

# Human Rights Without Frontiers

Avenue Winston Churchill 11/33, 1180 Brussels. Belgium

Tél. 32 2 3456145 - Fax: 32 2 337491

Email: [info@hrwf.net](mailto:info@hrwf.net) - Website <http://www.hrwf.net>

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## Interaction of State and Religious Organizations: Legal and Political Aspects

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### Political Regulation of the Religious Sphere in the EU Member States: Good and Bad Practices. A Human Rights Perspective

Ladies and gentlemen,

I want to express my deep gratitude to the organizers of this conference for giving us the opportunity to exchange our expertise and our analyses of the interaction between state and religious organizations in our respective regions.

For several years, with the help of our representative in Ukraine, Prof. Yevgeniya Dodina, we have been monitoring a number of religious issues in this country, such as the relations between the state and the historical religions, the interaction between politics and religions, the tensions inside Orthodoxy, the difficult relations between the Orthodox and the Catholic Churches, the redistribution of religious property, the proliferation of new religious movements, the registration of religious communities, the public debates on school and religion, the state financing of religions.

In my capacity as a spokesman of a Western European human rights NGO, I would like to scrutinize with you the good and the bad practices regarding the political regulation of the religious sphere in a number of EU states. The principle of bad or good practices is to be related here to their discriminatory or non-discriminatory character and to their conformity with international instruments. The field of interaction between state and religious organizations is vast and if I will focus today on three topics – the legal status of religions, the place of new religious movements in the existing legal environment and the state financing of religions. Though, I am quite open during the Q & A to a discussion on some other areas of concern such as the issue of faith-based schools, religious classes in public schools, inter-faith relationships, and so on.

#### Legal Status of Religious Communities

Creating a religious association and acquiring legal personality is of utmost importance for the exercise of the right to freedom of religion or belief. The precise form of juridical personality can vary from one system to another and the criteria are sometimes more restrictive for religious associations than for non-religious associations when there is such a distinction in law. This can be the case for the requested minimum number of founders where two or five founders is often sufficient for secular NGOs while religious associations usually request ten or more. The number of founding members is sometimes questionable as

it can greatly vary from one country to another: from 20 in Greece to 300 in the Czech Republic.

### Systems in force

In a system of separation between state and religions, as it is the case in **France**, **The Netherlands** or **Ireland**, there is no 'formal' recognition of religious communities. Faith and belief communities can acquire legal personality according to the existing legal framework. In most EU member states, however, there is a system of state-recognition of religious denominations and belief communities which leads to their categorization. Each country has its own terminology and its own criteria.

In **Belgium**, there are two categories of religions and belief systems: recognized and non-recognized. In **Greece**, there are two types of categorization and their compositions do not coincide. First, "known" religions and "other" religions. Secondly, legal persons of public law and legal persons of private law. In **Italy**, there is a distinction between state-recognized religions which have been allowed to conclude specific agreements with the state and religious confessional communities. In **Slovakia**, there are two categories of faith communities: religious communities registered with the Government and civic associations. In **Denmark**, there are three categories: recognized religions, approved religions and ordinary non-profit associations. In **Austria**, a three-tier system is in force: state-recognized religious societies, registered confessional communities and non-profit associations. In **Portugal**, there are four categories of religions: churches and religious communities 'rooted' in the country, religious corporations, private corporations and unincorporated associations.

The system of categorization is far from being beyond reproach from a human rights point of view because it introduces a two-tiered or a multi-tiered system in which a number of religious communities and individual believers are denied some individual and collective rights on the grounds of their classification by the state. Some criteria giving access to the most privileged status are questionable in some countries. In **Portugal**, the threshold of 30 years of existence in the country or 60 years abroad has been criticized by some religious groups while in **Austria**, the minimum of 16,000 members is also problematic. Some states do not have any legal criteria and enjoy discretionary power which they sometimes misuse. It has also happened that some states have failed to answer applications or have hastily revised their categorization criteria to prevent some religious groups from having access to the upper category.

Some countries, such as **Spain**, **Portugal** or **Norway**, register all religious and belief communities, and have created specific registers open to the public. In the countries practicing a double- or multi-tiered system, religious denominations are clearly listed in their specific categories. The purpose of this policy is usually to identify the groups that will benefit from tax advantages or from the state financing. Though, even in **France**, where there is separation between state and religions, religious communities which want to enjoy fiscal advantages are recognized and listed as "associations culturelles" once they have fulfilled the required conditions.

### Institutional discrimination

Another fundamental reproach that can be made to the categorization system concerns the various forms of discrimination that it generates. Religious communities of lower categories are i.e. :

- not eligible to receive state subsidies for the wages and education of their clergy;
- not permitted to teach religion at public schools (consequently, children of their members are denied appropriate religious classes);
- not entitled to have chaplains officially accredited in the armed forces, centers for refugees, hospitals or other social or health care facilities, and prisons (consequently, their

members are denied appropriate pastoral care);

- subjected to specific regulations with regard to visas requested by missionaries or religious workers, even though volunteers;
- denied access to the public media;
- denied the right to perform marriages with civil effects in countries where such a system is in force;
- in many cases stigmatized as harmful sects/cults, and warned against by public and private institutions funded or supported by public powers (their members are discriminated against in the enjoyment of their individual and collective human rights);
- and so on, according to the specificities of each countries.

### **Position of the U.N. Special Rapporteur**

Former UN Special Rapporteur on Freedom of Religion or Belief, Mr. Abdelfattah Amor, clearly raised the issue of categorization of religions as potentially discriminatory in his report on his visit *in situ* in Romania in 2003<sup>1</sup>. He was quoted as saying:

“(...) the Special Rapporteur considers that the principle of freedom of religion or belief, as enshrined in international human rights law, is difficult to reconcile with a formal or legal distinction between different kinds of religious or faith-based communities insofar as such a distinction in their status must imply a difference in rights or treatment, which may, in some cases, constitute discrimination that is incompatible with the exercise of human rights.”

He further noted that “this distinction between two kinds of religious or faith-based communities means that the financial contributions made to recognized religions are not available to non-recognized religions, that non-recognized religions, unlike recognized religions, (...) cannot provide religious instruction in State schools in the same way as recognized religions.”

And he concluded by recommending to the Romanian Government “to abolish the distinction between recognized and non-recognized religions (...). In any case, the Government should ensure that this distinction does not lead to discrimination (...) or to restrictions that might curtail the right to freedom of religion or belief, in violation of international law.”

### **Position of the OSCE/ ODIHR**

In 1999, the ODIHR/OSCE published a Background Paper drafted by Prof. Cole Durham called “Freedom of Religion or Belief: Laws Affecting the Structuring of Religious Communities”<sup>2</sup> which constitutes a major contribution to the reflection on registration of religious associations.

In many of the legal systems in force in Western, Central and Eastern Europe, there are two or more categories of religious organizations. Prof. Cole Durham calls them “**base level entities**” and “**upper tier entities**.”

The “**base level entities**” are defined as “entities that religious associations can use to acquire rudimentary forms of legal personality that are sufficient to carry out their affairs, but typically lack significant additional benefits other than the advantages of the entity form itself.” “**Upper tier entities**”, which are often very country-specific, are eligible for direct and indirect financial benefits from the State, and various other privileges.

In this regard, the OSCE/ ODIHR standards are clear: “In order to comply with OSCE commitments, the base level entity status provided must grant religious communities the right to use entities with which they can carry out the full range of religious activities, subject to the narrow class of limitations permitted by international instrument. The report notes issues that can arise with respect to requiring an excessive number of founders, duration

requirements, foreign founders, and in general the need for flexibility in accommodating organizational differences among religious communities.”

### **Position of the Council of Europe**

The Council of Europe also deals with the issue of registration of religions and the discrimination related to it by assessing the honoring of the obligations and commitments of its Member States.

On June 22, 2005, the Parliamentary Assembly of the Council of Europe (PACE) had a debate on Russia’s honoring of its obligations in the field of human rights and said about the 1997 Federal Law on Freedom of Conscience and Religious Associations in Russia that it “creates a complex form of categorization of religions which has led to various forms of discrimination and to the stigmatization of ‘non-traditional’ religions.”

The PACE report stressed that the 1997 Law disregarded the principle of equality of religions by including in its Preamble a statement about “the special role of Orthodoxy in the history of Russia”. The PACE found such practices inconsistent with the standards of the European Convention on Human Rights and said that “Such a policy has also indirectly encouraged acts of religiously motivated violence perpetrated against the representatives of ‘non-traditional’ confessions and their places of worship – physical violence, intimidation and other forms of attacks.”

### **New Religious Movements and the ‘Sect’ Issue**

During the first half of the nineties, the world was shaken up and horrified by a series of collective suicides-homicides and attacks that were perpetrated in America, Europe and Asia at the initiative of leaders of religious movements or movements claiming to be religious. Many governments wondered and still wonder whether they should adopt specific legislation targeting specific religious groups to prevent such dramas as well as other questionable behaviors. The Verkhovna Rada is considering such legislation. At the end of last year, a draft law<sup>3</sup> was introduced “to protect citizens from the dangerous psychological influence of totalitarian religious cults.”<sup>4</sup>

### **The Member States of the European Union and the Sect Issue**

The European Union<sup>5</sup>, the Council of Europe<sup>6</sup> and a number of member states<sup>7</sup> expressed their concern about that phenomenon in various ways. The issue was whether laws of exception targeting specific religious groups should be promulgated and whether a specific policy should be designed and carried out in order to prevent the repetition of such tragedies. The responses were varied.

The position of eleven EU member states, out of fifteen at that time, was that “cults” do not harm the individual, the family, society or their democratic institutions to the point of necessitating that new institutions or organizations were required to combat them<sup>8</sup>. In their view, just as in past years, problems posed by certain religious movements could be resolved using the existing legislative arsenal, or where necessary, by resorting to normal legal methods. Consequently, they did not take any political or legal measures that might have encroached on international human rights norms pertaining to freedom of religion or belief, such as the provisions of ICCPR art. 18.3 which specifies the extent of permissible limitations and the grounds for imposing these limitations and ICCPR art. 4.2, which makes freedom of religion or belief a unencroachable right.

However, four EU member states decided to work out and implement a specific anti-cult policy: two German-speaking countries (Austria and Germany) and two French-speaking countries (France and Belgium).

**Austria** created a *Documentation and Information Center on Sects* in 1998, placing it under the authority of the Federal Ministry of the Environment, Youth and the Family. The mandate of that state-sponsored body was to warn and protect society against so-called sects. A brochure containing information about such movements was also widely distributed<sup>9</sup>. This policy and this campaign incited a climate of societal discrimination and intolerance against minority religions. Also controversial was the establishment and operation of a Federal Office of Sect Issues and other similar offices at the state level with funding from public funds. The financing by the Ministry for Social Security and Generations and the City of Vienna of the Society against Sect and Cult Dangers (GSK) has also been questioned. In addition, several provinces had offices that provided information on “sects” and “cults.” Members of stigmatized confessional communities and other religious associations were reported to be discriminated against at school, by courts, etc. because they were labeled as “sect” members.

**Germany** set up a parliamentary commission and published a report. In the aftermath of this report, the German authorities did not create any state-sponsored sect observatory and did not develop any specific policy targeting so-called sects, except for some time the Church of Scientology. In 1998, Scientology was placed under surveillance of the Federal Office for the Protection of the Constitution. The Church appealed the decision. Throughout the years, various *Länder* published and distributed information brochures warning against “sects.” In 2003, Scientology was granted tax-free status enjoyed by other Churches in Germany. In April 2005, Saarland’s Higher Administrative Court ruled in favor of the Church of Scientology’s appeal on the grounds that seven years of intelligence surveillance had failed to yield results justifying continued monitoring.

**France** and **Belgium** adopted a rather common course of action: creation of a parliamentary commission, publication of a report about sects and a list of almost 200 suspicious religious movements, creation of governmental agencies of fight against a number of “sects”, collaboration with private anti-sect movements, promulgation of laws of exception and implementation of large scale policies targeting so-called sects.

In France, private anti-sect organizations are subsidized by the state while in Belgium, they are represented in the Sect Observatory financed by the state.

In France, the so-called About-Picard Law raised a lot of controversies before it was adopted by the National Assembly. The law is said to apply to religious organisations or their leaders that abuse the state of weakness and vulnerability of their members. In fact, this law introduces repressive measures which jeopardize the basic freedoms of individuals and associations, such as:

- the expedited proceedings on the dissolution of a religious organisation and the impossibility to re-establish it;
- the criminalisation of continued manifestation of personal religious beliefs by members of a targeted group;
- the criminalisation of the dissemination of promotional messages directed at young people by a targeted organisation;
- the creation of a new criminal offence of “fraudulently abusing a person’s ignorance or vulnerability”;
- the closing down of premises used by a targeted organisation;
- the participation of anti-sect groups as “civil parties” in criminal proceedings against a targeted organisation.

Up to now, only one obscure religious group has been sentenced by a court in France, which raises the appropriateness of such a law. In Belgium, a similar draft law supported by the Minister of Justice is being discussed by the parliament and should be promulgated this year.

The consequences have been dramatic for new religious movements and their faithful. Following publication of the parliamentary reports and the “lists of sects,” many cases of intolerance and discrimination in the public and private sectors<sup>10</sup> were reported in France and in Belgium. Complaints from French and Belgian individuals belonging to one of the blacklisted sects have steadily increased: libel,<sup>11</sup> and slander<sup>12</sup>, victimisation in the neighbourhood, at the workplace and at school<sup>13</sup>, damage to individuals’ reputation<sup>14</sup>, loss of jobs or promotions<sup>15</sup>, dismissals<sup>16</sup>, loss of visitation rights or child custody in divorce settlements<sup>17</sup>, inability to rent facilities for religious ceremonies or for meetings<sup>18</sup>, denial of the Belgian nationality<sup>19</sup>, unilateral and unfounded closure of bank accounts of “sects” or of individuals affiliated with them<sup>20</sup>, humanitarian agencies’ refusal to accept donations from “sects<sup>21</sup>,” denial of access to public display boards<sup>22</sup>, and police surveillance<sup>23</sup>.

These situations have triggered off a number of complaints and trials. In this regard, two events are worth mentioning. In France, in 2005, the then PM Jean-Pierre Raffarin signed a circular ruling against the use of lists of religious groups. This political move completed and strengthened a former court decision which declared the list of sects annexed to the sect parliamentary report without any legal value. In Belgium, on 28 June 2005, the Brussels Appeals Court condemned the Belgian House of Representatives for damaging the image of an organization blacklisted in a 1997 report published by the parliamentary inquiry commission on “sects.” The plaintiff was the Universal Church of God’s Kingdom, a small religious group mainly active in Antwerp. The court found that the parliamentary investigation commission acted carelessly when compiling the report and ruled that the parliament could not escape responsibility under article 58 of the constitution, which protects parliamentary immunity. The parliament was ordered to pay the church and three of its directors a symbolic amount of one euro in damages and to publish the court decision in the leading newspapers *De Standaard* and *Le Soir*. The Belgian parliament announced plans to appeal to the Cassation Court.

### **U.N. Special Rapporteur on Freedom of Religion and the “Sect” Issue**

In September 2005, U.N. Special Rapporteur on Freedom of Religion and Belief, Ms. Asma Jahangir, carried out a visit *in situ* in France and released a report about her mission. Her considerations about the “sect” issue are worth mentioning.

In this regard, she says that “the policy of the Government may have contributed to a climate of general suspicion and intolerance towards the communities included in a list established further to a parliamentary report, and has negatively affected the right to freedom of religion or belief of some members of these communities or groups.”

She stresses that a private anti-sect group was declared of public utility and benefited from financial government support.

She also notes after meeting with representatives of some of the religious groups or communities of belief that were included in the 1996 list, that “cases of unlawful discrimination continued to be raised, including in the school system because of the *anti-sectes* campaign that is often conducted without appropriate guidance, resulting in the stigmatization of a number of children that were said to be members of these groups.”

She insists that “The existence and publicity of the list of *sectes* has not affected only freedom of religion or belief. In addition, the mere fact that one is a member of a group on the list has constituted an element for judicial or other decisions that negatively affect an individual’s other rights, for example, in child custody cases.”

Concerning the About-Picard Law and the political choice to fight against some religious groups, she writes : “Nevertheless, the question of the fight against *sectes* raises an issue under the right to freedom of religion or belief, as protected by international standards. Following the adoption of the above-mentioned About-Picard Law, the Parliamentary Assembly of the Council of Europe, in its resolution 1309 (2002) emphasized that,

“[a]lthough a member State is perfectly at liberty to take any measures it deems necessary to protect its public order, the authorized restrictions on the freedoms guaranteed by [a]rticles 9 (freedom of thought, conscience and religion), 10 (freedom of expression) and 11 (freedom of assembly and association) of the ECHR are subject to specific conditions [...] [and] invite[d] the French Government to reconsider this law ...”.

She also recalls that Mr. Abdelfattah Amor, her predecessor, said in his 1997 report: “Sects, whether their religion is real or a fiction, are not above the law. The State must ensure that the law - particularly laws on the maintenance of public order and penalizing swindling, breach of trust, violence and assaults, failure to assist people in danger, gross indecency, procurement, the illegal practice of medicine, abduction and corruption of minors, etc. - is respected. In other words, there are many legal courses open and they afford plenty of scope for action against false pretences and misdirection. Beyond that, however, it is not the business of the State or any other group or community to act as the guardian of people’s consciences and encourage, impose or censure any religious belief or conviction<sup>24</sup>.”

In the last part of her report, Ms. Asma Jahangir concludes that “the policy and measures that have been adopted by the French authorities have provoked situations where the right to freedom of religion or belief of members of these groups has been unduly limited. Moreover, the public condemnation of some of these groups, as well as the stigmatization of their members, has led to certain forms of discrimination, in particular vis-à-vis their children.”

She confirms that the government policy may have contributed to a climate of general suspicion and intolerance towards those communities on the list created by the National Assembly in 1996, of movements and groups classified as *sectes*. Moreover, the campaigns and other actions that have been initiated by associations composed, inter alia, of victims of criminal acts committed by these groups, have often been emotional.”

Finally, she notes that despite a more balanced approach to the phenomenon and some recent adjustments of their policy such as the replacement of the Inter-ministerial Mission to Combat “Sectes” (MILS) into the Inter-ministerial Mission to monitor and combat abuse by sects (MIVILUDES), the French authorities still have to carry out a number of improvements in order to ensure that the right to freedom of religion or belief of all individuals is guaranteed, and to avoid the stigmatization of members of certain religious groups or communities of belief, including those whose members have never committed any criminal offence under French law.

## **State Financing of Religious and Belief Groups**

The financing of faith and belief communities cannot be separated from their status and more widely from their relationships with the state.

I am aware that this issue is also of particular importance in Ukraine as a draft law “On financing by the state of religious communities”<sup>25</sup> was submitted to the Parliament in 2004 and is still to be considered.

When there is strict separation of state and religions - as it is the case in **France, The Netherlands** or **Ireland** - the state does not grant annual subsidies to any religious organization and does not pay any salary to clergy. It can therefore be said that in this regard there is equality of treatment.

However, many states provide both direct and indirect financing for religious and belief organizations.

### **Privileged financing of some religions**

In a two-tiered system of state-recognition, recognized religions and unrecognized religions do not enjoy equal opportunities and their members are subject to discrimination. Some religions receive state subsidies and others do not. Such inequality of treatment based on the distinction between two categories of religious communities was namely denounced by U.N. Special Rapporteur on Freedom of Religion, Mr. Abdelfattah Amor, in his report about his visit *in situ* in Romania in 2003.

In **Greece**, only the Orthodox Church is financed by the state and in **Portugal**, the Catholic Church is the sole religion to enjoy that privilege. In **Belgium**, the state supports six recognized religions and secular humanism. These three countries have a common denominator: through the income tax system, all taxpayers have to contribute to the financing of the dominant or state-sanctioned religions whether they want it or not. Taxpayers adhering to another religion or belief system are thereby disadvantaged as they can neither be exempted from the tax nor finance their own religion. These policies can therefore not be considered good practices.

In other countries such as **Austria** or **Germany**, the state grants recognized religions the right to impose a “church tax” on their faithful. If a church member fails to pay, he/she can be taken to court by his/her church. To evade the “church tax”, a growing number of taxpayers have renounced their religious affiliation, though not their religious convictions.

### **Individualized choice of the religion to be financed**

Some states have become aware of the inadequacy of such policies and have tried to involve their citizens in the choice of the religion they want to support through the income tax system.

In **Italy**, the state has signed a concordat with the Catholic Church and agreements with a number of other religions (Union of the Jewish Communities, Union of the Waldensian and Methodist Churches, the Assemblies of God, the Lutheran Evangelical Church and the Mormons). This type of agreement allows taxpayers to indicate on their tax returns to which of these religions 0.8% of the total income tax should go (not 0.8% of their own personal income tax). Not all religions that have signed an agreement have requested to be financed by the state.

In **Spain**, the taxpayer’s choice is more limited. He/she can donate 0.5239% of his/her revenue either to the Catholic Church or to the state (in fact, the Red Cross). Taxpayers professing another religion or belief system are thereby discriminated against as they can neither be exempted from the tax nor finance their own religion.

In **Hungary**, the financing system is based on the Italian model. Taxpayers recently received the right to decide on 1% of their personal income tax to give to the religious community of their choice. More than 100 religious organizations can benefit from the system. It is apparently fair and very liberal but a number of problems have swiftly appeared. Two examples. First of all, significant differences between the social and economic status of the membership of various groups become very visible and this can be a source of concern. Secondly, a faith community established and growing in the neediest milieus would be financially penalized although being of great social benefit to society.

The individual choice system seems quite commendable in theory but in practice, it is noteworthy that many taxpayers fail to express their option: 90% in Hungary and more than 50% in Spain. And corrective mechanisms have had to be put in place by the state to guarantee the viability of the religious communities.

### **Norway, a European non-EU country**

In **Norway**, about 420 faith communities have been registered in addition to the state church. Denominations with congregations in various regions either register as one entity under one name or let their congregations register separately. Some communities choose to have one central registration, e.g., the Roman Catholic Church or the Methodist Church. Others let each local congregation take care of their own registration: for example, the Muslim communities and the Pentecostal congregations. The Norwegian Humanist Association is also registered as a belief system. Every community has official membership records.

In Norway, a registered faith community has the right to receive governmental funding but must apply for this to regional authorities every year before 1 April. The amounts allotted to faith communities depend on their membership. In the year 2000, the state gave each community 30 EUR per member. The state grants must be used for "religious purposes". The communities must record their expenses and submit their accounting to the County Governor every year before 1 March. The accounting must be signed by the community board or a registered accountant. Abuses can be sanctioned by the loss of the benefits from the financing system. This system can be considered a good practice.

### **Some comments**

The Norwegian system can be a useful source of inspiration as it can be adapted to other normative frameworks. In countries where churches and religious communities do not have any certified internal registration of their members, the individual choice for the "church tax" pledge is another option for the calculation of their budget.

The experience of Italy, Spain or Hungary shows that the transition from one system of financing to another may entail some difficulties or produce unwanted effects. In particular, the financial viability of state-financed religions may be jeopardized under the new system. That is the reason why temporary compensation mechanisms have been put in place during a transition period of 5 to 10 years

I hope that this short presentation of a number of practices with regard to the legal status of religious communities, the accommodation of new religious movements and the state financing of religions in a number of EU member states will give you a better view of the advantages and disadvantages of the various policies they have put in place and will help you develop your own reflection and policies.

Willy Fautré, director  
*Human Rights Without Frontiers Int.*  
[w.fautre@hrwf.net](mailto:w.fautre@hrwf.net)  
Website: <http://www.willyfautre.org>

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<sup>1</sup> Report on the visit of the Special Rapporteur on freedom of religion or belief to Romania (E/CN.4/2004/63/Add.2), par. 94-96

<sup>2</sup> OSCE Review Conference, September 1999, ODIHR Background Paper 1999/4 by Cole Durham, OSCE/ODIHR, Warsaw, Poland.

<sup>3</sup> Draft law 8397 (November 2, 2005) introduced by V.L. Spivachuk.

<sup>4</sup> Quotation from "Analysis of legislative initiatives in freedom of worship and the activity of religious organizations in 2005" by Maxim Vasin, expert on legal questions at the Institute of Religious Freedom.

<http://risu.org.ua/eng/religion.and.society/analysis/article;9181/>

<sup>5</sup> In 1997, the Committee on Civil Liberties and Internal Affairs appointed a rapporteur, Mrs Maria Berger (Austria, Socialist Party), to draft a *Report on cults in the European Union* (11 December 1997, A4-0408/97). A majority could never be found in the European Parliament to adopt the draft report. It was finally sent back to the Committee on July 14, 1998 where it died a natural death.

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<sup>6</sup> Recommendation 1412 (1999), *Illegal activities of cults*, published in the Official Gazette of the Council of Europe, Assembly debate on 22 June 1999 (18<sup>th</sup> sitting) (See Doc. 8373, *Report of the Committee on Legal Affairs and Human Rights*, Rapporteur : Mr Nastase ; Doc 8379 : *Opinion of Social, Health and Family Affairs Committee*, Rapporteur : Mr Hegyi ; and Doc. 8383, *Opinion of the Committee on Culture and Education*, Rapporteur : Mr de Puig). Text adopted by the Assembly on 22 June 1999 (18<sup>th</sup> sitting).

<sup>7</sup> For France : See *Rapport fait au nom de la commission d'enquête sur les cultes*, Assemblée nationale, Commission d'enquête, Rapport n° 2468 (Report drafted on behalf of the enquiry commission on cults, National Assembly, Enquiry Commission, Report nr 2468), December 20, 1995.

For Belgium : See *Enquête parlementaire visant à élaborer une politique en vue de lutter contre les pratiques illégales des cultes et le danger qu'elles représentent pour la société et pour les personnes, particulièrement les mineurs d'âge*. Rapport fait au nom de la commission d'enquête par MM Duquesne et Willems (Parliamentary enquiry commission aiming at working out a policy in order to fight against the illegal practices of cults and the danger that they pose to society, persons and particularly to minors. Report drafted on behalf of the enquiry commission by Mssrs Duquesne and Willems), April 28, 1997.

For Germany : See *Endbericht der Enquete-Kommission « Sogenannte Sekten und Psychogruppen »* (Final Report of the Enquete Commission on « So-called Cults and Psychogroups »), June 9, 1998.

<sup>8</sup> In the Netherlands, the 1996 Annual Report of the Internal Security Service published in 1997 says in § 2.8.3, under the heading « Religious cults » : « Because of incidents in foreign countries where religious cults were involved, it has been looked into how far these cults in The Netherlands are a serious threat. So far, it has not appeared that in The Netherlands religious movements are a serious threat for the security of the state, the democratic order or other important interests of the state. » This was only a confirmation of the stand taken by the Dutch government in 1984 (Dutch Government Report on New Religious Movements) : « In general, new religious movements are no real threat to mental public health . »

<sup>9</sup> Sekten : Wissen schützt. Eine Information des Bundesministeriums für Umwelt, Jugend und Familie, Stubenbastei 5, 1010 Wien, 1996 (Sects : Knowledge protects. Information from the Federal Ministry of the Environment, Youth and the Family, Stubenbastei 5, 1010 Wien, 1996)

<sup>10</sup> In Belgium, the tax department denied the group Sukhyo Mahikari an exemption from property taxes on its place of worship on the grounds that it is on the so-called list of sects. This group is officially registered as a religious association in Spain. Unpublished material collected during an interview of the leader of Sukyo Mahikari by *Human Rights Without Frontiers* in 2001.

In *Conscience et Liberté*, No. 58/ 1999, Louis-Léon Christians, lecturer at the Catholic University of Louvain and member of the Belgian 'Observatory on sects', wrote an article entitled *Liberté d'opinion en droit européen : observations belges (II) – Les limitations*. On p. 10, footnote 1, he wrote: “« Certaines communes belges ont fait de l'obligation de prêter serment de non-appartenance à une 'organisation sectaire nuisible' une condition d'accès à un poste de fonctionnaire. » (Some Belgian municipalities have made it a requirement for candidates for positions as civil servants to swear a statement that they do not belong to a 'harmful sectarian organization'.)

<sup>11</sup> Brussels judge Damien Vandermeersch was accused of being a member of the Opus Dei, listed in the Belgian parliamentary report. See his denial in the newspaper *Le Soir*, October 31, 1998, in an article entitled *Je ne suis pas membre de l'Opus Dei* by Frédéric Delepierre.

<sup>12</sup> Since 1998, Baptist pastor Louis Demeo, who is also the director of the *Institut Théologique de Nîmes (ITN)*, has been accused in the media of being a guru. See the article *L'ITN, une inquiétante organisation tentaculaire* (The ITN, a disturbing tentacular organisation), in the newspaper *Le Midi Libre*, October 28, 1998.

<sup>13</sup> In October 1998, the principal of a school in Chomerac (Ardèche, France) came under fire because he was a member of the *Mandarom*, a blacklisted sect. The rumor of sect involvement was sufficient for a number of parents to withdraw their children from his school and to draw the attention of antisect movements and of the Ministry of Education to this “danger” There was an official inquiry but no professional negligence or proselytism could be established. It was sufficient that he was perceived as a potential danger. Source: French TV Channel FR3, Evening News, October 28, 1998.

<sup>14</sup> See the reply to a reader by journalist Eddy Daniëls in *Intermediaire* No. 39, p. 2, September 22, 1998: “Even a prominent sociologist of religions such as Karel Dobbelaere, Professor at the Catholic University of Leuven, was accused of colluding with dangerous sects because he heard members of sects to learn what they were doing and what motivated them.”

<sup>15</sup> In mid-December 1998, an engineer working in a nuclear plant for the French national electricity company, was refused a key position and was transferred to another non-nuclear department because of belonging to the *Church of Scientology*. Although the engineer had not committed any professional mistake nor had ever tried to disseminate his beliefs, he was suspected of being used by the Church of Scientology to infiltrate the nuclear plant. The engineer had been denounced by several anonymous letters just when he was about to be given responsibility over a dozen workers. See the newspaper *Le Journal du Dimanche*, December 31, 1998, *Gravelines : Malaise à la centrale nucléaire. Un scientologue devait piloter deux réacteurs. Il sera muté.* (Disquiet at the nuclear power plant. A scientologist was

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destined to pilot two reactors. He will be transferred). See the newspaper *Le Parisien*, December 14, 1998 *Le spécialiste du nucléaire était scientologue. Il devait s'occuper des réacteurs de la centrale de Gravelines* (The specialist in nuclear power was a Scientologist. He was to have been in charge of the reactors at the power plant in Gravelines).

<sup>16</sup> See *Rapport sur la discrimination à l'encontre des minorités spirituelles et thérapeutiques en France*, p. 14, published by Omnimium des Libertés (40 Rue du Paradis, 76530 Grand-Couronne, France), October 2000.

<sup>17</sup> Such cases are numerous for all religious groups in France and in Belgium listed in the parliamentary reports. In Belgium, Lieve Van Roy's case has received regular coverage in the media. See a full page report in the newspaper *De Standaard* August 14, 15, 16, 1998, p. 31, *Ik wil en mijn kind en mijn geloof behouden* (I want to keep both my child and my faith).

<sup>18</sup> On November 2, 2000, Human Rights Without Frontiers emailed a following press release entitled « Three hours after it had begun, a public meeting of the new religious movement Sahaja Yoga was banned by order of the mayor. A dozen police officers accompanied by a bailiff turned up to make sure the ban was respected. »

Text of the press release : « On Thursday October 26, 2000 at 4.30pm, the organisers of the meeting, scheduled for later that evening, were informed that it had been banned, following orders from state security. The auditorium of the cultural center in Woluwe St Pierre (Brussels) had been hired several months in advance for a presentation of the Sahaja Yoga movement, and the meeting had been advertised by radio, posters, and leaflets.

At 6.30pm barricades were erected in front of the entrance to the cultural center and a dozen uniformed and plain clothed policemen were in attendance. Some stated that they belonged to the public relations department of the gendarmerie, others that they were part of the state security services and others to the Belgian Brigade of Surveillance and Research (BSR). An affidavit was also presented by a bailiff. The organisers were informed that all meetings of any kind were forbidden and that any discussion of Sahaja Yoga would result in arrest.

The individual responsible for hiring out the hall claimed that the sect's dangerous nature had only been discovered at the last minute. He added that the presence of the gendarmerie and the state security services was justified by the sect's attempt to infiltrate the town's dance center(!). Allegedly, the group had hired the hall to stage a dance display, but in reality it turned out they wanted to talk about their 'guru', Shri Mataji NIRMALA DEVI. He claimed also that this sect was extremely dangerous because it kidnapped children.

<sup>19</sup> See Website of Human Rights Without Frontiers [http://www.hrwf.net/html/2005PDF/Belgium\\_2005.pdf](http://www.hrwf.net/html/2005PDF/Belgium_2005.pdf)

<sup>20</sup> Unpublished material collected during interviews of members of the Raelian religion by *Human Rights Without Frontiers* in 1999.

<sup>21</sup> Unpublished material collected during interviews of members of the Raelian religion by *Human Rights Without Frontiers* in 1999.

<sup>22</sup> Unpublished material collected during interviews of members of Sahaja Yoga by *Human Rights Without Frontiers* in 1999.

<sup>23</sup> In 1999, the Surveillance and Research Brigade visited parents of former students of the only Steiner School in French-speaking Belgium (not in the Flemish-speaking part of Belgium, where there are about fifteen, all financed by the Flemish parliament) and collected statements and value judgements about the school. The Steiner Schools are linked to the Anthroposophic Society which is on the French and Belgian parliamentary report lists of sects. Unpublished material collected during interviews of members of the Anthroposophic Society by *Human Rights Without Frontiers* in 1999.

In spring 1999, a Flemish family practicing *Sahaja Yoga* received a visit from the BSR who had heard that the child was with his grandmother at an ashram in Rome. At the time of the visit, the child was on his way back home. The parents made and signed a positive statement about the movement. A member of *Sahaja Yoga* in Mechelen, who had advertised courses, was visited by BSR officers from Leuven. Unpublished material collected during interviews of members of Sahaja yoga by *Human Rights Without Frontiers* in 1999.

<sup>24</sup> (E/CN.4/1997/91, para. 99).

<sup>25</sup> Draft law 36051 of August 21, 2004 proposed by L.M. Chernivetskyi. Source: "Analysis of legislative initiatives in freedom of worship and the activity of religious organizations in 2005" by Maxim Vasin, expert on legal questions at the Institute of Religious Freedom. <http://risu.org.ua/eng/religion.and.society/analysis/article:9181/>