

March 26, 2014

Madame Anne Brasseur
President, Parliamentary Assembly
Council of Europe
Palais de l' Europe
67075 Strasbourg Cedex
France

Dear Madame President:

The Institute on Religion and Public Policy is a non-partisan, inter-religious international organization dedicated to encourage open dialogue and shape public participation in policy of the global community of faith. The Institute works with government policymakers, religious leaders, community leaders, academics and NGOs in order to protect and promote fundamental rights, especially religious freedom.

We are writing to express our serious concern regarding the Report written by French Rapporteur Rudy Salles, entitled "The Protection of Minors against Excesses of Sects", and the accompanying Resolution and Recommendations that are going to be voted on at the second part of the plenary session in April 2014.

1. The Report Advocates Policies That Contravene International Human Rights Standards

In our opinion, the Resolution and Recommendations fall far short of meeting international human rights standards regarding religious freedom, tolerance and pluralism that the Council of Europe has long stood for.

Protecting children is, of course, of paramount importance. However, adoption of the Resolution and Recommendations will not protect the rights of children. Instead, it will endanger those rights and the rights of parents to raise their children in accordance with their religious beliefs and association, a right protected by Article 2 of Protocol N° 1 to the European Convention on Human Rights which provides:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, *the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.*

This right is also protected under Article 18.4 of the International Covenant on Civil and Political Rights and Article 14.1 of the international Convention on the Rights of the Child. Yet, the Report ignores this right and adopts the presumption that parents of minority faiths should have not have the right to raise children according to their religious beliefs.

Unfortunately, the Report focuses exclusively on selective and biased information solely from sources supporting repressive actions against minority religions, which in turn infringes on fundamental freedoms and stimulates hostility by stigmatizing targeted groups. As such, the Report does a disservice to the extensive efforts of the Council in other areas to combat intolerance and foster pluralism in Europe.

Sweeping generalizations, vague and unsupported allegations, and one-sided information from biased sources never constitute the "objective and reasonable justification" required for legal restrictions on the manifestation of religion pursuant to Article 9(2) of the ECHR. Moreover, isolated instances never justify general restrictions against a group. Yet, the Report is rife with such allegations and information, rendering its conclusions and recommendations suspect.

For example, the Resolution states that "the phenomenon of excesses of sects affecting minors is ever more present in Europe". Yet, there is no concrete evidence offered to support this astounding statement. Indeed, the evidence that does exist proves the opposite. Case in point: the 2013 Netherlands Parliament Study finding that minority faiths pose no danger to public order or health.¹

The Report represents an attempt by the French Rapporteur to export the controversial and often internationally criticized French policy towards minority faiths derogatorily referred to as "sects", policies that do not comport with the approach of the vast majority of countries in the Council of Europe.

In spite of the principles of non-discrimination and equal treatment, the French government has determined to arbitrarily classify religious groups into two separate categories: 1) religions viewed as law-abiding and beneficial to society; and 2) "sects" viewed as dangerous to society, which are the targets of oppressive and discriminatory measures, and which the government declares must be "fought" against.

There is no rational justification for such classification. Indeed, classifying religious groups into "religions" and "sects" is itself a violation of religious human rights standards. It is impermissible and arbitrary for the government to confer benefits on groups it classifies as "religions" while denying benefits and enacting oppressive measures against groups it classifies as "sects." The United Nations, religious experts,

¹ <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/10/10/onderzoekrapport-het-warme-bad-en-de-koude-douche.htm>

and UN treaty-based bodies have consistently found that the expression "religion or belief," as well as the individual terms "religion" and "belief," must be construed broadly to include non-traditional religions and all forms of belief.

One other recommendation in direct violation of human rights standards is the call for "awareness sessions" for judges on the issue of "sects" even though the UN Human Rights Committee, in its 1996 Concluding Observations Regarding Germany, recommended that such sessions be discontinued. Likewise, such sessions would violated the Committee of Ministers of the Council of Europe Recommendation CM/Rec (2010)12 to member states on judges: independence, efficiency and responsibilities, which states in § 57, that judicial training programs must "meet the requirements of openness, competence *and impartiality* inherent in judicial office".

2. Mr. Salles is Neither Neutral Nor Impartial as Required By the PACE Code of Conduct for Rapporteurs

Rules 1.1.1. 1.1.2 and 1.1.4 of the PACE Code of Conduct require that Rapporteurs be neutral and impartial on matters they introduce.

Mr Salles is neither neutral nor impartial as detailed in the submissions on this subject filed by the Forum for Religious Freedom Europe (FOREF) and by Coordination of Associations and People for Freedom of Conscience (CAPLC), which the Institute supports.

Mr. Salles is an active advocate and proponent of the policies he promotes in his Report.

- Mr. Salles was appointed to the Board of MIVILUDES in 2012.
- The former President of MIVILUDES, Georges Fenech, has referred to Mr. Salles as a "pioneer of the anti-sect fight in France".
- When Mr. Salles was appointed as Rapporteur, he made a joint statement to the media with Mr. Fenech, announcing the appointment and noting that one of his goals was to create a European Observatory on "sects", a European MIVILUDES.

The facts evidence a woeful lack of impartiality and also provide the appearance that the Rapporteur was being instructed in adopting policies and actions by MIVILUDES in violation of the Code.

MIVILUDES has been involved in targeting many religious groups, including Catholic groups in France in the past. A small Catholic community in the East of France, Amour et Miséricorde (Love and Mercy), which used to gather around its founder who had visions of the Virgin Mary every month, announced its dissolution after a "visit" by MIVILUDES. Newspaper Le Progrès reported on 18 December 2008:

Dominique Balestrat, owner of the land on which the community was living, who has been himself a member of the group for ten years, feels incomprehension and sadness. He says: "We welcomed Georges Fenech, he said he was not coming for an investigation but only to meet with us... He used the media to crush us when there is nothing to crush. We were a dozen people here. We are not a sect. We are Catholics who wanted to live in community".

The inherent bias of the Report is graphically illustrated by the Report's premise that further measures targeting minority faiths designated as "sects" are necessary at this juncture. This is a remarkable statement because it is not supported by any evidence and it is directly contradicted by a host of human rights reports from highly respected organizations on the subject. In reality, quite the opposite is true. The acclaimed University of Essex Human Rights Centre 1997 study on the subject of freedom of religion finds, after conducting extremely detailed and exhaustive research on the topic, that new religions are a recurring target of discrimination in Europe:

"Freedom of religion therefore is not to be interpreted narrowly by states, for example, to mean traditional world religions only. New religions or religious minorities are entitled to equal protection. This principle is of particular importance in light of the evidence reflected in the Country entries, including those of the European section, revealing that new religious movements are a recurring target for discrimination or repression."²

Conclusion

The Institute is of the opinion that the Report, Resolution and Recommendations contravene accepted human rights standards in the Council of Europe. The Report also contravenes the PACE Code of Conduct for Rapporteurs as it is neither neutral nor impartial. Therefore, we urge that it not be endorsed by PACE and that the rights of parents and their children to religious freedom and religious tolerance be respected.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joseph Grieboski", with a stylized flourish underneath.

Joseph Grieboski
Chairman of the Board

² *Freedom of Religion and Belief — A Global Survey*, Kevin Boyle and Juliet Sheen, Routledge Press 1997.