar Temple cult and the Aum sect in Japan). The report produced by our committee resulted in Recommendation 1412 (1999). The Assembly decided that it was not necessary to define the notion of sect or to assimilate it with religion, given the terminological difficulties encountered in this field.[38] Even so, there was no doubt in the eyes of the Assembly that the activities of these "religious, esoteric or spiritual" groups (term used in the recommendation) must be legal and in keeping with democratic principles such as religious freedom, guaranteed by the Convention.

19. The Assembly called for certain measures, emphasising *inter alia* the need to inform the general public on the activities of sects. It reiterated, in this respect, the need for the member States to set up national or regional information centres and, in view of the worrying situation in central and east European States, asked the Committee of Ministers to make specific provision for this in its aid programmes for those countries. In addition, it renewed its call for member States to introduce programmes teaching the history and philosophy of the main religious movements. This latter measure was aimed *inter alia* at teenagers within the framework of school curricula. Furthermore, the Assembly called on the member States to use criminal and civil law procedures against illegal practices of sects.

20. Although nearly all the Assembly's recommendations have received the backing of the Committee of Ministers, one important recommendation was not endorsed, owing to a lack of human and financial resources;[39] this was the setting up of a European observatory on "groups of a religious, esoteric or spiritual nature to make it easier for national centres to exchange information".[40] Moreover, the Assembly's proposal that specific initiatives be included in aid programmes for central and east European countries was rejected on the same grounds.

21. It should also be noted that, in its Recommendation 1412 (1999), the Assembly attached "great importance to protecting those most vulnerable, and particularly the children of members of religious, esoteric or spiritual groups, in case of ill-treatment, rape, neglect, indoctrination through brainwashing and non-enrolment at school, which makes it impossible for welfare services to exercise supervision". Furthermore, it called on the member States to take concrete measures (in addition to the aforementioned educational measures) such as ensuring that the obligation to enrol children at school is rigorously applied or setting up non-governmental organisations for the victims, or the families of victims, of those groups, particularly in central and eastern European countries.

5.2. The initiative of the Conference of INGOs

22. The Assembly has not revisited the question of sects since 1999, other than to look at a few subsidiary questions.[41] The Conference of International Non-governmental Organisations, bringing together some 400 NGOs (INGOs), took up the baton in January 2011 by passing a recommendation on sectarian excesses and violations of human rights.[42] It expressed its concern over lack of action by Council of Europe member States in this area and invited the Assembly, the Committee of Ministers and the Congress of Local and Regional Authorities to remedy the situation, *inter alia* by creating national or regional information centres on such excesses. The Conference of INGOs stressed that they cause infringements of human rights, in particular in

36. Doc. 7030 of 21 February 1994, Communication from the Committee of Ministers. Supplementary Reply to Recommendation 1178 (1992) on sects and new religious movements, paragraph 3. The Committee of Ministers considered that such a measure was not appropriate, owing to the different traditions and legal systems and that members of such sects and religious movements should respect the law of the country in which they reside.
37. Doc. 8373.
38. See *inter alia* paragraphs 8-21 of the report. The rapporteur noted that there were two problems in defining the phenomenon of sects: firstly, the lumping together of harmless and dangerous groupings and, secondly, the distinction between sects and religions. What is important in analysing the phenomenon of sects are the acts committed in the name or under cover of these beliefs.
39. Doc. 9220, reply by the Committee of Ministers adopted on 19 September 2001, paragraph 6.
40. Paragraph 11.ii of Recommendation 1412 (1999).

the fields of health, education and the respect of private and family life; the organisations generating such excesses "often act under the cover of freedom of religion and endanger the fundamental freedoms of citizens and consequently constitute a threat to democracy", and the phenomenon is spreading in central and east European countries while showing no signs of diminishing in the countries of western Europe.

5.3. The initiatives of the European Parliament

23. Within the European Union, the issue of excesses of sects has also been the focus of discussion in the European Parliament. There are two resolutions on the subject – the resolution of 22 May 1984, on "A common approach by the Member States of the European Community towards various infringements of the law by the new organisations operating under the protection afforded to religious bodies" and incorporated in the "Cottrell report" of 1984, and the resolution of 29 February 1996 on "Sects in Europe".[43] These resolutions called for the gathering of quantitative data and more detailed investigation into these phenomena, particularly in central and east European countries. However, the draft version of a third resolution on "Sects in the European Union", incorporated in a report by Ms Maria Berger, was not adopted.[44] That report noted that there had been a failure to act by Community bodies – the Commission and the Council – on the recommendations set out in the European Parliament resolutions of 1984 and 1996. It may be said, therefore, that the work of the European Parliament has yielded mixed results.[45]

6. Results of follow-up to Assembly Recommendations 1178 (1992) and 1412 (1999)

24. The results of action taken on the proposals set out in Assembly Recommendation 1178 (1992) and Recommendation1412 (1999) remain very modest, given the time that has elapsed since 1999. While both resolutions called for the setting up of information centres at national level, only a handful of member States have responded to those calls by taking tangible steps. Two States, France and Belgium, have taken legislative measures. France set up the Inter-Ministerial Mission for Vigilance and Action against Sectarian Excesses (MIVILUDES), operating under the Prime Minister, in 2002.[46] The work of MIVILUDES entails observing the phenomenon of sects, co-ordinating the preventive and enforcement action of public authorities against excesses of sects, informing the public of the risks linked to this phenomenon and facilitating aid for victims. Its work involves a particularly strong element of co-operation with partner associations, including the European Federation of Research and Information Centres on Cults and Sects (FECRIS) and the Australian association Cult Information and Family Support. In addition, the "About-Picard law"[47] lays down the conditions in which the fraudulent abuse of the weakened state of an individual in a situation of psychological submission is classified as an offence and punishable. In certain circumstances, it even allows the disbanding of corporate entities engaged in activities aimed at psychological or physical subjugation.[48] A similar law establishing the abuse of weakness as a criminal offence was passed in Luxembourg on 21 February 2013.[49]

25. In Belgium, the CIAOSN/IACSSO is an independent centre instituted under the Federal Public Justice Department; it deals with inquiries from the public and draws up opinions and recommendations at the request of public authorities.[50]

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41. See *inter alia* the report by our committee (Mr Dick Marty, Switzerland, ALDE) on the European Federation of Research and Information Centres on Sectarism (FECRIS): request for consultative status with the Council of Europe, Doc. 10470 of 7 March 2005, and the report by the Committee on Culture, Science and Education (Ms Anne Brasseur, Luxembourg, ALDE) on the dangers of creationism in education, Doc. 11375, and also Resolution 1580 (2007) on this subject.
42. Supra note 9.
43. www.europarl.europa.eu/workingpapers/cito/w10/annex1_en.htm.
44. It was withdrawn on 13 July 1998. Viewable at: www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A4-1997-0408+0+DOC+XML+V0//EN.
45. In addition, the European Parliament referred to the problem of sects or cults in some of its reports and resolutions on human rights compliance in the European Union, notably in 1996, 1997, 2001 and 2003.
46. By Presidential Decree No. 2002-1392 of 28 November 2002.
47. Law No. 2001-504 of 12 June 2001 on greater prevention and punishment of sects infringing human rights and fundamental freedoms. Consolidated version of 22 December 2007. This text was codified in Articles 223-15-2 to 223-15-4 of the Criminal Code.
48. See also in this connection Resolution 1309 (2002) on freedom of religion and religious minorities in France and our committee's report (Rapporteur: Mr Cevdet Akçali, Turkey, EDG), Doc. 9612.
49. www.legilux.public.lu/leg/a/archives/2013/0035/a035.pdf.
50. Law of 2 June 1998 creating a Centre for Information and Opinions on Harmful Sectarian Organisations and an Administrative Unit for Co-ordinating Action against Harmful Sectarian Organisations.

26. Some other States, including Germany (at the level of the Federal Ministry of Families, the Elderly, Women and Youth[51] and the Federal Office of Administration[52]), Austria (at the level of the Ministry of Social Affairs, Families and Youth[53]) and Switzerland,[54] have taken or supported measures aimed at monitoring excesses of sects, but on a lesser scale.

7. Experience of Council of Europe member States in protecting minors against excesses of sects

27. In Europe, the level of protection of minors against excesses of sects and the amount of information on the subject vary considerably from one country to another. The most striking aspect is the lack of information on the scale of the phenomenon of sects. A non-exhaustive survey conducted by FECRIS at the request of MIVILUDES in 2011 on excesses of sects aimed at minors mentions 70 cases from 13 countries: Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, France, Italy, the Russian Federation, Serbia, Slovenia, Switzerland, Ukraine and the United Kingdom. The groups involved in the activities concerned are mainly religious groups of the western tradition (20), groups of the eastern tradition (20), New Age groups (15), therapists offering non-conventional practices with a therapeutic purpose (10) and groups belonging to "youth" sub-cultures (5).[55]

28. According to MIVILUDES, some countries "have not availed themselves of the legal and administrative means required to gauge the seriousness and scope of the phenomenon and establish channels and means for tackling it".[56] On the basis of information it has gathered from French diplomatic missions in Europe, MIVILUDES distinguishes three groups of States:[57]

– countries where the phenomenon of sects has little impact on young people (United Kingdom) or where it is regularly monitored by the public authorities (Austria, Belgium, the Czech Republic, Germany and Slovakia);

– countries which take a very liberal approach towards freedom of religion and, consequently, the phenomenon of sects (Denmark and Sweden) or whose arrangements for gathering data on it are sketchy or non-existent (Greece, Cyprus, Hungary, the Netherlands, Portugal, Russia and Ukraine);

– countries where no serious cases of excesses of sects affecting minors have been observed (Albania, Bulgaria, Estonia, Finland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Romania and Slovenia).

29. Consequently, MIVILUDES has noted that most European States have chosen, for historical reasons, not to legislate on the protection of minors against excesses of sects. On the other hand, they often encourage and subsidise private associations providing information and then assistance to victims of this phenomenon.[58]

30. With a view to gathering more data about the scale of the phenomenon of sects and current legislation protecting minors against the dangers of sects, in March 2013, I sent a questionnaire to the member States' parliamentary delegations, through the European Centre for Parliamentary Research and Documentation (ECPRD). Twenty-five member States sent replies, some incomplete. The information gathered confirms MIVILUDES' above findings concerning the three categories of States; unfortunately, the data concerning some of the above-mentioned States (Albania, Cyprus, Denmark, Hungary, Luxembourg, Latvia, Malta, the Czech Republic, Slovakia and Ukraine) have not been verified or updated because no replies were received. Particularly striking is the lack of information from central and east European countries (including the countries of the former Soviet Union) and Turkey.

31. The replies to the questionnaire have been summarised in a committee document.[59] In the meantime, I have obtained further information through the hearing on 6 September 2012 and my fact-finding visits to Germany and Sweden.

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51. www.bmfsfj.de/BMFSFJ/kinder-und-jugend,did=187320.html.
52. Which set up a documentation centre on new religious movements: www.bva.bund.de/DE/Themen/BeratungModernisierung/jugendsekten/jugendsekten-node.html.
53. Which set up a federal department known as the Bundestelle für Sektenfragen, a centre dealing with inquiries regarding sects.
54. The cantons of Geneva, Vaud, Valais and Ticino finance the Inter-canton Centre for Information on Religious Beliefs.
55. According to information supplied to the Secretariat by MIVILUDES.
56. MIVILUDES, Rapport au Premier ministre 2009 [2009 report to the Prime Minister], La documentation française, Paris, 2010, p. 134
57. Ibid., pp. 132-54.
58. Ibid., p. 172.
59. Document AS/Jur/Inf (2014) 05: www.assembly.coe.int/CommitteeDocs/2014/ajinfdoc052014.pdf.

32. In the case of the first group of States above, I obtained more information concerning Germany during my visit to Berlin in June 2013. I held talks with members of the Bundestag and representatives of the Berlin Senate (*Land* government) administration and the Protestant and Catholic churches. I can only praise the determination of the German authorities to combat the phenomenon of excesses of sects. Their task here is made easier by the fact that the German State only legally recognises a limited number of religions, such as the Catholic and Protestant churches, the Jewish community and some Muslim communities, thereby automatically preventing other movements from obtaining the status of "religion". In this connection, I especially welcome the convergence of views on this subject among the political groups in the Bundestag (even though the most recent relevant parliamentary report dates from 1998) and the steps taken by the federal and *Länder* authorities, which perform very effective checks on compliance with compulsory school attendance so as to prevent abuse of minors by sects. The Catholic and Protestant churches play a key part in counselling the victims of excesses of sects and gathering information on sect-like movements.

33. In the case of the second group of States, Sweden clearly does take a very liberal approach to freedom of religion, which may sometimes work to the detriment of child protection. Those were the findings in the 2008 book "Sect Child – Chosen for Paradise"[60] by the journalist Charlotte Essén, whom I met during my visit to Stockholm on 12 December 2012. In this book, based on several interviews with young people who managed to leave various "sects", she studied the situation of young people brought up in these movements, in particular Jehovah's Witnesses, the Knutby Pentecostal Church, the Hare Krishna community, the Finland Intercessors movement and "The Family". She concluded that all these groups have one thing in common: they are minority, elitist organisations, are based on the personality of a charismatic leader and a very rigid hierarchy and seek the "truth" and "purity", while controlling all contact with the outside world (among other things, by giving precedence to home schooling and private schools) and adopting a very strict approach to sexuality; money plays a vital part in these movements. Individuals who manage to escape from the movements encounter widespread misunderstanding in society, which does not know how these "cults" operate. The interviews also showed total passivity on the part of the Swedish authorities regarding the abnormal conditions in which the children of parents in these movements are brought up.

34. During my visit to Stockholm, I met members of the Swedish Parliament (Riksdag), representatives of the Government Committee for the Support of Religious Communities, the Schools Inspectorate, the National Youth Agency and associations offering support to sect victims. At the end of my visit, I concluded that the national education system in Sweden, and in particular the system for funding private schools, as well as the system for registering associations, had loopholes which could result in abuses by sect-like movements. I also recommended that a parliamentary study group on sects be set up, as the Riksdag does not seem to have paid much attention to the issue since a parliamentary initiative by Ms Barbro Westerholm that led to the drafting of a government report ("In Good Faith") on the subject in 1998.

35. The approach in the Netherlands to "new religious movements" (NRMs) is also very liberal, as was confirmed by our expert, Professor Van Bijsterveld. The country has no specific policy or legislation on NRMs. A 1984 report on NRMs by a parliamentary committee concluded that specific legislation or policy was neither desirable nor necessary in terms of either prevention or punishment, and this principle still applies. Although the role of religion in the public arena is now the subject of lively debate, no particular attention is paid to NRMs.

36. According to our expert, Mr Yurchenko, in Ukraine, interaction between children's rights (as enshrined in the Convention on the Rights of the Child) and freedom of thought, conscience and religion is neither properly nor fully organised by the State. Ukrainian legislation on the matter is cursory and too vague to take account of the range of situations where conflicts may arise; welfare services and law enforcement agencies are not capable of identifying the physical or psychological harm caused to minors.

37. In the case of the third group of countries, the replies to the questionnaire by Bulgaria, Estonia, Finland, Italy, Lithuania, Poland, Romania and Slovenia do not point to any serious cases of excesses involving sects.

8. Conclusion

38. The differing approaches to the issue of "sects" highlight the difficulty of striking a European consensus on this question and the failure of several European initiatives. However, that does not mean that we should drop the idea of establishing rules and policies at European level to protect minors against excesses by sects. Given the vulnerability of children and teenagers, it is vital that we remain vigilant and clamp down on any practices subjugating them in the name of religious beliefs. The Council of Europe – and the Assembly in

60. Sektbarn, Albert Bonniers Förlag 2008 and Moment Förlag 2010.

particular – have an important role in combating this deeply worrying phenomenon. The Council of Europe's *acquis* in the field of child protection and freedom of religion could serve as a basis for devising new policies and adopting new instruments. Where the protection of minors against excesses of sects in the member States is concerned, the situation is complex and calls for more detailed analysis: while MIVILUDES is a structure that is unique in Europe, owing to the specific features of the situation in France and notably the concept of the secular State, the principles regarding the punishment of offences related to excesses of sects and assistance to victims are applied in one form or another in other States, too (using public or private assistance structures).[61]

39. It is hard to determine the scale of the problem, which affects the fundamental rights of minors, given the lack of data at both national and European level. That is why it is necessary to recommend the collection of appropriate statistics on excesses of sects and, where applicable, the establishment of national centres on religious and spiritual movements, as well as measures to facilitate data exchanges between these centres. Encouraging the teaching of the history of religions and the main philosophies in schools is also important as a means of preventing indoctrination and brainwashing of minors. In addition, all Council of Europe member States should sign and/or ratify the relevant conventions on child protection, in particular the Lanzarote Convention and the Convention on Action against Trafficking in Human Beings.

40. Extensive awareness-raising measures for welfare services, judges (in family law cases, especially when parents separate), civil servants, the police and ombudsmen's offices are vital with a view to detecting threats to the welfare of minors and helping them to leave sect-like movements. Especially in the case of schooling, including home schooling and private schools which may be under the sway of these movements, prompt and effective State oversight is required, in particular in terms of the conformity of curricula and the quality of teaching staff. In the case of home schooling, it would be useful for the children to be followed by the relevant departments of local authorities so that the latter can take prompt action if the children are not being properly schooled or there are other problems.

41. By way of example, in France, the report by the Parliamentary Committee of Inquiry on the influence of sect-like movements in the health sector, published in April 2013,[62] includes four recommendations aimed more specifically at minors:[63] 1) introduce compulsory annual medical check-ups by approved doctors for children over six years old being taught at home or in schools with no agreements with the State; 2) encourage the staff of maternity and child protection services to detect children whose families may be involved in sect-related excesses and ensure medical follow-up of the children concerned; 3) reiterate the Education Ministry's obligation to conduct annual checks on home schooling arrangements and implement this obligation with a view to preventing sect-related excesses; 4) make sure that secondary school curricula include awareness-raising about therapy- and sect-related excesses. These recommendations may also be useful for other Council of Europe member States.

42. Following the example of some States such as Belgium, France and Luxembourg, making the abuse of psychological and/or physical weakness a criminal offence by introducing a provision in the Criminal Code would be extremely useful and could have an effect in terms both of punishment and also of dissuasion. Associations involved in defending victims' rights should also be entitled to join proceedings as parties claiming damages in criminal cases concerning abuses by sects if that is not already the case.

43. When it comes to preventing and combating excesses of sects, some member States grant significant leeway to civil society and the "traditional" churches (Catholic, Orthodox and Protestant). In this case, it is necessary to provide these stakeholders with sufficient resources for effectively performing their tasks in terms of advising and assisting the victims of such excesses and their relatives.

44. I also recommend that parliamentary study groups on the phenomenon of sects should be set up with a view to raising policy makers' awareness of the issue. In the last four decades, national parliaments in several member States have taken initiatives in this area, but most have given up their work (except in France). Parliamentary activities, in particular the drafting of reports, have been very useful in issuing recommendations to the authorities (for instance in Belgium and Switzerland) and raising public awareness.

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61. MIVILUDES, Rapport au Premier ministre 2009 [2009 report to the Prime Minister], p. 133, supra note 56.
62. Dérives thérapeutiques et dérives sectaires: la santé en danger (Rapport), Report by Mr Jacques Mézard, on behalf of the Committee of Inquiry on the influence of sect-like movements in the area of health, No. 480, Part 1 and Part 2, 3 April 2013.
63. Ibid., Part 1, p. 215, paragraphs 38-41.

45. The opening of borders within the European Union enables sect-like movements to move to other countries to provide teaching in a manner that suits them – hence the need for common standards throughout Europe to protect minors. It would therefore be useful for the Committee of Ministers to conduct a study on the scale of the phenomenon of sects affecting minors at European level and set up a working group on the subject so as to improve the exchange of information.

46. The problem of excesses of sects affecting minors remains very worrying in Europe and steps must be taken to counter it. When the best interests of the child are at stake, a proper balance has to be struck between the child's fundamental rights and freedom of religion and, where necessary, the best interests of the child must take precedence, in accordance with the Convention on the Rights of the Child. That is in the interest of our societies and of respect for our common values and, above all else, of vulnerable minors themselves.