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**STEERING COMMITTEE FOR HUMAN RIGHTS
(CDDH)**

**Activity Report
Human Rights in a Multicultural Society**

Summary¹

European societies are multicultural. Diversity should not be perceived as a threat but as a source of enrichment. It should be respected and protected as an essential element of every democratic society. However, diversity must not lead to separation and alienation from the “common heritage of political traditions, ideals, freedom and the rule of law”, on which democracy in Europe is founded. Reconciling respect for different identities with fostering social cohesion can only succeed if it is based on universally recognised human rights. This should in no way lead to reinterpreting or reformulating them but simply to ensure their implementation and observance. The aim should be to promote pluralism in democratic societies, where the equal dignity of all is respected and protected.

In multicultural societies, freedom of expression and freedom of thought, conscience and religion may sometimes have to be reconciled. In some instances, it may also be necessary to place restrictions on these freedoms. Under the European Convention on Human Rights, any such restrictions must be proportionate to the aim pursued by the authorities and should not deprive the right which is interfered with of its essence. Furthermore, a fair balance needs to be struck between different rights which may be competing. In doing so, states enjoy a margin of appreciation as national authorities may need to adopt different solutions taking account of the specificities of each society; the use of this margin is subject to the supervision of the European Court of Human Rights. However, not all fundamental rights issues concerning the multicultural society may be reduced to a conflict of rights. In many instances, there simply does not exist a situation requiring the weighing-up of equally protected competing interests.

State authorities have a duty to combat all forms of intolerance and discrimination. They must strictly respect the prohibition of discrimination, which is an expression of the state’s neutrality. Formal equality is not always sufficient because it can result in indirect discrimination. Indeed, the right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when states without an objective and reasonable justification fail to treat differently persons whose situations are significantly different. States may sometimes be under an obligation to allow for a differential treatment to ensure in fact equal enjoyment of rights by all individuals.

The DH-DEV examined in depth the topics of “hate speech” and “the wearing of religious symbols in public places”, and produced reports which contain factors based on the case-law of the Court, seeking to provide guidance for member states:

- The notion of “hate speech” is used by the Court 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).
- Restrictions on the wearing of religious symbols in public areas may interfere with the right to manifest one’s religion (Article 9 ECHR) 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.

In the light of the proposals presented by the DH-DEV in this report, the CDDH provided further guidance on the next stages:

- (i) The CDDH considered that the drafting of guidelines or recommendations on the questions tackled by the two Working Groups was not appropriate at this juncture;
- (ii) it agreed with the preparation of two manuals, based on the reports of Groups A and B;
- (iii) it welcomed the proposal to organise a seminar in Spring 2008 with the participation of DH-DEV experts and widely open to representatives of civil society and other actors concerned. The aim of this event would notably be to explore other aspects of human rights in a multicultural society than “hate speech” and “the wearing of religious symbols in public areas”;
- (iv) the possibility of a general declaration of the Committee of Ministers on human rights in a multicultural society was not excluded. It was felt that it could represent a useful contribution to the ongoing debate on intercultural dialogue.

¹ This summary has been prepared by the Secretariat and comes under its sole responsibility.

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Additional documents

- Report on “hate speech”, document GT-DH-DEV A(2006)008;
- Compilation of the replies received from the member states to the questionnaire on “hate speech”, document GT-DH-DEV A(2006)008 Addendum.

- Report on “the wearing of religious symbols in public areas”, document GT-DH-DEV B(2006)004;
- Compilation of the replies received from the member states to the questionnaire on “the wearing of religious symbols in public areas”, document GT-DH-DEV B(2006)004 Addendum

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1. Overview of the activity

1.1. Background

1. Following the International Conference on Fundamental Rights in a Pluralistic Society (The Hague, 20-21 November 2003) organised by the Netherlands authorities when holding the chairmanship of the Committee of Ministers, the Steering Committee for Human Rights (CDDH) decided to hold regular exchanges of views on the topic “human rights in a multicultural society”.

2. At its 61st and 62nd meetings (22-25 November 2005 and 4-7 April 2006 respectively), the CDDH discussed this issue and it decided to entrust the examination of this important question to the DH-DEV. On the basis of a document prepared by the Secretariat (document DH-DEV(2006)001), the CDDH decided to give priority to the following two themes: (i) “hate speech” and (ii) “the wearing of religious symbols in public areas”. It suggested to the DH-DEV to invite the European Commission against Racism and Intolerance (ECRI) and the Steering Committee on the Media and New Communication Services (CDMC), as well as any other bodies which it would consider relevant to invite, to participate in its work according to modalities that it would consider appropriate. The CDDH also wished to see NGOs associated to this activity. Finally, the CDDH took note of the information on current other activities within the Council of Europe linked to this issue, in particular in the context of intercultural dialogue.

1.2. Terms of reference

3. The following terms of reference were adopted by the Committee of Ministers for this activity:

“Under the authority of the Steering Committee for Human Rights (CDDH) and within the framework of Programme of Activities, under chapter I (Human Rights) Line of Action I.2, the Committee is responsible for the implementation of Project2004/DG2/28 “Substantive legal analysis of HR issues and input in the development of CoE policies on such issues”.

To this end, the Committee is instructed to:

(i) examine the subject of human rights in a multicultural society with a view to identifying areas where further intergovernmental work would be beneficial, giving priority to “hate speech” and “the wearing of religious symbols in public areas”;

(ii) prepare a report to be transmitted to the CDDH including, where appropriate, concrete proposals on the type of work or instrument(s) which could present an added value for the protection of human rights in a multicultural society and how to associate civil society.”

1.3. Framework

4. The DH-DEV devoted its 35th and 36th plenary meetings (16-18 May 2006 and 7-9 February 2007 respectively) to this question with Ms Jolien Schukking (Netherlands) in the Chair.

5. Two questionnaires on “hate speech” and “the wearing of religious symbols in public areas” were prepared by the DH-DEV for the attention of member states in order to obtain information on national situations. Thirty-six member states replied to the questionnaire on hate speech (see document GT-DH-DEV A(2006)008 Addendum) and thirty-seven to the one on religious symbols (see document GT-DH-DEV B(2006)004 Addendum).

6. Two working groups were set up to facilitate the work of the plenary by producing a report on “hate speech” (Working Group A) and another on “the wearing of religious symbols in public areas” (Working Group B). They met once between the two plenary meetings (2-3 October 2006) in order to discuss the content of the reports to be transmitted to the plenary and finalised them by means of a restricted, interactive

website. Working Group A² was chaired by Ms Schukking and Working Group B³ by Ms Camilla Busck-Nielsen (Finland), also vice-Chair of the DH-DEV. Members of the Secretariat of ECRI and of the Commissioner for Human Rights's Office attended the meetings of both working groups.

7. At its 35th meeting, exchanges of views took place with Mr Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, Mr Paul van Sasse van Ysselt, official of the Netherlands Ministry of the Interior who was responsible for the organisation of the aforementioned Hague Conference, and Mr Ulrich Bunjes, Directorate General on Education, Culture and Heritage (DG IV) who presented the Council of Europe White Paper on intercultural dialogue process. At its 36th meeting, the Committee exchanged views with Ms Françoise Tulkens, Judge at the European Court of Human Rights, Mr Nils Muiznieks, Vice-Chair of ECRI, and Mr Malcolm Evans, member of the Advisory Council of the ODIHR's Panel of Experts on Freedom of Religion or Belief. The CDMC was represented by Ms Bissera Zankova at Working Group A's meeting and at the 36th plenary meeting.

8. With regard to the participation of observers with the CDDH and civil society, the Holy See, the Conference of European Churches (KEK) and Amnesty International actively participated in the work. Moreover, it was noted that ECRI had organised on 16-17 November 2006 an expert seminar on combating racism while respecting freedom of expression in which many NGOs participated. Ms Schukking delivered a speech at this event as chairperson of the DH-DEV to present the work of the Committee.

2. The relationship between human rights and multiculturalism

2.1. The notion of multiculturalism

9. European societies may today be classified as multicultural and multi-ethnic. They may be multicultural by reason of the longstanding presence of different cultural groups and national minorities on their soil or they may have become so more recently through immigration.

10. The use of the term of "multiculturalism" has given rise to much debate. Multiculturalism is in fact hard to define as the concept of cultural identity itself is often modelled by political motives or ideologies.⁴ As a result, its interpretations vary greatly.⁵ Whilst some see it as the promise of a diverse but harmonious society, others view it as a threat on social cohesion with the risk of ghettoised societies. By reason of the uncertainty surrounding the meaning of "multicultural", it has been suggested to use the more neutral term of "cultural pluralism"⁶ or to refer to a "pluralistic society". The latter term was indeed used in the title of the international conference which the Dutch Presidency of the Committee of Ministers organised in 2003.⁷ At its 62nd meeting, the CDDH nevertheless decided to retain the term "multicultural society", because it reflected better the focus of the work to be undertaken through an explicit mention of the cultural factor. The importance of cultural diversity has been recognised in some legal texts. The Irish Constitution has been amended to "recognize diversity of identities and traditions", and the Swiss Constitution provides that the Confederation shall promote "the cultural diversity of the country". "Considering that the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of

² Group A was composed of: Andorra, Armenia, Austria, Belgium, Czech Republic, France, Germany, Hungary, Ireland (apologised at the working group's meeting), Latvia, Moldova, Netherlands, Slovakia, Sweden, Switzerland, Turkey, United Kingdom, Holy See, Amnesty International, Conference of European Churches (apologised).

³ Group B was composed of: Azerbaijan, Cyprus, Greece, Georgia, Finland, France, Netherlands (apologised at the Working Group's meeting), Russian Federation, Sweden, Switzerland, United Kingdom, Holy See, Amnesty International (apologised), Conference of European Churches (apologised).

⁴ Dominic McGoldrick, *Multiculturalism and its Discontents*, in Human Rights Law Review 5:1 (2005), 27-56.

⁵ Outside Europe, Canada enacted legislation dealing specifically with multiculturalism where "the freedom of all members of Canadian society to preserve, enhance and share their cultural heritage" is acknowledged."

⁶ Walter Kälin, *Grundrechte im Kulturkonflikt – Freiheit und Gleichheit in der Einwanderungsgesellschaft* [Fundamental Rights in the Culture Conflict – Freedom and Equality in Immigration Society], Bern 1999, p. 12.

⁷ Ministry of the Interior and Kingdom Relations (ed.), *Report of the International Conference on Fundamental Rights in a Pluralistic Society* (Moretus The Hague 2004).

division, but of enrichment for each society”, the Framework Convention for the Protection of National Minorities commits states parties to “encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons’ ethnic, cultural, linguistic or religious identity”.⁸ Based on Article 151 paras 1 and 4 of the European Community Treaty, the European Union Charter of Fundamental Rights commits the EU to respect cultural, religious and linguistic diversity.⁹

2.2. Human rights as a common basis for the integration of diversity

11. The question of multiculturalism has become central to today’s human rights discourse. European societies are finding it hard to reconcile respect for different identities with fostering social cohesion. Integration policies are currently the subject of intense debate in many European countries, fuelled by a series of events, such as the murder of Theo van Gogh in the Netherlands, violent reactions to the publication of cartoons depicting the Prophet Mohammed or controversies about the wearing of religious symbols in schools. This debate takes place against the background of major terrorist attacks in various European countries and tight security measures taken in response to them, some of which have been criticised as ostracising and discriminating against particular sections of the population.

12. Diversity should not be perceived as a threat but as a source of enrichment.¹⁰ It should be respected and protected as an essential element of every democratic society. Every democracy benefits from the diversity of ideas. Individuals should live in a context where there are real choices. Taking an inclusive approach in respect of individuals belonging to all kinds of groups – be they national, ethnic, religious or linguistic – in considering them as full components of European societies implies that there is acceptance by the “traditional” or “dominant” culture of their specificities and more globally that modern societies are evolving towards plural identities. Tolerance and respect for human dignity may serve as guiding principles in this context. This may require recognition of cultural identities whenever their denial would result in denigration. Indeed, the European Court of Human Rights (“the Court”) has recognised that “pluralism is also built on the genuine recognition of, and respect for, diversity and the dynamics of cultural traditions, ethnic and cultural identities, religious beliefs, artistic, literary and socio-economic ideas and concepts” and that “the harmonious interaction of persons and groups with varied identities is essential for achieving social cohesion”.¹¹

13. However, diversity must not lead to separation and alienation from the “common heritage of political traditions, ideals, freedom and the rule of law”,¹² on which democracy in Europe is founded. A necessary condition for respect of diversity is respect for human rights, the rule of law and democratic principles. Cultural or religious practices or traditions cannot be invoked to prevent individuals from exercising their basic rights or from participating actively in the society. This is particularly important regarding the prohibition of gender-based or other forms of discrimination, the rights and interests of children, and the freedom to practice or not to practice a particular religion. Practices amounting to human rights abuses, such as forced marriages, so-called “honour crimes” or genital mutilations, can never be justified by invoking culture, religion, tradition or custom.

14. Reconciling respect for different identities with fostering social cohesion can only succeed if it is based on universally recognised human rights and fundamental freedoms.¹³ This should in no way lead to reinterpreting or reformulating of these rights and freedom but simply to ensure their implementation and

⁸ Preamble and Article 6 para. 1 of the Framework Convention on the Protection of National Minorities.

⁹ Article 22 of the EU Charter of Fundamental Rights.

¹⁰ See the Framework Convention for the Protection of National Minorities preamble. This has been explicitly acknowledged by the European Court of Human Rights in *Timishev v. Russia*, judgment of 13 December 2005, para. 56.

¹¹ *Gorzelik and Others v. Poland*, judgment of 17 February 2004 (Grand Chamber).

¹² Preamble, para. 5, of the European Convention on Human Rights.

¹³ See the speech by the Deputy Secretary General in *Report of the International Conference on Fundamental Rights in a Pluralistic Society*, see para. 1 of the Activity Report.

observance. The aim should be to promote pluralism in democratic societies, where the equal dignity of all is respected and protected.

2.3. Creating an environment conducive to the full enjoyment of human rights by all

15. Being committed to the collective enforcement of universally recognised human rights guaranteed under the European Convention on Human Rights (ECHR or “the Convention”), states have a responsibility to create the conditions enabling all individuals within their jurisdiction to enjoy properly their human rights and freedoms.

16. Human rights such as freedom of expression, freedom of thought, conscience and religion, respect for private and family life and the prohibition of discrimination are all among the foundations of a democratic society. The European Court of Human Rights (“the Court”) has derived from them a series of positive obligations for state authorities.¹⁴ Such positive obligations may extend to protective and preventive, possibly even affirmative, action entailing the adoption of measures (legislative, policy, deployment of resources) to ensure that rights can be freely exercised without interference, not only from state authorities but also from private individuals.

17. In the context of a multicultural society, the task to combat all forms of intolerance and discrimination is particularly important. The Court has established a clear link between combating racism and promoting a vision of a democratic society based on respect for diversity.¹⁵ Based on the premises that “racial discrimination is a particularly invidious kind of discrimination”¹⁶ and that “racial violence is a particular affront to human dignity”,¹⁷ it requires “special vigilance and a vigorous reaction”¹⁸ from state authorities.¹⁹

18. The Court has recognised that members of a religious majority or minority must tolerate and accept the denial by others of their beliefs and even the propagation of doctrines hostile to their faith.²⁰ There are differences between race and religion. To make hostile comments about somebody’s race or ethnicity is to criticise a person for what he or she is. This may also be the case with hostile comments about a person’s religion, but not always. Critical expressions on religion may merely criticise certain religious precepts or the conduct of a religious organisation and may serve a valuable function in identifying abuse of power. It is, however, true that attacks on a particular religion or belief are often used as a cover or pretext for racial attacks, or indeed as propagating discrimination against a religious group as such. If this is the case, they should be treated as such.²¹

19. In multicultural societies, it will often be necessary to reconcile different rights and freedoms, such as freedom of expression, freedom of thought, conscience and religion, respect for private life, the prohibition

¹⁴ See among other authorities: *Airey v. Ireland*, judgment of 9 October 1979, paras 32-33 (positive obligations under Art. 8 ECHR); *Öllinger v. Austria*, judgment of 29 June 2006, para. 39 (positive obligations under Art. 9 ECHR); *Özgür Gündem v. Turkey*, judgment of 16 March 2000, para. 43 (positive obligations under Art. 10 ECHR).

¹⁵ *Nachova v. Bulgaria*, judgment of 6 July 2005 (Grand Chamber), para. 145. See also *Bekos and Koutropoulos v. Greece*, judgment of 13 December 2005; *Timishev v. Russia*, *ibid.*; *Ognyanova and Choban v. Romania*, judgment of 23 February 2006.

¹⁶ *Timishev v. Russia*, *ibid.*, para. 56.

¹⁷ *Nachova v. Bulgaria*, *ibid.*, para. 145.

¹⁸ *Timishev v. Russia*, *ibid.*, para. 56; *Nachova v. Bulgaria*, *ibid.*, para. 145.

¹⁹ Françoise Tulkens, Contribution, on freedom of expression and racism in the case law of the European Court of Human Rights, to ECRI’s Expert Seminar on Combating Racism while Respecting Freedom of Expression (Strasbourg, 16 and 17 November 2006).

²⁰ *Otto-Preminger-Institut v. Austria*, judgment of 20 September 1994, para. 47; *İ.A. v Turkey*, judgment of 13 September 2005, para. 27.

²¹ In *Norwood v. UK*, decision of 16 November 2004, the European Court of Human Rights had no difficulties in concluding that a poster containing a photograph of the Twin Towers in flames, the words “Islam out of Britain – Protect the British People” and a symbol of a crescent and star in a prohibition sign constituted a “public expression of attack on all Muslims in the United Kingdom”.

of discrimination or the right to education. Human rights are interdependent and interconnected. One right may be protected through another, e.g. respect for the special needs of persons belonging to ethnic or religious minorities in schools will contribute to the full enjoyment of the right to education. In other cases, it may be necessary to place restrictions on particular rights or freedoms. Under the Convention, any such restrictions must be proportionate to the aim pursued by the authorities and should not deprive the right which is interfered with of its essence. Furthermore, a fair balance needs to be struck between different rights which may be competing in a multicultural context. Certain rights, such as the right to life or the prohibition of torture and inhuman and degrading treatment, are absolute; they cannot be the subject of exceptions or limitations. This is, however, no justification for establishing any formal hierarchy between different human rights.

20. To the extent that the exercise of some human rights may be restricted, states enjoy a margin of appreciation and the Court recognises that national authorities may need to adopt different solutions taking account of the specificities of each society. This margin may be more or less wide, but can never be unrestricted. The Court recognised for example that, in the absence of a uniform European conception of the requirements of the protection of the rights of others in relation to attacks on their religious convictions, states have a wider margin of appreciation when regulating freedom of expression in connection with moral or religious issues compared to interferences with political speech.²²

21. For the purposes of balancing the competing rights and interests, it may be helpful to distinguish between public and private spheres.²³ In the public sphere, state authorities must strictly respect the prohibition of discrimination, which is an expression of the state's neutrality in cultural and religious matters. Formal equality is not always sufficient because it can result in indirect discrimination. Indeed, according to the Court's case-law, "[t]he right not to be discriminated against in the enjoyment of the rights guaranteed under the Convention is also violated when states without an objective and reasonable justification fail to treat differently persons whose situations are significantly different".²⁴ It follows that the state may, under certain circumstances, be under an obligation to allow for a differential treatment to ensure in fact equal enjoyment of rights by all individuals. This may require the introduction of appropriate exceptions to a general norm. This obligation is of vital importance for a multicultural society, where for example individuals belonging to religious minorities are sometimes prevented from integrating into the labour market or the education system because their religious practices are not sufficiently taken into account. In order to avoid a policy of forced assimilation, it may be necessary to take, within certain limits, practical measures to accommodate for diversity (e.g. possibilities for prayers and special meals in prisons, instruction based on tolerance and respect for all faiths represented in society). Such measures should of course not infringe the rights of others or result in disproportionate organisational difficulties or excessive costs.²⁵ In the private sphere, state authorities should refrain from any interference unless certain conduct is contrary to human rights standards or poses a serious threat to the physical or psychological well-being of the person. The right to protection must not be denied to any potential victims, whether they belong to a minority or not.

3. The Reports on "hate speech" and "the wearing of religious symbols in public areas"

22. The DH-DEV examined in depth the two subjects suggested by the CDDH, namely "hate speech" and "the wearing of religious symbols in public places". The two reports appended to this activity report contain not only an overview over the relevant international human rights standards, but also a list of factors derived from these standards, for the purposes of balancing the different rights and interests at stake. The reports do not attempt to set new standards or recommend best practices.

²² See the case-law references in the Report on "hate speech".

²³ See the many examples given by Walter Kälin cited above.

²⁴ *Thlimmenos v. Greece*, judgment of 6 April 2000 (Grand Chamber), para. 44.

²⁵ See the concept of "reasonable accommodation" which has known an important development in Canadian law, *Diversité culturelle et droits de l'homme. La protection des minorités par la Convention européenne des Droits de l'Homme*, Julie Ringelheim, (Bruylant Bruxelles 2006), pp. 274-276.

23. These reports show that not all fundamental rights issues concerning the multicultural society may be reduced to a conflict of rights. In certain instances, there simply does not exist a situation requiring the weighing-up of equally protected competing interests. There may also be problems of determining the precise scope of the rights in question or the exact interpretation of legitimate aims in concrete cases. There are no quick and easy solutions that would fit every circumstance.

24. The first report concerns “hate speech”. This report 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. Freedom of expression is an essential precondition for public debate on issues of public interest, without which a democratic, pluralist, and open society is inconceivable. 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”.²⁶ This does not mean that there are no limitations on freedom of expression. The exercise of this freedom entails duties and responsibilities and may be subject to limitations under certain conditions (Art. 10 para. 2 ECHR). It was deemed particularly important to identify factors that distinguish expressions which despite being offensive are protected by the right to freedom of expression from those expressions that fall outside the scope of protection of the Convention. Certain expressions are either not protected by Article 10 ECHR (the Article 17 exceptions) or restrictions of these expressions are justified under the second paragraph of Article 10. The report notes that Article 17 ECHR, which had only rarely been applied in the past, has acquired renewed relevance in view of the new challenges faced by European societies.

25. 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 may interfere with the right to manifest one’s religion as protected by Article 9 ECHR, the right not to be discriminated against as guaranteed by Article 14 ECHR and Protocol No. 12 and, in some instances, the right to education enshrined in Article 2 of Protocol No. 1. While the right to freedom of thought, conscience and religion as such is absolute, the right to manifest one’s religion or beliefs may be subject to certain limitations if those are prescribed by law, follow a legitimate aim and are proportionate to that aim (Art. 9 para. 2 ECHR). The other rights potentially involved are also not absolute and can be restricted under certain conditions. The challenge for authorities is therefore 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 (e.g. others with different beliefs or religions).

26. The information provided by member states in reply to two questionnaires on “hate speech” and “the wearing of religious symbols in public areas” respectively shows the diversity of national situations.

27. Appropriate legal measures in civil, criminal and administrative law remain a necessity. Discrimination is like poison, destroying the very fabric of our societies. The non-enforcement of relevant existing legislation discredits action against discrimination and intolerance. However, discrimination, xenophobia and intolerance in a multicultural society cannot be countered by legal measures alone. The two reports also contain examples of national measures and initiatives taken by governments to promote tolerance which have been provided by the member states in reply to aforementioned questionnaires. The development of a climate of intercultural respect through dialogue based on a common understanding of universally recognised human rights is vital. A climate of tension and fear is certainly not conducive to the development of harmonious community relations. This is why practical measures such as training courses promoting cultural sensitivity, awareness of prejudice and discrimination, support for expressions that respect and promote human rights and democratic values are so important. Campaigns such as the European Youth Campaign for Diversity, Human Rights and Participation²⁷ are helping to raise awareness of the problems and to find ways in which to deal with them.

²⁶ *Handyside v. United Kingdom*, judgment of 7 December 1976, para. 49.

²⁷ For more information see <<http://alldifferent-allequal.info/>>.

28. The media have an important role to play in this context. Over and above strict compliance with the applicable legislation, they have a special responsibility to promote a climate of tolerance and intercultural respect, which is of vital importance for a multicultural society (see in particular Recommendation (97) 21 on the media and the promotion of a culture of tolerance and Recommendation (97) 20 on hate speech).²⁸

4. Options for future work proposed by the DH-DEV

29. The DH-DEV identified the following options for future intergovernmental work:

- preparing one manual on the issue of “human rights in a multicultural society” or two manuals on “hate speech” and “the wearing of religious symbols in public areas”. They would gather relevant standards, existing case-law as well as provide an analysis of this case-law and give examples of national measures;
- elaboration of guidelines, on the basis of the case-law mentioned in the reports of the working groups and the factors identified therein, which could serve as a basis and source of inspiration for member states in their efforts to take legislative or other measures;
- drafting targeted recommendation(s) on specific themes not yet (sufficiently) covered by Council of Europe standards (e.g. on aspects of freedom of religion but not necessarily on the wearing of religious symbols where the case-law is scarce and national practice widely divergent) or up-dating existing recommendations (e.g. Recommendation R(97) 20, in particular as regards the definition of “hate speech” contained therein, which was considered as insufficient by some members);
- drafting a general Committee of Ministers’ declaration on human rights in a multicultural society which would recall the relevant Council of Europe standards and ask for effective implementation. Such a declaration could contribute to the work on intercultural dialogue and integration issues, which is currently being undertaken within the Council of Europe and beyond.

30. It also invited the CDDH to consider holding a seminar allowing civil society, journalists and representatives of different faiths to contribute to its work. The objectives of such a seminar, which should not duplicate activities already planned by other Council of Europe bodies, would have to be well defined. It was suggested that it could be organised jointly with the Commissioner for Human Rights, the Venice Commission and OSCE/ODIHR.

31. The Committee considered that the reports constituted a good basis for manuals on “hate speech” and “the wearing of religious symbols in public areas”. Such manuals should be practical and pedagogical. They could contribute to the process of the elaboration of a white paper on intercultural dialogue within the Council of Europe and, more generally, to human rights education in the member states. Both the target audience and the contents of the manuals would have to be clearly defined. Other options should, however, not be excluded. Intergovernmental work on this subject should be seen as a process with different possible stages. The manual(s) could be a first step. It could already contain guiding principles drawn from the case-law of the Court. At a later stage, following consultations of member states and civil society, through seminars or an Internet forum, more specific guidelines or recommendations could be prepared if appropriate. The Committee also considered the possibility of drafting a general declaration on human rights in a multicultural society, which could represent a useful Council of Europe contribution to the international discussions on intercultural dialogue. The drafting of such a declaration would of course require a political decision by the Committee of Ministers.

²⁸ For more details see the contribution from the CDMC in the report on ‘hate speech’ (section 4.2..

5. Opinion of the CDDH

32. The CDDH commended the DH-DEV for the present report and the appended reports on “hate speech” and “the wearing of religious symbols in public areas” and provided further guidance on the basis of the options identified by the DH-DEV (see section 4):

(i) the CDDH considered that the drafting of guidelines or recommendations on the questions tackled by the two Working Groups was not appropriate at this juncture;

(ii) it agreed with the preparation of two manuals, based on the reports of Groups A and B;

(iii) it welcomed the proposal to organise a seminar in Spring 2008 with the participation of DH-DEV experts and widely open to representatives of civil society and other actors concerned. The aim of this event would notably be to explore other aspects of human rights in a multicultural society than “hate speech” and “the wearing of religious symbols in public areas”;

(iv) the possibility of a general declaration of the Committee of Ministers on human rights in a multicultural society was not excluded. It was felt that it could represent a useful contribution to the ongoing debate on intercultural dialogue.

33. It decided to extend both the scope and deadline of the terms of reference to allow the DH-DEV to carry out these new activities (see document CDDH(2007)011).

34. The CDDH decided to transmit this report to the Co-ordinator for intercultural dialogue of the Council of Europe, Ms Gabriella BATTAINI-DRAGONI, as contribution to the *White Paper on intercultural dialogue*.

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