

STATEMENT BY THE BELGIAN DELEGATION

Mr Chairman, it has been noted that on several occasions, Belgium, as well as France, has been subject of critical remarks on behalf of different NGOs. Generally, those observations relate to the attitude of public authorities towards relatively small religious groups that exist next to the officially recognised religions and philosophies.

The Belgian Constitution explicitly recognises in its article 19 the freedom of religion, the free exercise of religion and the freedom to express one's views, with the exception however of criminal acts that are committed abusing those freedoms. The freedom of association is also guaranteed, and this right cannot be subject to any preventive measure.

The freedom of religion or conviction is a common acquired right, and everyone can adhere to, leave a religious group and even create such a group. However, Belgium knows a system in which religious or philosophic groups can enter a request to the Government to be officially recognised.

That recognition is examined by the federal administration and, in case of a positive advise, a Bill is submitted to the federal Parliament, whose legislative prerogative it is to grant official recognition. Currently, the catholic, protestant–evangelic (including for instance Baptists and Pentecostists), Jewish, Orthodox, Anglican and Muslim religions are officially recognised, as well as the non-confessional philosophy or lay movement. The Buddhist philosophy has also entered a request for recognition.

This recognition does not imply any qualitative judgment of behalf of the authorities. It is nevertheless accompanied by some advantages, that will be discussed hereafter. The main point is that the request for recognition is a completely voluntary process. The groups that do not seek official recognition can organise themselves perfectly well on the basis of the “Associations without profitable aim Act” of 1921, amended in 2002. The formalities for an association are, depending on the scale of the organisation, fairly simple. There is, of course, a review of potential links with criminal activities such as terrorism, money laundering or human trafficking. Various movements, active in the religious field, have organised themselves in this manner. They are therefore able to make publicity, to organise activities, to buy property, to receive gifts and,

possibly, to benefit from some tax advantages. They can worship, organise services, proselytize, in short, perform all the essential functions of a religious group, including providing religious assistance in prisons on an individual basis.

Now, let us come back to the recognition process. Once the recognition is a fact, that implies that the Federal state will pay the salaries and the pensions of the ministers that are designated by the representative bodies of the religion or conviction to serve in the local communities. Due to the federal structure of the Belgian State, the Regions now also have competence in this domain, and they now will recognise the local communities, subsidise construction and repair works on buildings that are used for religious ceremonies. The non-confessional philosophy has remained a federal competence. The advantage of recognition for the religion or philosophy is therefore merely financial.

Article 9 of the European Convention for Human Rights guarantees freedom of religion. Its second paragraph stipulates that this right is a relative right and can be subjected to restrictions. Those restrictions must be prescribed by law, 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 freedoms and rights of others.

There is abundant literature and jurisprudence on this article.

When the Belgian legislation on harmful cultic groups is considered, that legislation should be regarded in the light of the above possible restrictions. The freedom of religion cannot be the vehicle to exercise harmful, i.e. criminal activities, or to promote activities that are contrary to democratic principles, to fundamental rights and freedoms. The text of article 2 of the so-called law on sects of 2 June 1998 is very clear on this point, in that it enumerates the criteria that should be examined before the law itself can be applied. An organization is considered to be harmful if it has philosophic or religious objectives, or presents itself as having such objectives, and its organization or practices involve activities that harm individuals, the society or human dignity, and are contrary to legislation and international human rights commitments of Belgium. It is up to the Courts to decide whether this is the case. It should also be noted that when the Information and advisory board on harmful cultic organisations gives an advise, it is still only an advise, and the authority or the individual concerned has to decide whether or not he will follow this advise. No individual person is denied freedoms; the only thing that is done is to give a warning there might be a problem. In addition, if an

organization feels that the advice is unjust, it can take its case to the court. Recent examples demonstrate that the system of impartial judicial control functions well.

Mr Chairman, no one can deny the authorities the right to make their citizens aware of the possible dangers of certain groups. An individual's decision, unless he or she is minor, is, however, a private decision that is respected by the authorities. There is only an interference of the courts when the fundamental rights and freedoms of someone are endangered and when that person complains as a result. There is thus no automatic action from the authorities even if preventive action, for example in schools, is not excluded.

In conclusion, Mr Chairman, when someone examines the Belgian legislation in light of article 9 of the European Convention on Human Rights or the OSCE commitments, the conclusion can be no other than that Belgium fully complies with relevant legislation and with its political commitments.