

OSCE 2010 Review Conference

Warsaw, 30 September to 8 October 2010

Working Session 2: Fundamental Freedoms

Contribution of the Council of Europe

**Respect for freedom of thought, conscience, religion or belief
within a multicultural society**

1. Freedom of thought, conscience, religion or belief is a fundamental human right guaranteed by Article 9 of the European Convention on Human Rights (ECHR). Among other things, this right implies that States have a duty to remain neutral and impartial vis-à-vis different religions.

2. In multicultural societies of today's Europe it is often necessary to reconcile freedom of thought, conscience, religion or belief with other fundamental rights such as freedom of expression, freedom of association and peaceful assembly, respect for private and family life, the prohibition of discrimination or the right to education. The Council of Europe's work on the protection of human rights in multicultural societies focuses on the interdependence and interconnection of such rights and freedoms. The aim is to provide guidance to member states on how to strike a fair balance between different rights which may be competing in a multicultural context.

3. The Steering Committee for Human Rights (CDDH) has held regular exchanges of views on the topic "human rights in a multicultural society". In 2006 it decided to entrust the examination of this important question to the Committee of Experts for the Development of Human Rights (DH-DEV) and asked it to give priority to the following two themes: "hate speech" and "the wearing of religious symbols in public areas". Following an in-depth examination of the two topics on the basis of information received from members states on national situations as well as the relevant case-law of the European Court of Human Rights, the DH-DEV produced two reports on the issue in 2007.

4. The first report concerning "hate speech" notes that there is no universally accepted definition of "hate speech". However, the notion is used by the European Court of Human Rights as an element to be taken into consideration when judging whether interferences with the right to freedom of expression are necessary in a democratic society. Given the essential role that freedom of expression plays in a democratic society, this right protects not only views that

are favourably or indifferently received, but also those that offend, shock or disturb. However, the exercise of this freedom entails duties and responsibilities. Indeed, certain expressions are either not protected by this provision (exceptions ensuing from Article 17 ECHR) or restrictions on them can be justified (Article 10 para. 2 ECHR).

5. The second report examines the question of “the wearing of religious symbols in public areas”. It recalls that restrictions on the wearing of religious symbols in public areas may interfere with the right to manifest one’s religion and the right to education (Article 2 of Protocol No. 1). However, these rights may sometimes be subject to certain justified limitations. The challenge for authorities is to strike a fair balance between the interests of individuals as members of a faith community to have their right to manifest their religion or their right to education respected and the general public interest or the rights and interests of others.

6. The work of the DH-DEV led to the preparation in spring 2009 of a Declaration of the Committee of Ministers on human rights in culturally diverse societies, which was approved by the CDDH and subsequently adopted by the Committee of Ministers on 1 July 2009.

7. In order to provide input to the intergovernmental work on human rights in multicultural societies, two conferences, co-organised by the Council of Europe and the Dutch authorities, were held in The Hague with an interval of 5 years. The first international conference focused on “Fundamental Rights in a Pluralistic Society” and took place in November 2003. The second conference entitled “Human Rights in culturally diverse societies: challenges and perspectives” took place in November 2008.

8. Both conferences gathered a large number participants including experts on the topic, representatives of civil society and other actors concerned. The speeches and conclusions presented at these events are available in the conference proceedings, those from the second conference are about to be published.

9. In addition, the Council of Europe has published two practical manuals, one on “hate speech” by Dr Anne Weber and another on “the wearing of religious symbols” by Prof. Malcolm Evans, both launched on the occasion of the conference in 2008. These manuals are now available both in English and French.