



# ГИЛЬДИЯ ЭКСПЕРТОВ ПО РЕЛИГИИ И ПРАВУ

The Guild of Experts on Religion and Law  
некоммерческое партнерство

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Moscow

2 April 2014

Mrs Anne Brasseur  
President of the Parliamentary  
Assembly of the Council of Europe  
Avenue de l'Europe  
67075 Strasbourg Cedex

Moscow, the 24<sup>th</sup> of March 2014

Dear Mrs Brasseur,

Having read the draft report by Mr Rudy Salles, from the French delegation at the Parliamentary Assembly, "*The protection of minors against excesses of sects*", we would like to express our concern regarding the content of the report, as well as the resolution and recommendations it contains.

First of all, the report affirms peremptorily some "truths" that are not based on facts, and that are contradicted even in the report itself. For example, in para 5, it is stated: "*The Assembly notes that the phenomenon of excesses of sects affecting minors is ever more present in Europe.*" However, in the report itself, all the data show that there is no evidence of such a phenomenon. The reports even affirms that there is a "*lack of comprehensive data on the subject, especially in central and east European countries, and the lack of practical and effective action against the phenomenon in most Council of Europe member states*". Such a report, recommending for strong measures against so-called "sects", should be based on strong facts, and on the contrary, it is based only on an ideology not supported by any fact.

The term "sect" is a pejorative term which is used in the entire world to stigmatize religious minorities, and justify some of the worst persecutions by governments, mainstream State religions or else, of these minorities. In Russia, for example, it is used to fight and persecute many non-orthodox Christian groups, as well as Muslims, Hindus, new religious movements, some Jewish communities, etc.

The use of this term by governmental bodies is since a long time considered as violating Human Rights, as it has been expressed by the ODHIR at the OSCE<sup>1</sup>, by the UN special Rapporteur on Freedom of religion or Belief<sup>2</sup>, but also by the Council of Europe itself<sup>3</sup>.

Children must be protected and there is no doubt that the Convention on the Rights of the Child should apply in any community, religious or not, traditional or non traditional. However, the report is done in a way that goes against this very convention. Targeting the children and parents of so-called sects will lead undoubtedly to violations of the articles 2.1, 2.2, 14.1, 14.2, 14.3 and moreover article 30 of this convention.

<sup>1</sup> In the OSCE Guidelines for Review of Legislation Pertaining to Religion or Belief:

*"The definition of "religion." Legislation often includes the understandable attempt to define "religion" or related terms ("sects", "cults", "traditional religion", etc.). There is no generally accepted definition for such terms in international law, and many States have had difficulty defining these terms. It has been argued that such terms cannot be defined in a legal sense because of the inherent ambiguity of the concept of religion. A common definitional mistake is to require that a belief in God be necessary for some- thing to be considered a religion. The most obvious counterexamples are classical Buddhism, which is not theistic, and Hinduism, which is polytheistic. In addition, terms such as "sect" and "cult" are frequently employed in a pejorative rather than analytic way. To the extent that legislation includes definitions, the text should be reviewed carefully to ensure that they are not discriminatory and that they do not prejudge some religions or fundamental beliefs at the expense of others."*

<sup>2</sup> In his 1996 Annual Report (E/CN.4/1997/91, 30 December 1996), in para 94, the UN Special Rapporteur on Religious Freedom noted the inadequacy of labelling certain groups as "sects":

*"The term "sect" seems to have a pejorative connotation. A sect is considered to be different from a religion, and thus not entitled to the same protection. This kind of approach is indicative of a propensity to lump things together, to discriminate and to exclude, which is hard to justify and harder still to excuse, so injurious is it to religious freedom."*

<sup>3</sup> See Mr Nastase report: <http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=8683&lang=EN>

This is also encouraging violations of the rights of parents to educate their children in conformity with their own convictions, as discrimination arise when some religious groups are targeted as “non traditional”, “sects”, “cults”, etc. And children must be protected from discrimination, and violation of their rights including article 9 of the European Convention on Human Rights.

This report, poorly made, contradicts also the jurisprudence of the European Court of Human Rights. When some courts have tried to prosecute new religious movements on the basis of the peremptory statement that they were “sects” and that for that reason Children were at stake. In *Jehovah's Witnesses of Moscow v. Russia*, the Court recalled that Article 2 of Protocol No. 1 of the Convention on Human Rights requires the State to respect the rights of parents to ensure education and teaching in conformity with their own religious convictions and concluded:

*“Both parents, even in a situation where they adhere to differing doctrines or beliefs, have the same right to raise their children in accordance with their religious or non-religious convictions and any disagreements between them in relation to the necessity and extent of the children's participation in religious practices and education are private disputes that are to be resolved according to the procedure established in domestic family law.” [para 125]*

The resolution also proposes “Extensive awareness-raising measures for welfare services, judges (in family law cases, especially when parents separate), civil servants, the police and ombudsmen's”. These “awareness raising measures” on so called “sects” have existed in Germany and the UN Human Rights Committee, in its 1996 Concluding Observations regarding Germany, have recommended that Germany discontinue “sensitizing sessions for judges against the practices of certain designated sects”.<sup>4</sup> These “awareness raising sessions” also exist in France, where they constitute one sided indoctrination sessions that have resulted in strong discrimination against religious minorities or new religious movements. These sessions are absolutely contrary to the Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities<sup>5</sup>: 22. *In their decision making judges should be independent and impartial and able to act without any restriction, improper influence, pressure, threat or interference, direct or indirect, from any authority, including authorities internal to the judiciary. (...)*

57. *An independent authority should ensure, in full compliance with educational autonomy, that initial and in-service training programmes meet the requirements of openness, competence and impartiality inherent in judicial office.*

The whole report is openly based on data provided by FECRIS and the French Miviludes. FECRIS is known for associating with the “mighty” and discriminate against religious minorities they label as “sects”. They cannot be considered as neutral, fair or reliable for such a report which touches such an important issue. FECRIS is almost entirely funded by the French government, so it is not a surprise that they are linked to the French Miviludes, an internationally criticized body which is suppose to fight against “sects”. The exportation of this ideological biased system from France to other countries of the Council of Europe would be a very unconsidered move for the Assembly.

For these reasons, and many others that we can't obviously raise all in this letter without writing a book, we would like to ask the Assembly to not engage in such a risky path, a path which will encourage discrimination, persecutions of religious minorities throughout the member States of the Council of Europe. Every religion is a minority somewhere. Every religion is a “sect” somewhere in the views of some others. The Council of Europe is here to protect the Right to Freedom of religion or Belief of every person, including the ones who are members of religious minorities. This report should be, at the very least, sent back to Committee for further review until it is done properly and that the resolution and recommendation it proposes respects Human Rights international standards.

Warm regards,

**Roman Lunkin,**  
**President of Guild of Experts on Religion and Law (Moscow, Russia)**

CC:

*Mr Clapisson, Chairman of the Committee on Legal Affairs and Human Rights*

*Mr Markus Adelsbach, head of the secretariat of the Bureau, to give to the members of the Bureau.*

*Mr Valeriu Ghiletschi - President of the Committee on Social Affairs, Health and Sustainable development*

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<sup>4</sup> UN Human Rights Committee Concluding Observations: Germany (18/11/96), (CCPR/C/79/Add.73).

<sup>5</sup> <https://wcd.coe.int/ViewDoc.jsp?id=1707137>