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**SUBMISSION FROM  
CHURCH OF SCIENTOLOGY INTERNATIONAL  
EUROPEAN HUMAN RIGHTS OFFICE**

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**Upholding the Rule of Law and Due Process in Criminal Justice Systems:**

**Violations of the Right to Equal Protection and Non-Discrimination in Matters  
Relating to Religion in France and Belgium**

*“All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone should be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law”.* Art. 14(1) International Covenant on Civil and Political Rights.

*“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground”.* Para. 5.9, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE, Copenhagen 29 June 1990.

**Introduction**

The principles of equal protection and non-discrimination under the law are fundamental components of the rule of law. They ensure that all laws are applied uniformly and objectively, regardless of race, religion, gender, culture or minority status. These principles form a critical foundation to the right to a fair trial in criminal proceedings. OSCE participating States have committed themselves to adhering to the principles of equal protection and non-discrimination in the administration of criminal justice.

This submission concerns the contravention of the right to a fair trial and the impartiality of the judiciary in cases regarding minority religious associations and their adherents in France and Belgium. Repressive measures – in the form of Ministry of Justice and Ministry of Interior Circulars, “awareness” seminars for judges and prosecutors, and discriminatory laws allowing biased private groups subsidized by the state to intervene in criminal proceedings– have been initiated by the French government to target 173 religions derogatorily designated as “sects”. These special measures have undermined the general institutional framework and guarantees securing a fair trial, judicial impartiality, and judicial independence in France.

Belgium is in the process of emulating these special measures. “Awareness” sessions for magistrates, judiciary trainees and prosecutors currently exist. In March 2006, a Belgian Parliamentary Working Group published a report entitled *Follow-up of the Recommendations of the Parliamentary Board of Inquiry regarding "Sects"* advocating

the passage of discriminatory and repressive criminal legislation and the adoption of the type of special measures implemented in France which contravene the principles of equal protection and non-discrimination in criminal proceedings concerning the 598 groups and communities currently derogatorily designated as “sects”.

These special measures in France and proposed measures in Belgium cannot be countenanced under OSCE standards concerning the rule of law articulated in the concluding documents to the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE, which mandates “*justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression*”.<sup>1</sup> These measures also contravene UN Basic Principles on the Integrity of the Judiciary, *the Bangalore Draft Code of Judicial Conduct 2001*, *Guidelines on the Role of Prosecutors*, and the principles of equality and non-discrimination articulated in Article 14 of the International Covenant on Civil and Political Rights.

## **1. Freedom of Religion Standards**

The United Nations, religious experts, 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. This was the opinion articulated in two studies prepared by the first two Special Rapporteurs on freedom of religion of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, and expressly confirmed in the Working Paper, drafted by the third Special Rapporteur.

Likewise, the Human Rights Committee has found that freedom of religion is not limited in its application to traditional religions and that any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community, contravenes Article 18 of the International Covenant on Civil and Political Rights.

“Article 18 protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief. The terms belief and religion are to be broadly construed. Article 18 is not limited in its application to traditional religions or to religions and beliefs with institutional characteristics or practices analogous to those of traditional religions. *The Committee therefore views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established, or represent religious minorities that may be the subject of hostility by a predominant religious community.*” General Comment No. 22 on Art. 18 (Para 2).

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<sup>1</sup> Para. 2, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE, Copenhagen 29 June 1990.

The right to be free from discrimination based on religion or belief is also anchored in the OSCE's general commitment to freedom of thought, conscience, religion or belief articulated in Principle VII of the Helsinki Final Act.

Nevertheless, the French and Belgium governments have determined to create a suspect category of religious groups under the pejorative term "sects while initiating criminal investigations and prosecutions based on repressive measures that deprive targeted groups of a fair trial.

## **2. France**

In May, 2005, the Prime Minister issued a Circular Letter withdrawing government reliance on the "sect list," consisting of 173 targeted minority faiths, conceding that the list was misused to "blacklist some groups". This new policy cannot be successful, however, unless the machinery of discrimination constructed over the last several years – including Circulars and Manuals that relied on the "sect list" to create discriminatory policies in criminal proceedings– is dismantled and unless constructive dialogue occurs on an inter-ministerial basis at the highest levels of government.

### **a. 29 February 1996 Ministry of Justice Circular**

The first repressive measure adopted in the aftermath of a Parliamentary Report stigmatizing 173 groups as "sects" consisted of a 29 February 1996 Ministry of Justice Circular to public prosecutors around the country urging them to "fight" sects.<sup>2</sup> Through "faultless vigilance" and using "*particular severity*", the Minister of Justice invited prosecutors to "*apply the existing law more strictly*" and to "*fully use the existing legal arsenal.*" The Circular also stated that "every complaint or declaration relating to sectarian phenomena be carefully studied and be the subject of a systematic investigation... *the possible requisites for dismissing the case will have to be especially detailed.*"

In the introduction of the Circular, the Minister of Justice unequivocally asserted that new religious movements were the main target of this repression. The annex to the Circular officially lists the 173 movements in the Parliamentary Report, thereby further stigmatizing these groups and targeting them for discriminatory and repressive legal actions.

The arbitrary and discriminatory nature of the Circular is further illustrated by the admission that no threat to public order actually exists, as the Minister notes that "*the denunciations or complaints from victims remain too few in number*". Despite years of uniformly derogatory public pronouncements to "fight sects", false and derogatory information disseminated by the anti-sect groups, and the repressive measures detailed in this submission, the government concedes in a 2005 publication that public order is still not threatened by these groups. This publication notes that criminal cases "remain limited

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<sup>2</sup> *Journal Officiel*, 5 March 1996; Alain Garay, "Le circulaire du 29 fevrier 1996" JCP, no. 15 (10 April 1996).

in number” due, in particular, “to a scarcity of complaints and an absence of reports”.<sup>3</sup>

This Circular remains in force to this very day and forms the policy impetus to place pressure on prosecutors and judges to file cases – no matter how weak – and to refuse to dismiss such cases – even when an investigation evidences that no justifiable legal or factual basis to continue exists – against targeted religious movements and their parishioners.

#### **b. The “Sect Mission” and the 1 December 1998 Ministry of Justice Circular**

On the basis of the 1996 Circular, a task force, known as a “Sect Mission” was established within the Department of Criminal Affairs and Pardon (DACG) of the Ministry of Justice headed by a magistrate, Marie-Jose Aube Lotte, who is under the Director of Criminal Affairs and Pardons and who oversees the prosecution of cases concerning minority religions in liaison with the prosecutor’s office, putting pressure on prosecutors to bring cases against minority faiths.

Ms. Lotte does not observe the strict neutrality in matters of religion required under international human rights law. To the contrary, she has attended conferences and lectures organized by so called “anti-sect” groups with a vested monetary interest in “fighting” groups it labels as “sects”; published articles that repeat the biased misinformation and inaccurate stereotypes put forward by these anti-religious groups that reliable and objective experts have rejected as unscientific; and organized a one-week seminar on “sects” for prosecutors, judges, police officers, and government officials on an annual basis that focuses on the biased misinformation and inaccurate stereotypes put forward by these anti-religious groups.

These anti-religious associations, UNADFI and CCMM, routinely publish biased and inaccurate propaganda regarding minority religions in France, and have been convicted for libel several times. The Swedish government rejected France’s policies towards religious movements in 1998 because of its alliance with these groups, fueling its biased approach: “In France, the state has on the whole made common cause with the anti-cult movement” in order to “declare a war on new religious movements”.<sup>4</sup> Moreover, the UN Rapporteur for Religious Freedom noted, in her report on her visit to France in September 2005, that the “campaigns and other actions that have been initiated by associations” have “often been emotional”.

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<sup>3</sup> Guide for Public Agents on Sectarian Deviations, published by the French government’s mission interministerielle de vigilance et de lutte contre les derives sectaires (MIVILUDES) in 2005 (Documentation Française, January 2005) Part 1, Chapter 4. Throughout the Guide, continuous reference is also made to the purported danger to minors. Yet the Guide concedes that, “at the national level, the number of cases of minors at risk is relatively low (a study showed that out of the 54,000 cases on educative assistance in 2003, only 192 had some connection to a cult-related issue).” The government’s own figures demonstrate that no “sect problem” exists. Part 2, Chapter 1.

<sup>4</sup> Report of the Swedish Government’s Commission on New Religious Movements, *In Good Faith: Society and the new religious movements* (1998).

The 1998 Circular also appoints a magistrate from the general prosecutor's office within each appeal court as "sect correspondents" for their jurisdiction, in charge of pushing anti-sect cases on the public prosecutors below them, and under the direct supervision of the anti-sect magistrate at the DACG. Each "sect correspondent" is required to coordinate actions of the judicial authorities with the actions of other government departments involved in "sect" matters. The criminal cases which receive these special instructions are cases against targeted religious minorities, since the 1998 Circular makes express reference to the 1996 Circular and the list of 173 targeted groups.

Significantly, the 1998 Circular is addressed not only to public prosecutors like the 1996 Circular, but *also to the judges of instruction and the sitting judges*, who preside over cases concerning the targeted groups. The Circular instructed *prosecutors and judges* to maintain institutional contacts with:

*"Associations that can be taken seriously, such as UNADFI and CCMM that combat sects. Only good can result from state prosecutors' establishment of ties with these associations, in order to discuss the schemes of sect-like movements that fall within their competence".*

The purpose of the Circular was to increase the number of complaints filed against targeted religions by relying on information and initiatives taken by these private groups – further entangling the government with biased sources and destroying the concept of neutrality and fairness in the administration of justice.

The 2005 *Guide for Public Agents on Sectarian Deviations* contains a whole chapter on "the machinery to fight against sects" set up within the Ministry of Justice. This publication supports the initiatives articulated in the Circulars and further illustrates that the discriminatory and repressive measures put in place by the French government in 1996 to improperly influence and pressure judges and magistrates against entire religions and their adherents *continues to this very day*.

These provisions are an exception to Article 40 of the French Code of penal procedure and to the principle that public prosecutors have discretion in initiating prosecutions. They establish a regime derogatory to the principles of equality and non-discrimination at the heart of the rule of law.

### **c. "Awareness" Sessions for Judges and Prosecutors against the Practices of Targeted Religions**

Starting in 1996, training and "awareness" programs for the police, state prosecutors, judges of instruction and sitting judges were initiated. The 2005 *Guide for Public Agents on Sectarian Deviations* notes that each year the National School for Magistrates (Ecole Nationale de la Magistrature) organizes a one-week seminar on sects for prosecutors, judges, police officers, and government officials from the youth and sports ministry,

national education, judicial protection of youth, general direction of competition and consumer offices. Up to 140 trainees take part in this course.

The anti-sect magistrate at DACG runs these seminars together with an official at the Labor Ministry. In addition, the anti-sect magistrate also gives these seminars on sects to prosecutors and judges within the appeal courts.

Along with the Circulars, these seminars and awareness programs improperly prejudice attendees against targeted faiths by providing biased stereotypes and unscientific information, and thus clearly violate human rights standards. Belgian officials have also lectured and participated in these seminars on “sects.”

Based on documents released under the Freedom of Information law, the presentations on the targeted religions have been biased. The seminars delivered to the judges have included specific briefings on Scientology, Jehovah's Witnesses and other targeted groups, with information provided by UNADFI and CCMM, and without any possibility of contradiction, debate or rebuttal by the concerned groups.

Such “awareness” programs for court officials have been condemned by the United Nations Human Rights Committee. In its *Concluding Observations of the Human Rights Committee: Germany. 18/11/96 (CCPR/C/79/Add.73)*, the Human Rights Committee recommended, in strikingly similar circumstances, that Germany discontinue the holding of “sensitizing sessions for judges against the practices of certain designated sects”. Otherwise, the right to a fair trial is denied for religious minorities.

These programs operate to prejudge entire groups, thereby infringing the right of the minorities to be presumed innocent, and contravene the principle of equality of arms since these minorities are not in a position where they can contradict the biased information given to the judges.

#### **d. Penal Amendments and Public Subsidies for CCMM and ADFI**

The Ministry of Justice introduced a penal reform bill that passed on 15 June 2000, enabling “associations that fight against sects” to intervene in proceedings against targeted religions. This provision was amended by the law of 12 June 2001, known as the About-Picard law, which allows private vested interest groups – such as ADFI and CCMM – to become civil parties in litigation in cases involving targeted minority faiths.

Overall, the About-Picard law allows for the imposition of restrictions on religious groups in France which are unprecedented in Europe and which include: 1) specifically drafting the law in order to be applied to minority religions only; 2) the creation of a new offence of fraudulent “abuse of [a person's] ignorance or vulnerability” designed to apply only to disaffected members of targeted religious groups; allowing groups which make it their very business to “fight” minority religions a formal role in the proceedings in which these measures can be imposed; and 3) a provision providing for the dissolution of

associations of targeted religious groups when they or one of their leaders have been convicted of certain crimes.

Taken together, these matters make the law incompatible with basic principles of the rule of law. Indeed, on 18 November 2002, the Parliamentary Assembly of the Council of Europe adopted Resolution 1309 (2002) on the About-Picard law, calling on the French government to “reconsider the law”.

Under the law, these associations are empowered to incite criminal complaints against religious groups, to represent the complainants using their own attorneys, to appear as private civil parties and thus to control the legal system as government proxies to attack religious minorities. The right to a fair trial is clearly violated in connection with the granting of the status of "civil party" to anti-"sect" organizations in criminal proceedings against minority religious groups or leaders or members of such groups for two reasons.

First, in certain proceedings in which the question of whether the incriminated activities related to a targeted organization designated as a “sect” is likely to be the main question, the very granting of *partie civile* status pre-judges this issue.

Article 2-17 of the French penal code provides that any association recognized as being of public utility and existing for at least 5 years can be a civil party in cases in which offences have been committed by or within a group or organization “*which purpose or effect is to create, maintain or exploit a psychological or physical subjection*”. Since the status can only be granted in proceedings concerning acts committed in the context of the activities of an organization designated as a “sect”, the granting of this status implies a pre-determination that the group in question constitutes such an organization, rendering the right to be treated as innocent until proven guilty and the right to a fair trial nugatory.

Second, the involvement of such blatantly biased groups in the substance of the determination of a criminal case undermines the right to a fair trial and violates the impartiality of the tribunal - in particular in cases relating to freedom of religion. The European Court of Human Rights has found the involvement of the Greek Orthodox Church in cases regarding house of worship permits for the use of premises by Jehovah's Witnesses to be completely inappropriate as that Church would have interests inimical to the objectivity and neutrality demanded in state interactions with minority faiths.<sup>5</sup>

This offends UN standards as well. The United Nations Special Rapporteur for Religious Freedom has also expressed concern about the inclusion of ecclesiastical authorities in the decision making process in Greece and has recommended that such laws be amended to exclude them from the process due to concerns regarding the need for impartiality and freedom from religious discrimination.<sup>6</sup>

Surely, allowing blatantly biased anti-religious groups to interject themselves into criminal proceedings against religious minorities is *far worse* than allowing a state

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<sup>5</sup> *Manoussakis and Others v. Greece*, (59/1995/565/651) (26 September 1996), para. 43.

<sup>6</sup> Greece Report, A/51/542/Add.1 (7 November 1996).



religion to be part of the administrative process. The inclusion of these groups in criminal proceedings violates the right to religious freedom, contravenes the requirement of strict neutrality in religious matters by the State, and renders the right to a fair trial and judicial impartiality nugatory, transforming the cases into full blown “heresy trials”.

The government continues to designate UNADFI as an association of public utility (*Association d'Utilité Publique*) to publicly subsidize ADFI’s campaign of religious intolerance. In 2000, according to UNADFI documents, the Prime Minister’s Office invested 5 million francs (762,000 euros) in UNADFI to allow them to buy new premises. In 2004, the French government granted 110,000 Euros to ADFI in a letter signed by the Prime Minister.

Yet, the very concept of fighting “destructive sects”, which constitutes ADFI’s mandate, is anathema to international human rights standards as it attempts to make an arbitrary distinction between religions described as “good” and religions described as “bad”. Based on the public subsidies and laws allowing it to intervene in trials, ADFI has a vested monetary interest in “fighting” religious groups designated as “sects”. Such discrimination is incompatible with the duty of the state to remain neutral and impartial with respect to religions and with the policy of true religious pluralism.

What France may not do directly under international human rights law it may not do indirectly through a private group. ADFI is nothing more and nothing less than the government’s agent in the “fight against sects”, and therefore any acts taken by ADFI must be attributable to the government and fall under the jurisdiction of the International Covenant on Civil and Political Rights and other relevant UN instruments.<sup>7</sup>

### **3. Belgium**

#### **a. Draft Laws on Mental Manipulation**

On 21 March 2006, the Minister of Justice formalized a preliminary draft penal law punishing the “abuse of weakness or ignorance of persons”. The Minister submitted this preliminary draft law to the Council of Ministers, which approved it on 31 March 2006 and transmitted the preliminary draft law to the Conseil D'Etat for review to ensure its constitutional compatibility prior to being introduced in the Parliament.

The key provision of the draft law reads as follows:

"Anyone abusing the ignorance or weakness of a minor or a very vulnerable individual, either due to his/her age, sickness, disability, physical or mental deficiency, illegal resident status or precarious living condition or pregnancy, so as to get that person to do an act or refrain from doing an act that would seriously endanger his/her physical or mental integrity or assets, will be sentenced to a jail term going from 3 months to 3 years and a fine from 250 up to 20.000 euros”.

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<sup>7</sup> It should also be noted that the President of UNADFI, Catherine Picard, is employed at the Ministry of Sports and is thus a state agent.

Although the language of the preliminary draft law does not specifically refer to “sects”, the government’s summary and explanatory statement accompanying the draft law, make it clear that the primary purpose of the draft law is to implement the recommendation of the 1997 Report of the Belgian Parliamentary Commission by inserting a new article into the criminal code punishing the abuse of a person’s weakness due to “people’s indoctrination by sects”.

In addition to the draft law put forward by the Minister of Justice, there are currently five similar draft laws before either the Belgium Senate or the Chamber of Representatives proposing various forms of legislation concerning so-called “sects” that would establish criminal offences based on the “mental manipulation” and “abuse of weakness” theories. The laws presume that minority religious beliefs are “dangerous” and require specific measures against them. They also presume that proselytization and other manifestations of religion by individuals associated with targeted religious groups or the groups themselves constitute some form of “mental manipulation.”

The terms in the draft laws, such as the “abuse of the weak position or ignorance of a person”, “mental pressure”, “psychological pressure”, and “abusing gullibility” are extremely vague, open to discretionary application and excessively broad interpretation, allowing for arbitrary and discriminatory application. Indeed, reading the preambles and explanatory statements in the six draft laws, it is clear that the laws have been specifically drafted in order to be applied to minority religions in a discriminatory manner.

Laws which are excessively vague, which are discriminatory in intent and application, and which allow for the imposition of draconian measures on religious communities and their parishioners are incompatible with the rule of law in a democratic society and thus violate fundamental rights protected by all major international human rights treaties.

The very nature, aim and purpose of the draft laws are to target religious communities derogatorily designated as “sects.” These groups are being targeted on the basis of broad and vague standards which could just as easily be applied to all religions, but which are not so applied due to the discriminatory motives underlying these draft laws. Such draft laws also violate the prohibition against religious discrimination contained in Articles 2 and 26 of the International Covenant on Civil and Political Rights. This right to be free from religious discrimination is particularly important to members of targeted religious movements which are the subject of special laws against “sects” as they are denied the same guarantees of religious freedom provided to the historical religions.

Religions are not above the law. However, any legitimate concerns are much more effectively addressed by the enforcement of existing laws on common criminal activities. Special laws against “sects”, on the other hand, are discriminatory and endanger the religious liberty of every citizen

Moreover, these attempts to define and punish “mental pressure,” “psychological pressure” or “abuse of weakness” are truly remarkable in light of a host of scientific and academic studies unanimously finding that the theory of “mental manipulation” or

“religious brainwashing” have no merit. The academic community, including scholars from psychology, sociology, and religious studies, has articulated an almost unanimous consensus that “mental manipulation” and “brainwashing” theories as applied to religious communities are completely lacking in scientific merit. Brainwashing has never gained any scientific credibility.<sup>8</sup>

Major studies by the leading authorities in the field and by organizations such as the American Psychological Association and the American Sociological Association debunk the myth of brainwashing as it applies to new religious movements.<sup>9</sup> These studies echo the position taken by the Dutch government in 1984 in its Report on New Religious Movements that “new religious movements are no real threat to mental public health”. The Swedish government reached a similar conclusion in its report.<sup>10</sup>

These studies, and the vast majority of government reports on the subject, determine that any issues could be resolved by using the existing legal arsenal and by resorting to normal legal methods. Consequently, they did not recommend taking any political or legal measures that encroach upon international human rights norms.<sup>11</sup> For example, in its Recommendation 1178 (1992), the Parliamentary Assembly of the Council of Europe concluded that legislation on “sects” was undesirable on the grounds that such legislation might interfere with the right to freedom of conscience and religion guaranteed by Article 9 of the European Convention on Human Rights. The Parliamentary Assembly’s Recommendation 1412 (1999) encouraged member states to adopt an approach “which will bring about understanding, tolerance, dialogue and resolution of conflicts” and “to take firm steps against any action which is discriminatory or which marginalizes religious or spiritual minority groups”.

The vague and broad wording of these laws will inevitably lead to the use of these laws into tools of persecution by those opposed to religious tolerance while further polarizing religious minorities and creating an atmosphere of discrimination in contravention of the rule of law.

## **b. Emulation of Repressive French Measures**

On 30 March 2006, the Belgium Parliament adopted a Working Group Report entitled *Follow-up of the Recommendations of the Parliamentary Board of Inquiry regarding "Sects"* (Working Group Report). The Working Group Report endorses the draft legislation on mental manipulation. It also contains other recommendations emulating the repressive French measures which, if implemented, would contravene the rule of law by undermining the right to non-discrimination and equality through one-sided “awareness”

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<sup>8</sup> Dick Anthony, “Religious Movements and Brainwashing Litigation”, *In Gods We Trust: New Patterns of Religious Pluralism in America*, 2d. ed. (New Brunswick 1990).

<sup>9</sup> APA Memorandum of July 11, 1989

<sup>10</sup> *In Good Faith: Society and the New Religious Movements* (Stockholm, SOU 1998).

<sup>11</sup> See, e.g., Parliamentary Assembly Resolution 1412 (1999) “Illegal Activities of Sects”, Council of Europe.

initiatives to instill prejudice and other special measures to encourage the initiation of criminal proceedings against targeted faiths and their members.

The Report contains a number of recommendations that contravene the rule of law, including:

- An “action plan for *the fight against sectarian practices*” for the judiciary, the prosecution, the police and State Security.
- Written policy “*to clearly define missions to be assigned to the Judiciary authorities and police, both in regards to investigations and proceedings*”, to strengthen their means of action.
- A “*performance indicator listing the possible actions to be undertaken against*” targeted groups.
- Written policy containing “*specific instructions to the parquets and labour courts*” regarding targeted faiths.
- The application of “*articles 7bis and 35 of the penal code, which makes it possible to dissolve corporate bodies in case of condemnation in the event of illegal sectarian practices*”.

Likewise, the Working Group Report calls for more “vigilance” by Judges in Family Courts in rendering decisions regarding child custody and visitation rights, including consultation with the Observatory, “when one of the parents is a follower” of a targeted organization.

Yet, the European Court of Human Rights, in a custody case involving a mother who was a Jehovah’s Witness, reversed an Austrian Constitutional Court decision taking the child away from the mother based upon her religious association and beliefs. The Court found that a decision, which in essence is only based on a different religious affiliation as such, is “unacceptable” because it is contrary to the European Convention on Human Rights and is therefore in violation of the law.<sup>12</sup> Any attempt to deny custody or visitation rights based upon religious affiliation is blatantly discriminatory, violates fundamental human rights law and has no place in a government report.

Ironically, the Report concedes that “sects are less visible,” that “complaints are indeed hard to verify,” that “former followers are rarely ready to testify after their going out of the movement,” that “the federal prosecutor’s office has yet to initiate a criminal procedure in a sectarian case” and that “the number of case dismissals remains high, because the ‘sect cases’ are often opened based on hard to verify accusations or because the facts complained about are not very serious.” These concessions that no serious

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<sup>12</sup> *Hoffmann v Austria* (1994) 17 EHRR 293, para. 36.

problem necessitating special measures exists are significant. They expose the fact that the call for such measures represents nothing but political maneuvers that will result in further intolerance and discrimination.

These recommendations, which emulate the French model, would seriously undermine the rule of law in Belgium if they are adopted. Special measures in the form of Ministry of Justice circulars or directives to pressure prosecutors and judges to initiate cases and investigations against the 598 targeted groups would undermine the general institutional framework and guarantees securing a fair trial, judicial impartiality, and judicial independence in Belgium for religious minorities. These proposed actions, legislation and repressive measures cannot be countenanced under Paragraph 5.9 of the Copenhagen Document, UN Basic Principles on the Integrity of the Judiciary, *the Bangalore Draft Code of Judicial Conduct 2001, Guidelines on the Role of Prosecutors*, and Article 14 of the International Covenant on Civil and Political Rights.

### **c. Awareness” Sessions for Magistrates and Prosecutors against the Practices of Targeted Religions**

Starting in 1997, training and “awareness” programs on the “sect phenomena” for prosecutors and judges of instruction were initiated in Belgium. As recently as 2005, “training sessions” for magistrates and judiciary trainees on the “sect issue” were held under the auspices of the Higher Justice Council of Belgium.

Like France, these “awareness” programs have been one-sided and present the beliefs and activities of targeted faiths in a uniformly derogatory light. These programs contravene principles regarding the rule of law articulated by the UN Human Rights Committee.<sup>13</sup> They directly undermine the rule of law by infringing on the right of members of religious minorities to be presumed innocent and by contravening the principle of equality of arms since these minorities are not in a position where they can contradict the biased information given to magistrates.

### **Conclusion**

Since 1990, the OSCE has enhanced its commitments to combat racism, xenophobia, anti-Semitism and related intolerance, including against minority religions. For example, OSCE Permanent Council Decision No. 621, *Tolerance and the Fight Against Racism, Xenophobia and Discrimination* (July 1994), commits OSCE States to promoting religious freedom and tolerance through “*transparent and non-discriminatory laws, regulations, practices and policies*”. Both France and Belgium have also committed themselves to adhering to the principles of equal protection and non-discrimination in the administration of criminal justice as articulated in the 1990 Copenhagen Conference on the Human Dimension.

Yet, the repressive measures implemented in France and proposed in Belgium contravene these commitments and the principles of non-discrimination and equal protection of the

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<sup>13</sup> *Concluding Observations of the Human Rights Committee: Germany. 18/11/96 (CCPR/C/79/Add.73).*

law which are at the heart of the rule of law. The time has come for France and Belgium agree to full compliance with OSCE principles and commitments regarding freedom of religion, non-discrimination and the rule of law.

**For further information please contact:**

Mr. Martin Weightman  
Human Rights Director  
European Office  
Church of Scientology International  
91 rue de la Loi  
1040 Brussels  
Belgium

Phone: +32 2 231 1596

Email: [martinweightman@compuserve.com](mailto:martinweightman@compuserve.com)



## OSCE Human Dimension Implementation Meeting

Warsaw, 26 September 2007

### Working Session 4: Freedom of thought, conscience, religion or belief

Freedom of religion and belief is an inalienable right that must be fully enjoyed by any human being and any religious or belief community. However, a number of participating states of the OSCE still fail to recognize the basic individual and collective rights guaranteed by international standards.

The enjoyment of the basic religious freedom rights is still not guaranteed in a number of OSCE participating states such as **Belarus, Uzbekistan, Turkmenistan, Kazakhstan and Russia** because a number of religious communities are denied the right of association, a prerequisite to the access to other rights such as freedom of assembly, freedom of worship, freedom of expression and freedom of education. However, the country that has worse religious freedom record is certainly Uzbekistan.

In **Uzbekistan**, the 1998 Law on Freedom of Conscience and Religious Organizations requires all religious groups and congregations to register. The criteria are very strict. Each group must present a list of at least 100 citizen members to the local branches of the Ministry of Justice. Some Christian groups (Baptists, Pentecostals, Evangelicals, Jehovah's Witnesses) applied for registration at local, regional, and national levels but were denied it or never received an official answer. Some groups which do not want to be registered are considered illegal and cannot enjoy freedom of worship or they hold private religious meetings at their own risk. Other groups have reported that they prefer not to bring themselves to the attention of authorities by submitting a registration application. Jehovah's Witnesses, present in the country since the late 1950's, could only register two congregations, in Fergana and Chirchik. On August 24, 2006, without any reasons, the Fergana Justice Department issued a ruling to terminate the activities of the Fergana Congregation of Jehovah's Witnesses. A number of new religious movements are just tolerated if they do not practice proselytism. Since the Andijan uprising, the authorities have closed down registered religious communities on spurious grounds, such as the Seventh-Day Adventists and Korean-led churches in Samarkand region.

The Criminal Code makes it a criminal offense punishable by up to 5 years in prison to organize an illegal religious group or to resume the activities of such a

group after it has been denied registration or ordered to disband. In addition, the Code punishes participation in such a group with up to 3 years in prison.

Article 10 of the 1998 Law bans the private teaching religion. Violations are usually punished by a fine of between 5 and 10 times the minimum monthly wage or up to 15 days' imprisonment". Article 229 (2) of the Criminal Code prescribes up to 3 years' imprisonment where the law is repeatedly broken. This year, Jehovah's Witness Irfon Hamidov was sentenced to two years in a labour camp, for "illegally teaching religion."

Proselytism is forbidden by Article 5 of the 1998 Law. A first offence is punishable by a fine or up to 15 days' imprisonment. Subsequent infringements are subject to criminal law and punishable by a fine of between 50 and 100 times the minimum wage or up to three years' imprisonment.

In several old Western European democracies, controversial new legislations have been adopted to specifically target minority religious groups labeled 'sects' or 'cults'. This is notably the case **in France, Belgium and Austria**.

In **France**, public measures of vigilance and fight against so-called sectarian deviations still target numerous movements and persons on the ground of their religious beliefs. Despite the circular of 27 May 2005 of PM Raffarin, some administrations specifically repress groups which are mentioned on the list of sects/cults publicized by the first parliamentary enquiry commission in 1995.

The action of MIVILUDES, the agency in charge of the monitoring and the fight against so-called sectarian deviations, seems nowadays to be influenced more by the personality of its leaders than by the principle of neutrality. Strange though it may be, the monitoring of sectarian deviations in Islam have been excluded from the agenda of MIVILUDES. Its current president lumping together "Islam" and "terrorism" did not hesitate to say in *Témoignage Chrétien* of 1<sup>st</sup> February 2007: "As far as Islam is concerned, the context is different and therefore we have decided, in agreement with the relevant state services, not to deal with it directly. The terrorism issue is notably a particular problem which concerns the fundamental interests of the state."

Due to the lack of neutrality of the current leadership of MIVILUDES, specialists of religious issues have left the organization. Even Janine Tavernier, former president of the anti-sect/anti-cult group UNADFI expressed her concerns about the current deviations of the fight against the so-called sectarian organizations in *Le Monde* of 17 November 2006. She was then quoted as saying: "In 2001, we had the feeling that we were on the path of witch-hunting... Today, I feel concerned when I hear the president of UNADFI lump together in her criticisms all the Evangelical Churches of La Réunion. (...) I have always been against the principle of lists of sects/cults. I barely dare say that I follow a homeopathic treatment."

### **Recommendations**

**HRWF Int'l recommends to the government of Uzbekistan** to adapt its religious legislation to the standards of the OSCE in matters of freedom of association, freedom of assembly, freedom of worship, freedom of education and freedom of expression.

As the U.N. Special Rapporteur on Freedom of Religion or Belief Ms Asma Jahangir said in par. 91 of her report about her mission in France in 2005 that she had concerns about the neutrality of MIVILUDES and in par. 111 that she



would closely monitor the activities of MIVILUDES, **HRWF Int'l recommends to the government of France** to transfer the competences of MIVILUDES to the Ministry of Interior which is the natural state body in charge of religious affairs and whose activities were not questioned by the U.N. Special Rapporteur.

**HRWF Int'l last recommendation** is addressed **to the Advisory Board of Experts on Freedom of Religion or Belief of the OSCE/ ODIHR**. We recommend to the Advisory Board to extend the OSCE/ODIHR mechanisms identifying and monitoring the activities of anti-Semitic anti-Muslim non-state actors to other communities of faith and belief which are also targets of intolerance and non-discrimination. We recommend to the Advisory Board to create an enquiry commission so as

- to identify the non-state actors whose activities create a climate of suspicion and intolerance towards other communities of faith and belief;
- to monitor such activities;
- and to propose remedies to curb such a trend.

# THE INSTITUTE on Religion & Public Policy

## Institute on Religion and Public Policy Report: Religious Freedom in France

### Executive Summary

(1) In France, the freedom to practice religion and protection against discrimination based on religion is written in its constitution. However, France is facing a grave immigration problem from North Africa and the Middle East that is challenging the tolerance level of France's traditional homogeneous society. Many of these immigrants immigrating to France are Muslims. There is a relatively large amount of violent acts that are targeted at the rising level of Muslims and established Jewish community in the country. In addition to suffering societal backlash to their developing and established communities, Jews and Muslims must also violate their religious beliefs in order to comply with the new Headscarf Law. Needless to say, both religious minorities, in addition to other religions, are thus subject to violations of their religious freedom on a daily basis.

### Institute on Religion and Public Policy

(2) Twice nominated for the Nobel Peace Prize, the Institute on Religion and Public Policy is an international, inter-religious non-profit organization dedicated to ensuring freedom of religion as the foundation for security, stability, and democracy. The Institute works globally to promote fundamental rights, and religious freedom in particular, with government policy-makers, religious leaders, business executives, academics, non-governmental organizations and others. The Institute encourages and assists in the effective and cooperative advancement of religious freedom throughout the world.

### Introduction to the Legal Status

(3) The French constitution provides for religious freedom. The 1905 law establishes the separation of church and state. This legislation furthered the protection of individuals from discrimination based on religion. The French government does not publicly support any religion, although, it does provide subsidies for religious activities such as liturgical services and religious education programs to registered and recognized religions. Religious organizations in France are not required to register; however, if they do register as "associations cultuelles," which means associations of worship, then they are exempt from taxes. There is very little conflict between religious organizations. The government generally respects freedom of religion in practice and the freedom to practice any religion. However, some religious groups and human rights groups

are concerned about legislation passed in 2001 and 2004 that provided for the dissolution of groups under certain circumstances and banned the wearing of conspicuous religious symbols by public school employees and students. In 2008, the Ministry of Interior announced that it will be reexamining the 1905 law to make it more accommodating and provide more freedom for all religions in France. The Institute supports the reexamination of the law and encourages the French government to ensure that the 1905 law accommodates the rights of all religions.

### **Instances of Official Discrimination**

(4) The law of 12 June 2001, known as the About-Picard law, allows for the imposition of restrictions on religious groups in France which are unprecedented in Europe and which include: a) specifically drafting the law in order to be applied to minority religions only; b) the creation of a new offence of fraudulent "abuse of [a person's] ignorance or vulnerability" designed to apply only to disaffected members of targeted religious groups; c) allowing groups which make it their very business to "fight" minority religions a formal role in the proceedings in which these measures can be imposed; and d) a provision providing for the dissolution of associations of targeted religious groups when they or one of their leaders has been convicted of certain crimes. Taken together, these matters make the law incompatible with basic principles of the rule of law. The About-Picard law has been criticized by human rights groups. In addition, on 18 November 2002, the Parliamentary Assembly of the Council of Europe adopted Resolution 1309 (2002) on the About-Picard law, calling on the French government to "reconsider the law". The law is discriminatory and should be revised or repealed.

(5) The 2005 *Guide for Public Agents on Sectarian Deviations* notes that each year the National School for Magistrates (Ecole Nationale de la Magistrature) organizes a one-week seminar on sects for prosecutors, judges, police officers, and government officials from the youth and sports ministry, national education, judicial protection of youth, general direction of competition and consumer offices. Up to 140 trainees take part in this course. The anti-sect magistrate at the Ministry of Justice runs these seminars together with an official at the Labor Ministry. In addition, the anti-sect Magistrate also gives these seminars on sects to prosecutors and judges within the appeal courts. Along with a February 1996 Ministry of Justice Circular to public prosecutors urging them to "*fight*" sects, these seminars and awareness programs improperly prejudice attendees against targeted faiths by providing biased stereotypes and unscientific information, and thus clearly violate human rights standards.

(6) The 2004 Headscarf Law banned all conspicuous religious symbols in public schools for employees and students. These symbols include the Muslim headscarf, Jewish skullcap, Sikh turban, and large Christian crosses. The law intended to create neutrality and religious tolerance in public schools. However, all that it has created is controversy, intolerance, and civil unrest. By banning

these symbols of various religions, it has limited the freedom to express one's religion. Contrary to the reasoning behind this law, it does not promote religious tolerance and it violates some of the basic religious principles. The law in effect creates conditions in which minority groups are required to surrender their distinctive characteristics, basic fundamental beliefs, and tenets for the sake of assimilating into the "French" culture. The Institute agrees with the findings of the UN Rapporteur on Religious Freedom in her 2006 Report on France (E/CN.4/2006/5/Add.4) that this law "denies the rights of those minors who have freely chosen to wear a religious symbol to school as part of their religious belief" and that "the implementation of the law by educational institutions has led, in a number of cases, to abuses that provoked humiliation, in particular amongst young Muslim women." Under these circumstances, this law needs to be reconsidered.

(7) On December 14, 2007, a French court upheld the ban on turbans law in public school by expelling Bikramjit Singh, Jasvir Singh, and Ranjit Singh from the Louise-Michel High School of Bobigny. The judge ruled that the under-turbans that they wore were not discreet, and the court concluded in the interest of secularism in public schools the ban should be kept in place. The Headscarf Law, while it is consistent with the principle of separation of church and state, violates the personal rights and freedoms of individuals. In January 20, 2005, 48 students were expelled; most of those barred from attending classes were Muslim girls who refused to take off their headscarves but three Sikh boys were also ordered out of the classroom as well for wearing turbans. Although lawmakers attempted to give a secular flavor to the law by including a prohibition against wearing large Christian crosses, this was largely a symbolic gesture. The average French Christian rarely wears such large crosses as part of his or her attire anyway; and the law still permits small, inconspicuous religious signs such as typical cross necklaces.

(8) The inter-ministerial Mission to monitor and combat sectarian abuse (Mission interministérielle de vigilance et de lutte contre les dérives sectaires), known as MIVILUDES, has contributed to the stigmatization of targeted religious faiths in France. This organization needs to be completely reformed to ensure that it is neutral and objective on religious matters and promotes religious freedom for all. Moreover, the Institute supports the current administration's plan to transfer government information gathering regarding religions from the Renseignement Generaux (RG) to a responsible academic center, the system currently employed in the United Kingdom. Use of an academic observatory manned by experts on religion and sociology would help to ensure neutral and objective information gathering on all religious groups, which in turn should enhance religious tolerance and understanding.

## **Sectarian Instances of Discrimination and Violence**

(9) The French government strives to limit the amount of religiously motivated violent acts. However, this law only intensified the division between the Muslim population and the rest of France. On September 24, 2006, vandals scrawled swastikas and racist slogans on the walls of two mosques in Rennes, France and set fire to one of them on the day Muslims started celebrating Ramadan. In light of this growing trend of Islamophobia, the French government implemented the Headscarf law.

(10) Fortunately, the situation in 2006 did improve. According to the National Consultative Commission for Human Rights (NCCHR), there were 344 incidents of racism, often including anti-Islamic acts. This was down from 471 committed in 2005. However there was an increase in violent rhetoric. In 2006, the government recorded 192 threats made against individuals of North African origin, of which 65 were explicitly anti-Islamic. This number increased from 56 of such threats in 2005. On May 10, 2007, a court sentenced two individuals to two years in prison (with eligibility for parole after one year) for profaning 51 Muslim graves and the ossuary in the country's largest military cemetery, Notre-Dame-de-Lorette, a month earlier. On October 23, 2006, vandals profaned the future Mosque of Belfort by leaving a pig's head in a window. Anti-Islamic acts include profanity, vandalism, desecrating graves, and many more.

(11) It is not only the Muslim populations that are facing discrimination, but a new wave of anti-Semitism in Western Europe is escalating as well. Anti-Semitic acts increased by 6 percent in 2006, and violent incidents rose more sharply, from 99 in 2005 to 134 in 2006. The NCCHR report noted that the number of anti-Semitic threats and insults committed by those of "Arab-Muslim" background increased from 99 in 2005 to 115 in 2006, an increase of 16 percent. The number of threats and insults committed by the extreme right dropped from 150 in 2005 to 98 in 2006, and made up 24 percent of the incidents recorded.

## **Positive Trends**

(12) French laws regarding the protection of the freedom of religion is evolving. In 2003, a law was passed against crimes of a "racist, anti-Semitic, or xenophobic" nature, and in 2004 legislation further increased punishment for "hate" crimes. The Government regularly applies these laws in prosecuting anti-Semitic crimes. The President of France, Nicolas Sarkozy took an active public role in denouncing and combating anti-Semitism wherever he encountered it, including personally overseeing the dismantlement last year of the website operated by the anti-Semitic group, Tribu KA.<sup>1</sup>

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<sup>1</sup> It was founded by Kémi Séba. The Tribu Ka held regular meetings that banned whites, Jews, and Arabs. The organization sees itself as the defender of African people.

(13) Interfaith communication is also increasing. In Marseille, last month, a Jewish representative attended the festival of Eid al-Adha, one of Islam's most important holidays, at a local civic center. A few days later, a leading Muslim cleric took part in a commemoration ceremony for the hundreds of local Jews deported to Nazi death camps during World War II.

## **Conclusion**

(14) The French Constitution protects the freedom of religion, and the French government generally respects this fundamental right in practice as well. However, in order to decrease the amount of anti-Semitic and anti-Islamic vandalism, violent acts, and threats as quickly as possible, the French government turned away from one of its basic human rights, the protection of individual belief and expression. In this post-September 11th era where tensions between the Middle East and the West continue to escalate, it has become more difficult for France to maintain stability within its country. However, it is during these times of difficulties that our principles are tested. While the French government is improving its laws against acts of hatred, there is still much more that the government can do for its people in protecting their human rights.



HDIM.NGO/269/08

6 October 2008

Octobre, 6th 2008

## **Human Dimension Implementing Meeting**

### **OSCE – Varsovie**

#### **Toughening up religious discrimination in France**

Our association, OMNIUM des Libertés (OMNIUM of Liberties), was founded in 1996. Its purpose is to defend the principles of freedom of thought, religion and association, pursuant to Article 9 of the European Convention for Human Rights: *“Everyone has a right to freedom of thought, conscience and religion; this right includes freedom to change religion or belief, and freedom, either alone or in community, and in public or private, to manifest ones religion or belief, in worship, teaching, practice and observance.”*

For the last 12 years we have received hundreds of complaints from members of religious, spiritual or therapeutic minorities whose rights have been flouted regarding Articles 9, 10 and 14 of the European Convention.

The victims generally deplore not only that the State does not defend their rights but moreover that some of its institutions are themselves instigating witch hunt campaigns targeting them.

Adversities and sufferings are aplenty - hearsay campaigns, ruined reputations, loss of jobs, children taken away from their parents, physical violence, bomb laying and degradation of real estate property. Those who are at the origin of such discriminatory acts are often difficult to identify, however certain organisms are reported as catalysts of discrimination against these minorities. *“l'Union Nationale de Défense de la Famille et de l'Individu”* (UNADFI – National Union for the Defense of Families and Individuals), *“le Centre Contre les Manipulations*

*Mentales*” (CCMM – Center Against Mental Manipulations) both of them financed over 95% by the State, and the “*Mission Interministérielle de Vigilance et de Lutte Contre les Dérives Sectaires*” (MIVILUDES – watchdog committee on cults), are often reported as the discrimination catalysts against minorities.

Being alerted about the situation of French religious minorities, the Special *Rapporteur* on Freedom of Religion and Belief, Asma Jahangir, carried out a mission in France in September 2005. In her report on religious intolerance in France she adopted the following conclusions and recommendations:

*“However, she [the rapporteur] is of the opinion that the policy and measures that have been adopted by the French authorities have generated 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.”*

And further « *The Special Rapporteur hopes that future actions of the MIVILUDES will be in line with the right to freedom of religion or belief and avoid past mistakes. She will continue to closely monitor the various actions that are carried out by MIVILUDES.* »

With the appointment of Georges Fenech as a Chairman on October 1<sup>st</sup> 2008, -veteran activist against religious minorities-, the MIVILUDES takes the opposite direction to the recommendations of the Special UN Rapporteur. Actually Mr Fenech refuses any dialogue with religious minorities that he labels beforehand as sectarian movements. Interviewed on June 8 2007 on *Sud Radio* on his serious allegations against the political party « La France en Action » which he accused of undercover work and financing for cults, he refused to talk to the chairman of the party and stated:

*“I’ve never talked to anyone connected to a cult”*

Mr Fenech being nominated at the head of the MIVILUDES is questionable and this would be extremely unlikely to happen in any other European country especially to deal with religious affairs. Mr Fenech was condemned in 1998 for racial insults in public. His election as Member of Parliament was invalidated by the *Conseil Constitutionnel* in 2008 because of the rejection of his campaign’s accounts, and he is at the moment ineligible. In the Angolagate case, Georges Fenech was indicted in July 2001 on charges of dealing in stolen goods and misappropriation of funds, for having accepted as chairman of the *Association Professionnelle de Magistrats* a 100,000 Francs (15 000 €) cheque from a firm suspected of illegal arms sales to Angola. The trial is to start on October in Paris.

UNADFI and CCMM associations are wholly devoted to activism against religious and philosophic minorities. Having these private organisms almost entirely financed by public funds



and the ADFI recognised as a public charity<sup>1</sup> is a violation of the neutrality of the State. But even if they actually create “disturbances of public order” by picking up minority beliefs, there are however within the French Civil service many competent individuals who rely on facts.

This is supported by the report of the Parliamentary enquiry commission of 2006 on children within religious minorities. Several high-ranking civil servants stated that “problems related to sectarian deviations were negligible in France”.

Questioned before the commission The Director of the Sports and Youth Department (Ministry of Youth, Sport and Associations) stated that: *“The minister has set up a national unit coordinated by the general inspector. Representatives from the youth, sports and community service administrations meet regularly. It hears experts, summons departmental managers, and ensures that the minister's policy of prevention is indeed carried out.*

*At a local level, we have appointed a correspondent in each ‘department’ [administrative subdivision of France administrated by a Prefect, similar to a county]. These correspondents forward information to us. But this is not enough. We regularly organize meetings with the regional directors for youth and sports. [...] The forwarding of information takes place via the correspondents, but also via our inspectors, who inspect sports establishments, vacation centers and recreational centers.*

***Statistically, in the field of youth, we have very little information forwarded to us. [...] Statistically, over the three past years, we have had no evidence of minors being deliberately put at risk.”***

This statement confirms similar claims by other civil servants in police, justice, *gendarmerie* and intelligence services. As a conclusion of their testimonies under oath, there were only a few dozen cases which might need an enquiry.

Mr Fenech admits it him self for he wrote in his mission’s report “Justice in front of sectarian deviations” dated from Sept. 2008: *“sectarian deviations correspondents point out that the number of these cases is not very important.”* (page 34) and *“We must admit that out of a population of circa 60 000 children concerned at different degrees by the sectarian issue only one hundred is under supervision of a children’s magistrate. We acknowledge even a diminution of reports on children victims of sectarian abuses. (...) Thus a inquiry in 2003 after 147 Children’s Magistrates showed that out of 54 040 briefs of educational assistance, only 192 were related directly or indirectly to a sectarian issue, which represents 0,14% of all the briefs”*

But Fenech justifies this small amount of educatinal measures, by quoting the

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<sup>1</sup> Specific status as an association “d’utilité publique” (being beneficial to the public at large), which confers privileges under French law like being able to sue for damages on behalf of a third party e.g.: a cult victim.

explanation of a psychologist : « *Perhaps because it is harder to preserve a child from his parent's beliefs than from their blows or their incestuous sexuality* » (rapport page 30)

As a conclusion, he considers there is a need to trigger more denunciations of children whose parents belong to religious or philosophical minorities, and particularly when « *both parents belong to the same group* » and when the judge is « *neither informed nor seized* ». (Report P.27)

These recommendations are a violation of parent's rights to educate their children according to their beliefs, protected both by the (« European Convention on Human Rights) (Protocole #1, Article 2) and by the International Covenant on Civil and Political Rights (Article 18.4). They are also an obvious illustration of Fenech's ideological fight. In p. 42 of his report, he advises that consenting adepts of new religious or philosophical movements should get under guardianship on the pretext that they « *are not yet aware of being victims* » and that they are « *happy slaves* ».

On grounds of this radical stand, Mr Fenech calls for a greater influence of anti-sect groups in French justice. Every year, the MIVILUDES organises a training workshop on “*sectarian deviations*» at the *Ecole Nationale de la Magistrature*. The use of French FOIA rights revealed that these workshops far from delivering general information on this issue were actually a smearing of certain minority movements specifically named by the aforementioned anti-sect association’s speakers. Documents given to participants contained hostile press articles and justice decisions unfavourable to some of these movements wilfully omitting to mention any quashing or reversal by higher judicial or administrative courts. None of the positive decisions before courts of justice or sociological studies on the matter were furnished. The movements in question had of course no means to reply or to deny the charges brought forth against them. This disinformation of magistrates called to rule on penal or domestic cases, aimed to influence them on particular cases, constitutes an unbearable infringement to the independence of justice, to the presumption of innocence and to a fair trial.

Mr Fenech, in his report, calls for multiplying by 4 these “*awareness workshops*” broadening them to include the police, *gendarmerie*, teachers, social inquirers, psychiatric experts called to assist judges to determine which groups may be charged with “*psychological subjection*” and which parents should be deprived from the custody of their children. He advises for a systematic intervention of anti-sect associations and for an increase of their subsidies;

Justice will thus become the instrument of these groups fighting against minorities.

This is what we denounce today and why we ask your prestigious organization for help.

We are also making an appeal today from this rostrum, to all those who belong in the tolerant and humane face of France, respectful of all beliefs.

We ask them to realise the danger represented by the toughening up of French policy vis-à-vis of religious, spiritual or philosophical movements, which are under administrative, judicial and professional harassment on grounds of hearsay and slander fuelled by a handful of activists who don't actually reflect French society.

**Our first recommendation** is that the personal representative of the current chairman of the OSCE against intolerance and discrimination regarding Christians and followers of other religions sends a mission to France, to gather evidence stemming from the many members of spiritual or religious associations, victims of discrimination. Our first recommendation is that the personal representative of the current chairman of the OSCE against intolerance and discrimination regarding Christians and followers of other religions sends a mission to France, to gather evidence stemming from the many members of spiritual or religious associations, victims of discrimination.

**Our second recommendation** is that the OSCE reminds to its member States the rights of religious, spiritual or philosophical minorities regarding the respect due to their beliefs as drafted by the Helsinki agreement and that it encourages all French authorities to undertake a constructive dialogue with representatives of these minority movements.

We ask for the respect and immediate implementation of the following:

- Article 9 of the European Convention on Human rights - Freedom of thought, conscience and religion "Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance."
- Article 2 du Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms : Right to education ; « 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. »
- Article 18.4 International Covenant on Civil and Political Rights : « The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions. »
- Article 10.1 of the European Convention on Human rights - Freedom of expression "Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers."
- Article 14 of the European Convention on Human rights - No discrimination "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."





**Human Dimension Implementation Meeting (OSCE)  
Warsaw, 29 September 2009  
- Working Session 2 -**

**- France -  
The inadequate and irresponsible fight against sectarian abuse**

## Introduction

- **CICNS**<sup>1</sup> – Our association (Centre of Information and Consultation on New Spiritualities), which is independent of any religion and any political party, represents any citizens acting in a peaceful way, so that the principles of an open 'laicity' be respected, as well as basic freedoms of thought, conscience and religion in accordance with the European Convention on Human Rights.

- **Status** – For five years, CICNS has analyzed the debate on the « cults » issue in France<sup>2</sup>. The sustained condemnation of spiritual research, repeatedly presented to the public through derogatory expressions such as 'sect' or 'cult', is perpetrated by some individuals and groups who are heading a crusade to entrench prejudice against freedom of spirituality as a whole. Criminal acts committed by a few individuals, along with a few tragic events around the world are used to justify an ongoing campaign of discrimination in France. CICNS members do not deny that when criminal acts are committed, they should be judged and punished according to law, when evidence provides the required proof. However such criminal acts should be treated for what they are, independent of the spiritual belief or associations of the perpetrators. One function of the CICNS is to keep in its archives, examples and testimonies of allegations of criminal acts, some without any credible evidence, which have fuelled campaigns of disinformation on the nature of spiritual research and led to discrimination, injustice and human tragedy. This justifies the existence of the CICNS.

- **An inadequate and irresponsible stand** - The use of such allegations to denigrate legitimate spiritual movements and research has no place in a society that claims to be a democracy. Asma Jahangir, special rapporteur on freedom of religion or belief at UN, mentioned after visiting France in September 2005, "a climate of general suspicion and intolerance"<sup>3</sup>. This climate is the consequence of a thirty-year policy led today by MIVILUDES<sup>4</sup> (the French inter-ministerial mission to monitor and combat sectarian abuse under the supervision of the Prime Minister) and a fraction of members of Parliament<sup>5</sup>. While it is true that the Ministry of the Interior has adopted a much more balanced approach<sup>6</sup> and, through its influence, does succeed in moderating MIVILUDES policy, the overall tone is dictated by the inter-ministerial mission. An intimidating arsenal has been put in place in terms of communication in the media, documentation, organization and legal provisions<sup>7</sup>. Despite discourse offering emphasis on secular values and the respect of freedom of conscience<sup>8</sup>, the French public authorities' actions against sectarian abuse are inadequate and irresponsible. We therefore propose a critical review, as specified below.

## An inadequate and irresponsible stand against sectarian abuse

**1- A purposely ambiguous stance** - The commitment of French authorities in 2002, to switch from combating cults to combating sectarian abuse, in particular with the creation of MIVILUDES, has not been upheld, mainly because some anti-cult proponents didn't mean to: "We (...) study cults for some time now, most of us, here, in order to preserve individual and collective liberties"<sup>9</sup>; and because the groups in which sectarian abuse is supposed to occur are systematically labelled as 'cults' thus generating a great deal of confusion in the media (making use, without hindsight, of the fear generated around 'cults'), among the public and even among members of the French parliament or government representatives<sup>10</sup>. Using synonyms of the word 'cult', such as 'cultic group', 'group with cultic characteristics', 'group with sectarian abuse' towards movements which have been consistently called 'cults' for years, is but another hypocrisy.

**2- Deleterious terminology** - The term 'cult' ('sect') has acquired a pronounced pejorative meaning in France. It is synonymous with 'criminal group'. It is an insulting expression which aggregates in the public view, the crimes and offences that make the headlines (paedophilia, fraud, collective suicides and so on). Is it acceptable to prompt healthy public debate on spiritual minorities when they are designated by terms that instantly discredit them? We think not. It is worth noting that the anti-cult terminology has spread to all segments of society in France, especially in the political arena<sup>11</sup>, thus increasing its disparaging effect.

**3- Rumours and unfounded data** - The anti-cult discourse in general or issued by MIVILUDES, mainly focuses around fears which have been generated around so-called 'cults' over three decades. This fear is fuelled using data that does not rely on solid research methodology - or for that matter, is not based on peer reviewed scientific results (sociologists of religion have been put aside<sup>12</sup> by MIVILUDES or have left the structure<sup>13</sup> or refused collaboration<sup>14</sup> considering they couldn't work in satisfactory conditions). Among the ludicrous data broadcast regularly, we draw your attention to statements including "500 000 persons are caught in a sectarian environment"<sup>15</sup>, "this endemic evil", that "80 000 children (...) are directly threatened by sectarian abuse"<sup>16</sup>, and the notion that France would now harbour 500 cults<sup>17</sup> (keeping in mind the pejorative connotation of the word), that a third of psychotherapists "come from sectarian backgrounds or are comen"<sup>18</sup>. The media indulgently relay these figures with little or no critical thinking and the general public, caught in an artificially created state of anxiety, doesn't seek proof, rather, seeks to be reassured.

**4- Accusations of mental manipulation** - The very notions of 'mental manipulation' and equivalent expressions such as 'mental control', 'mental destabilization', 'psychological subjection', are systematically mentioned<sup>19</sup> as characteristics of so-called 'cultic groups'. These concepts do not find consensus among the scientific community<sup>20</sup> and should therefore remain in the domain of scientific research. That is why the vote of About-Picard law<sup>21</sup> in France, a bill unwisely penalizing a crime of 'psychological subjection' and targeting specifically so-called 'cults' despite its final formulation, is a matter of great concern; The invocation of complex concepts caricatured in the extreme in the communication performed by MIVILUDES<sup>22</sup>, anti-cult associations or the media is misinformation.

**5- Irrelevant criteria for classification of sectarian abuse** - Together with the 'mental manipulation' concept, the other criteria used to determine sectarian abuse<sup>23</sup> could in fact be applied to almost any group found in humanity. Use of these criteria is an attempt to impede the enforcement of common-law with so-called 'cults'<sup>24</sup>.

**6- The spirit of 'laicity' disregarded** - Referring to legal means available with regard to sectarian abuse, the 2007 MIVILUDES annual report<sup>25</sup> states: "It is absolutely essential to refer to the doctrine of the movement and to integrate it in the enquiry because it contains in a systematic way, the ideology that urges to or leads to the violation of law". As part of the 1905 law of separation between Church and State, the latter and its services do not recognize any cult and should therefore not evaluate beliefs. The evaluation of a movement's doctrine can only be envisaged if performed by independent and qualified

experts, for example, by sociologists of religion - among other experts. But by keeping scholars at bay, MIVILUDES denied a 'knowledge acquisition' approach. It is therefore legitimate to ask how and by whom beliefs are evaluated in France, to determine their alleged dangerous aspects<sup>26</sup> (to suggest, as is more and more the case today, that many so-called 'cult's have nothing to do with spirituality is a way to judge what is of a spiritual nature and what is not<sup>27</sup>).

**7- A non contradictory approach without methodology** - The testimony of 'victims' plays a major role<sup>28</sup> in the policy adopted to combat sectarian abuse and cults in France. Although it is quite natural to take these testimonies into account, they shouldn't be the only source of evaluation of spiritual minorities (as is the case today), all the more so as several administrations, testifying during the parliamentary enquiry commission of 2006<sup>29</sup> on the theme 'Stolen childhood', presented very low figures on problems linked to sectarian abuse. Such disputes should therefore include the testimony of all parties to the debate (which is not the case today). In addition, it would have been necessary to apply a suitable methodology<sup>30</sup>: Individually identify victims to assess their true number and thus verify whether a large scale public action was relevant; categorize these victims into 'true victims' and 'non-credible victims'<sup>31</sup>; in the case of true victims, qualify the crimes they were subjected to; evaluate crimes caused by individuals or those that could be attributed to a movement's doctrine; set up statistics to compare delinquency in the midst of spiritual minorities and the rest of society to verify whether these movements constitute identifiable pockets of delinquency (an assertion implied by anti-cult proponents, which we consider unfounded). These basic tasks would have required the cooperation of independent experts with acknowledged credentials, in several fields (sociology, theology, psychiatry, psychology, law, etc.), publishing referenced and peer reviewed results. The fact is, this basic methodological work, which would have arrived at a consensus amongst a cross-section of scientific disciplines, has not been done to date.

**8- Stepping unwisely outside the field of penal law** – Unlike the position held by the Ministry of the Interior (particularly at the Central office on cults) which focuses on the prosecution of actual penal infractions<sup>32</sup> perpetrated amidst spiritual minorities<sup>33</sup> (the normal way to evaluate public order crimes in a state ruled by law), MIVILUDES, supported by a fraction of members of parliament, aims at instating a form of extreme precaution principle<sup>34</sup> which leads to the pre-designation of groups suspected of sectarian abuse. This reasoning is probably explained by the small number of convictions<sup>35</sup> pronounced against so called 'cults'<sup>36</sup>. Stepping outside the field of penal law is in itself a problem. Nonetheless, in a context where it was appropriate, a great deal of care would be essential to ensure it does not lead to intolerance and judgement towards alternative choices of life<sup>37</sup>, while pretending that freedom of conscience is respected and family and individual values reassured, as is currently the case in France.

**9- Perpetuation of discrimination** - If the transition from 'combat against cults' to 'combat against sectarian abuse' had been effective, one objective for MIVILUDES would have been to ensure that discrimination towards spiritual minorities ended<sup>38</sup>. It would have been necessary to assess the damage caused by the previous policy aimed at cults (1996, 1999, 2007 parliamentary reports, the impact of MILS, the predecessor of MIVILUDES) with qualitative and quantitative analysis; it would have been necessary to confirm from the groups arbitrarily qualified as 'dangerous cults' that the people involved no longer suffered in their professional, social or private life from having made alternative spiritual choices. In fact, the opposite has taken place<sup>39</sup>.

**10- MIVILUDES repository for cultic groups** – MIVILUDES announced the release of its new repository<sup>40</sup>. Initially meant to be widely published, it will not be so, as a result of the Ministry of the Interior intervention towards the Prime Minister<sup>41</sup>. If stopping a planned publication is commendable, the repository still exists and will be open according to MIVILUDES, "on site and on request", "to law's administration, associations, spirituals movements themselves, public authorities, ministries and local elected representatives, who often question us when they have to rent a public hall for such and such conference or to grant somebody an agreement for nursery care assistance. Also individuals can already consult us although we do not actually release any documentation"<sup>42</sup>. Considering the prevailing French climate around so called 'cults', this repository, indexing more than 500 movements and organizations, is equivalent to a list of proscription, as was (and still is) the parliamentary list of cults of 1996, which was

severely criticized. Though without legal value, this latter list has been regularly used by authorities<sup>43</sup> and is systematically referenced in the media, without being contestable in courts of law. Will the repository be contestable in courts of law? MIVILUDES asserts that it will take into account contradictory data<sup>44</sup> - yet no contradictory approach has been used to establish such data. Furthermore, in an era of Internet access, it may be asked how long the repository will remain with limited access.

## Conclusion

- **New dialogue** – Our critical analysis of the fight against sectarian abuse led in France, highlights too many unacceptable aspects to allow us to point out any positive side. MIVILUDES chooses to work with contributors mainly in the anti-cult camp<sup>45</sup> - contributors who often distinguish themselves with violent talk<sup>46</sup> and the mission has not created or sustained acceptable dialogue to understand an important social issue. Today's spiritual minorities participate in shaping tomorrow's spirituality. To refuse this background tide by ostracizing it, is a way to turn French society against a part of its very self. It is necessary to establish new dialogue, open, serene, respectful, healthily contradictory, grounded in a knowledge-acquisition approach and open curiosity towards new spiritualities, and under the rule of law. Until now, the media has been a key player in an unhealthy, deteriorating debate; yet they could become players in its reconstruction.

- **An observatory of spiritual minorities in France** – CICNS strongly recommends the creation in France of an independent Observatory on spiritual minorities<sup>47</sup>. This observatory would be a balanced and reference structure (composed of personalities with diverse opinions and acknowledged credentials), similar to INFORM<sup>48</sup> in the UK, that could express its views and recommendations to the government, the parliament and public authorities in order to improve law bills, to preserve public liberties with respect to the diversity of spiritual and therapeutic choices in the 21<sup>st</sup> century, while enforcing public order. The Observatory would engage in a knowledge acquisition process towards spiritual minorities, through which the minorities would feel confident in coming out of the shadows they have been driven into.

- **A European Observatory on spiritual minorities** – A European observation structure of spiritual minorities federating recommendations and views expressed in the different European countries appears to be necessary, to harmonize the comprehension of a significant and sensitive issue in society.

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<sup>1</sup> See the presentation of our association on our website ([source](#)).

<sup>2</sup> Our observations are based on our own research and contributions of sociologists, lawyers, various actors in society, some of whom we have interviewed, and on testimonies of members of spiritual minorities (see our video section - [source](#)).

<sup>3</sup> See Asma Jahangir's (special rapporteur at UN) report after her mission to France ([source](#)).

<sup>4</sup> See MIVILUDES website ([source](#)).

<sup>5</sup> MPs activity in the anti-cult fight has been particularly intense, as no less than three parliamentary enquiry commissions have taken place on that subject: in 1995 (that commission produced the first list of 'cults' – [source](#)), in 1999 (on the theme 'cults and money', that commission completed the first list of 'cults' – [source](#)) and in 2006 (on the theme 'Stolen childhood' - [source](#)). Some MPs want to launch a fourth parliamentary enquiry commission: "LePoint.fr: Why do you want a new parliamentary enquiry commission on cults? MP Jacques Myard: There is today a rise in the number of con men and psychotherapists promising recovery to depressed and defenceless people. In fact they belong to cults and try to swindle these people. Therefore I have officially signed Friday my request for the creation of a parliamentary commission on the medical and paramedical aspects of sectarian abuse" (Le Point, 29 February 2008 - [source](#)).

<sup>6</sup> See an article by Raphaël Liogier, sociologist, in Le Monde dated 3 March 2008, on the cultural difference between MIVILUDES and the Ministry of the Interior about the cult issue ([source](#)). CICNS has on its own verified this difference of approach through several meetings with the directors of the Central office on cults.

<sup>7</sup> In 2008, around 400 pages were published to warn the public and administrations against the danger of sectarian abuse. Among the available documentation, the following can be found: MIVILUDES annual reports, the guide for territorial authorities facing sectarian abuse, the guide for the public agent facing sectarian abuse, the guide for the



enterprise facing sectarian danger, the justice facing sectarian abuse (see our commentary on the latter as it gives a status on the operational measures taken to combat sectarian abuse [source](#)).

<sup>8</sup> Example: the introductory paragraph to the guide for territorial authorities facing sectarian abuse is entitled: “A fundamental principle, the freedom of thought, conscience and religion” ([source](#)).

<sup>9</sup> Some examples:

- a- A press release signed among other MPs by Georges Fenech (then MP) on 27 June 2005, justifies the use of the list of cults from the parliamentary report of 1996: “A reference for the work on prevention and combat against sectarian abuse” ([source](#)).
- b- Quote from MP Jacques Myard, when auditioning Mr. Jancovici during the parliamentary enquiry commission of 2006 entitled ‘Stolen childhood’: “(...) Mister, you have mentioned two cults, from which one has already made the headlines in the past, (...) and the other which I didn’t know, because indeed they swarm (...)” ([source](#)). As a reminder, Georges Fenech was the president of this parliamentary enquiry commission.
- c- Quote from MP Jean-Pierre Brard (member of MIVILUDES Conseil d’Orientation), when auditioning Mr. Rufo during the parliamentary enquiry commission of 2006 entitled ‘Stolen childhood’: “We (...) study cults for some time now, most of us here, in order to preserve individual and collective liberties (...)” ([source](#)).
- d- In a document entitled ‘Justice facing sectarian abuse’ ([source](#)), Georges Fenech, the author, states that the notion of ‘cult’ has no legal definition (page 20). Why then is there in the police force a referent group for enquiry on ‘cults’ collaborating with MIVILUDES (page 25)? Why does MIVILUDES work in close partnership with anti-cult associations, which according to Georges Fenech himself are structures of ‘protection against cults’ (page 39)? Why is Georges Fenech recommending the creation of a ‘European observatory on cults’ (page 47)?
- e- Interviewed on 19 December 2008 by journalist Paul Vermus ([source](#)) in a debate around integration and cults, Georges Fenech states: “If I give you the name of all the cults I have in my line of sight, I am good for a trial on the spot... Not easy to put five hundred cults and communities under surveillance, when five hundred thousand people are involved, from which there are eighty thousand children” ([source](#)).

<sup>10</sup> Some examples :

- a- Between January and September 2009, MPs have asked 51 questions about sectarian abuse to the government. In the National Assembly database, questions are categorized by a field which takes the value ‘cults’ for those questions. Out of 51 questions, 44 contain the term ‘cults’ in the text and some of them have been systematically asked to all ministries ([source](#)).
- b- 10 February 2009 – Question to the Government from MP Robert Didier – : “Concerning cults, he wishes to know the measures envisaged to control and prevent the diffusion, the publication and the free over-the-counter sale on the French territory and French speaking internet of books published or written by people identified as belonging to or promoting cultic groups” ([source](#)).
- c- 2 June 2009 – Question to the Government from MP Michel Zumkeller –: “Mr. Michel Zumkeller asks Ms the Minister of higher education and research on the annual report on cults, published by MIVILUDES (inter-ministerial mission of vigilance against sectarian abuse). This report describes the means used by cults to settle in ‘new niches’. He wishes to know the undertaken measures to oppose the control by cults of the domains she has competence on” ([source](#)).
- d- 28 July 2009 – Response from the Minister for food, agriculture and fishing to a question to the Government – the Minister states that he is “(...) producing information intended to help his staff members understanding the organization of the fight against cults and sectarian abuse in France, as well as the procedures to engage in when they are confronted to a suspicion of sectarian abuse, or even an actual sectarian abuse” ([source](#)).
- e- 23 February 2008 – Jean-Luc Melancon, French political leader – talks about MIVILUDES as the ‘Inter-ministerial mission of vigilance and combat against cults’ ([source](#)).
- f- 15 July 2009 – Laurent Wauquiez, State secretary –: “I can testify that (...) on my own district, some cults have taken advantage of professional training structures” ([source](#)).
- g- 15 September 2009, Michele Alliot Marie, Minister of the Interior: “I will submit in the next penal bill a measure allowing the winding-up of associations, groups or cults convicted of fraud” ([source](#)).

<sup>11</sup> See our article on the diffusion of the anti-cult terminology in the different segments of society ([source](#)).

<sup>12</sup> Some examples :

- a- About the annual meeting of [CESNUR](#) in Bordeaux, Jean-Michel Roulet (former president of MIVILUDES) considers that it is a way “for a few scholars to spend time quoting each other” (source: Sud-Ouest, 2 June 2007).
- b- In the TV program ‘Les infiltrés’ on France2, 17 December 2008, discussing the cult issue, Georges Fenech answers a proposal made by Nathalie Luca, sociologist, to use the work of scholars at MIVILUDES: “I am not as bright and brilliant as they are (...) My only work, it is not to engage in university studies, it is to

denounce what threatens public order, what is an infraction to the law, what constitutes a danger to public health (...) and to fight everything which is contrary to the interest of individuals and society; let us each of us do our work” ([source](#)).

- c- In the 2008 MIVILUDES report, pages 51 and 52, brushing aside the possibility of a common work with scholars, the rapporteurs state: “(...) it is about recommending an objectivity and neutrality, which the intelligence community and MIVILUDES would allegedly lack, by relying on the expertise of scholars specialized on the subject of religion, when these scholars are those who duly referenced by the cultic circle of influence, continuously denigrate those exerting a vigilance and conducting the combat against sectarian abuse and put suspicion on the reliability of ex-members testimonies” ([source](#)).

<sup>13</sup> Example of Nathalie Luca, social scientist (Le Monde 19 December 2005) ([source](#)).

<sup>14</sup> Example of Sebastien Fath, social scientist ([source](#)).

<sup>15</sup> In the newspaper Lyon Capitale, 7 May 2008, Georges Fenech states: “The Government is determined in its decision to combat sectarian abuse which, according to my figures, concerns about 300 000 French citizens” ([source](#)). In the TV-program ‘C à dire (France 5)’, 2 October 2008, he mentions “500 000 citizen concerned by the sectarian issue”. In the document “Justice facing sectarian abuse”, he adds: “Society could not stay insensitive to that endemic evil affecting around 500 000 of our fellow-citizens”, page 10 ([source](#)).

<sup>16</sup> In the document ‘Justice facing sectarian abuse’, released to the Prime Minister in spring 2008, Georges Fenech mentions 60 000 children concerned by the sectarian issue. A few month later, in the TV-program ‘C à dire (France5)’, 2 October 2008, he states that “80 000 children (...) are directly threatened by sectarian abuse”. No explanation is given regarding the origin and the evolution of these figures. Those numbers have been cited the first time during the parliamentary enquiry commission of 2006 entitled ‘Stolen childhood’ (See our [commentary](#) on the auditions performed during that parliamentary enquiry commission).

<sup>17</sup> In an interview in the TV-journal Soir3 on France3, 30 April 2008, Georges Fenech mentions 300 identified sectarian movements. In the newspaper France Soir, 1st October 2008, he talks about 200 movements. George Fenech was invited in the TV-program ‘Allo Docteur – France5’, 27 May 2009, presented by Marina Carrere d’Encausse: “MCdE: (...) The 2008 report has been released. First disturbing figure, in fifteen years you note that the number of sectarian movements in France has increased fourfold. Rising from 200 to close to 600. How can this incredible rise be explained? GF: I don’t think these figures are in the report. MCdE: I have been given this number. GF: Yes...it is a reality...”. Interviewed in the newspaper Liberation, 3 August 2009, Georges Fenech speaks now of “500 movements and structures” ([source](#)).

<sup>18</sup> Georges Fenech, interviewed on the radio Europe 1: “There is probably one third of psychotherapists who belong to the sectarian circles or are con men”.

<sup>19</sup> Quote from MIVILUDES 2008 report ([source](#)), page 168: “(...) the sectarian environments are often tempted, we see it, to couple their control activities on the people with various fraudulent activities destined to make their profit even more lucrative (...)”. See also an interview of Georges Fenech in the newspaper Liberation, 3 August 2009: “L: In which case can we talk of sectarian abuse? GF: When there is mental control or when the life of a person is threatened” ([source](#)).

<sup>20</sup> See for example the scientific collective work: ‘Misunderstanding cults – Searching for objectivity in a controversial field’, edited by Benjamin Zablocki and Thomas Robbins. See also CICNS file on the subject of mental manipulation ([source](#)).

<sup>21</sup> See the bill for About-Picard law voted 12 June 2001 ([source](#)).

<sup>22</sup> See the book by Arnaud Esquerre, sociologist at EHESS, ‘La manipulation mentale – Sociologie des sectes en France’, edited by Fayard, 2009; he describes the use of the notion of mental manipulation by the State as one of the “means used by authorities on psyche”. See also this work for a description of About-Picard law genesis, its “absence of effects” and its “unexpected effects”.

<sup>23</sup> See MIVILUDES website for a list of criteria for sectarian abuse ([source](#)).

<sup>24</sup> See an example of analysis on the sectarian abuse criteria, CICNS website ([source](#)).

<sup>25</sup> See MIVILUDES 2007 report ([source](#)), page 17.

<sup>26</sup> Quote from Catherine Picard, president of UNADFI, the main anti-cult association in France, when she was auditioned during the parliamentary enquiry commission of 2006 entitled ‘Stolen childhood’, answering a question from MP Christian Vanneste: “For some time, for the freedom of conscience sake, we did... shall I say restrict ourselves and we said: doctrines are not our business so long they do not attempt to public order and to the laws of the Republic etc. (...) But in order to support our files and to answer the type of questions you ask, we have been driven to dive into the source of sectarian movements and look (...)” ([source](#)). Would UNADFI, a close working partner for MIVILUDES, be giving opinions on beliefs to the mission (Catherine Picard is a member of MIVILUDES Conseil d’Orientation), when this association has no acknowledged competence on the subject?

<sup>27</sup> In response to Emmanuelle Mignon (VSD 20 February 2008 - [source](#)), Nicolas Sarkozy former cabinet director, who declared that cults in France are a “non problem”, MP Alain Gest (member of MIVILUDES Conseil

d'Orientation) stated: "By invoking freedom of conscience, it is, once again, the same mistake which consists in comparing cults and religions... as do hope the most well-known sectarian movements" ([source](#)).

In MIVILUDES 2008 report ([source](#)), page 53, the rapporteurs state: "The main concern, today, for the State and the associations has to do with the domains of health and training, where it is often difficult to discern any trace of spirituality".

<sup>28</sup> This focus on 'victims' is just an aspect of a more general focus on 'victims' in France; see in particular the book by Caroline Eliacheff and Daniel Soulez-Lariviere: "The time for victims", edited by Albin Michel ([source](#)).

<sup>29</sup> See CICNS documentary '120 minutes for spiritual freedom', part 2, giving extracts of the administrations testimonies ([source](#)).

<sup>30</sup> Olivier Bobineau, a social scientist, has denounced MIVILUDES lack of methodology in the TV-program 'Ce soir ou jamais', France 3, 19 May 2009.

<sup>31</sup> Many scholars propose to evaluate with caution apostates testimonies, for example: Brian Wilson – 'Apostates and new religious movements', Richardson JT – 'Apostates, Whistleblowers, Law, and Social Control', Bromley D – 'The social construction of religious apostasy'. The last two authors are referenced in the work 'Misunderstanding cults', already mentioned.

<sup>32</sup> Other members of the Government officially hold that position as well. Thus Eric Besson, current minister for immigration, stated in response to a question to the Government: "To belong to a movement considered as a sectarian group is not in itself an infraction, nor a threat to public order. The legislator has always considered that the existing incriminations listed in the penal law were sufficient to apprehend and, if needs be, punish sectarian groups activities that are conflicting with public order" ([source](#)).

<sup>33</sup> See, among others, an article by Stephanie Le Bars in Le Monde, 9 February 2008: "anti-cult MPs take the offensive" ([source](#)).

<sup>34</sup> Quote from Jean-Michel Roulet, MIVILUDES former president: "If it is meant that there are sectarian abuse only when there are victims, and if there are victims only in case of law conviction and if it is meant that we face a cult only when public order is threatened, then a highway is open in front of sectarian groups", LCI 4 April 2008, ([source](#)).

Quote from Georges Fenech, the current president of MIVILUDES, appearing in the TV-program 'C dans l'air (France5)', 3 August 2009: "Sectarian abuse is not just about infractions or fraud; sectarian abuse occurs when an individual or his/her family is cut from the rest of society" ([source](#)).

<sup>35</sup> CICNS inquiries on a subset of the parliamentary list of sects of 1996 show that many groups listed had not been convicted at all neither for penal nor administrative infractions. See also our interview of Jean-Marc Florand, lawyer ([source](#)). It is beyond comprehension, why no statistical analysis on penal and administrative convictions among spiritual minorities has been conducted by a state putting sectarian abuse in the forefront.

<sup>36</sup> *ibid*, Arnaud Esquerre, page 184; the sociologist summarizes the position of the director of the Central Bureau on cults whom he has interviewed in 2007: "The director of the Bureau on cults calls for the defence of public liberties and declares that 'cults' are not a problem with regard to public order (...)".

<sup>37</sup> Raphaël Liogier, sociologist, refers to the idea of "aesthetic judgment" ([source](#)). See also in the MIVILUDES guide 'The enterprise facing sectarian danger', page 50, the list of " terms or words that should immediately trigger an interrogation on the part of people in charge of economic security in enterprises" ([source](#)). We find words like 'well being', 'confidence', 'knowledge of oneself', 'fulfilment' etc.

<sup>38</sup> CICNS had a meeting with MIVILUDES former president, Jean-Michel Roulet, on 24 October 2006 ([source](#)). Asking him if he was aware of discriminations affecting spiritual minorities due to the policy conducted in France, he replied by the negative. As an answer to our arguments, his conclusion was: "Even if there was only one victim of sectarian abuse, our line of action is justified".

<sup>39</sup> See examples of discriminations affecting spiritual minorities on CICNS website ([source](#)). Among other examples : three women facing the accusation of being in a 'cult' during a divorce procedure ([source](#)) ; example of a spiritual community in the south of France which underwent a police force raid, its members put in police custody for interrogation, one of them indicted, on the ground of a few unverified accusations supported by an anti-cult association ([source](#)) ; example of the Tabitha religious community in the south-west of France taken as a target by the 2006 parliamentary enquiry commission "Stolen childhood" ([source](#)) ; example of a naturopath undergoing the global suspicion towards alternative therapies ([source](#)); example in the news of three youth workers accused, by false confessions forged by police officers, of being in a 'cult' (one of the youth worker has spent more than three months in prison while the two others were put under judicial review with the interdiction of practising their profession) ([source](#)).

<sup>40</sup> Georges Fenech made contradictory statements concerning a possible 'list of cults', finally settling for a new term that he imagined less controversial: 'repository'. In an interview granted to the newspaper Le Figaro on 18 May 2009, he states: "We are only interested in structures that give us problems. In that way, we need to work out a list of movements with sectarian abuse" ([source](#)). In the newspaper Liberation, on 3 August 2009, he states: "For now, we have indexed 500 movements or practices. It goes from the level of pseudo psychotherapists to well established organizations. It has never been intended to make a list of 'cults'" ([source](#)).

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<sup>41</sup> As soon as MIVILUDES repository project was known, the Ministry of the Interior weighed in with the Prime Minister: “Matignon did indeed received a mail signed by Michele Alliot-Marie, asking François Fillon services to straighten MIVILUDES action, after its president, end of January, did mention the idea of a new orientation for the policy followed by the mission”, in the newspaper Le Parisien, 13 February 2009 ([source](#)).

<sup>42</sup> A quote of the response given by Georges Fenech in Liberation, 3 August 2009, when asked by the newspaper: “Who will have access to the files [in the repository]?” ([source](#)).

<sup>43</sup> See on our website an article on the non legal applicability of parliamentary reports on cults ([source](#)).

<sup>44</sup> About the repository, Georges Fenech states, in the newspaper Le Figaro, 19 May 2009: “We will add victims’ testimonies, but also testimonies from the communities’ leaders in order to respect contradictory viewpoints” ([source](#)). Nevertheless, Georges Fenech respect for contradictory viewpoints has not been convincing when he presided the parliamentary enquiry commission of 2006 entitled ‘Stolen childhood’: those spiritual minorities who were publically accused on the parliamentary channel, did not have any recourse but to fill in a pre-established and out of context form sent to them by the commission ([source](#)). And for those groups who considered legitimate to sue their accusers, MPs passed a law giving immunity to witnesses for parliamentary commissions (understand: those which deal with cult issues) ([source](#)).

<sup>45</sup> For example, the two main French anti-cult associations, [UNADFI](#) and [CCMM](#), are represented by their respective president at MIVILUDES Conseil d’Orientation (Catherine Picard for UNADFI, Jacques Miquel for CCMM) ([source](#)). UNADFI is declared to be of ‘public interest’ (‘charity’) and is financed by the State at more than 90 %.

<sup>46</sup> During the TV-program ‘C dans l’air (France5)’, 3 August 2009, entitled ‘Cult or not cult’, in which Georges Fenech was invited, Jacques Miquel, CCMM president, told about MIVILUDES repository: “A repository on movements with sectarian abuse has been announced and I heard that unfortunately it wouldn’t be given to the public, I would like to point out something that puzzles me quite a lot: in this country nobody would dare pick mushrooms without a flora and believe me, and I am an amateur mycologist, movements with sectarian abuse are much more toxic than mushrooms” ([source](#)).

<sup>47</sup> See a more detailed description of the Observatory on spiritual minorities on our website ([source](#)).

<sup>48</sup> See INFORM website ([source](#)).

## A State apparatus to organize discrimination in France

Our association, l'OMNIUM des Libertés, was formed in 1996 to defend freedom of thought, conscience and religion. For 13 years we have received complaints by members of spiritual, religious or philosophical minorities, who are victims of denigration campaigns, resulting in loss of jobs, withdraw of child custody, physical violence, bomb threats and damages to estates.

All these campaigns and wrongdoings have been based essentially on a list of 172 groups of minority beliefs arbitrarily classified as « sects » by a Parliamentary Report of December 1995. Ten years later, by a circular of 27 May 2005 of its Prime Minister Mr Raffarin, France officially abandoned the reference to such “*lists of groups*”, the Prime Minister finding that “*the approach consisting, for the public authorities, in characterizing this or this group as “sect” and grounding their action on this sole characterization*” did not ensure “*the respect of public liberties and principle of secularism [of the State]*”.

But the Interministerial Mission of Watch and Fight against Sectarian Deviations (MIVILUDES), a French governmental body directly under the Prime Minister, has established under the impulse of its new President Mr Georges Fenech, who arrived on post in September 2008, a new system of files on groups it accuses of sectarian deviations. In an interview given to the newspaper Libération on 3 August 2009, Mr Fenech indicated he has “*listed around 500 movements or practices*” and established files on groups characterized as “*dangerous*” on the sole basis of denunciations or complaints.

These files, established in a non contradictory denouncement basis, identify all the movements or practices that Mr Fenech accuses of “sectarian deviations”.

Sectarian deviations are typified, according to the 2008 MIVILUDES Report, by the existence of mental subjection and this subjection is characterized as soon as one or several persons “*start to adhere to ideas that are spread and are different from ideas usually shared by social*

*consensus*” and “*the person who receives them is lead to modify all her references, relations and projects*”. Repressive actions should be initiated by the State when relatively new practices, religious, philosophical, spiritual, of personal fulfilment or even therapeutical, have not yet received social consensus. It is clear from this Report that it is the ideas which constitute in themselves deviations and which are susceptible to characterize a mental subjection.

Established on the basis of these discriminatory premises against minority belief groups, the files of MIVILUDES will not be published but will be made available for justice professionals, public authorities, ministries and local elected officials, in order to inform them about the groups spreading ideas considered as dangerous so they can reject requests for renting conference halls or for practicing as children nurses. (Statement by Mr Fenech in the same interview)

These files will allow unprecedented discrimination, beyond the 1995 list which, although it has been considered by the French courts as having no legal value, has resulted to date in numerous incidents of discrimination. Just to mention as an example the scandal of the Reims case revealed in September 2009 where three youth workers of the Department of social aid to children were suspected of acting under the influence of the Sukyo Mahikari group, presented as a sect in the 1995 list. After 5 years of interrogations, detention, probation and prohibition to practice their profession, it appeared that the workers had been sued for abuse of weakness of minors, deprivation of care and moral violence on the basis of false confessions forged by the policemen who had not found any other evidence to support the discriminatory rumours.

Our first recommendation is that the Personal Representative of the Chairman-in-Office on combating intolerance and discrimination against Christians and members of other religions intervene so that the State apparatus organizing discrimination, MIVILUDES, stops immediately its filing system and destroys its files on minority belief groups.

Our second recommendation is that OSCE reminds the French authorities that every citizen has the right to freedom of thought, conscience, religion or belief and that this right includes freedom to change one's religion or belief, right that France has committed to respect at the 1990 Copenhagen Conference.

## **Submission by Church of Scientology**

### **OSCE Supplementary Human Dimension Meeting: Freedom of Religion or Belief**

**Vienna, 9-10 July 2009**

#### **Session 1**

#### **From Commitments to Implementation: Freedom of Religion or Belief in the OSCE Area**

#### **Religious Discrimination in France: 2009**

On 19 September 2008, Prime Minister Fillon appointed Mr. Georges Fenech, former Magistrate and suspended Member of Parliament, as President of MIVILUDES (the Inter-Ministerial Mission of Vigilance to Fight against Sectarian Drifts). MIVILUDES is an inter-ministerial government entity under the Prime Minister tasked to collect information on religious movements and inform the public about the "risks of sectarian deviances". MIVILUDES is composed of a President, a Secretary General with a task force of twelve officials assigned from government ministries, an Executive Committee composed of 18 government officials from nine ministries, and an Advisory Council composed of eight members of Parliament, eight associations, and 14 "experts".

Mr. Fenech assumed his position as President of MIVILUDES on 1 October, 2008. This appointment is of great concern to minority religious organizations in France. Not only is Mr. Fenech unfit for such a high level government appointment due to his controversial background, which includes pending penal proceedings<sup>1</sup> and suspension from Parliament, Mr. Fenech has also exhibited a complete lack of objectivity and neutrality on the issues of religious tolerance and religious freedom. His appointment as President has resulted in policies, statements and activities from MIVILUDES that represent a backward step for religious freedom and a return to religious repression of minorities in France.

#### **Repressive Recommended Measures Contrary to Fundamental Human Rights**

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<sup>1</sup> On 11 February 2009, the Procurator of the Republic demanded a suspended six-month prison term for Mr. Fenech for his alleged role in the "Angola-gate". Mr. Fenech was indicted for accepting a check of 100,000 Francs (15,000 EUR) from the company Brenco whose director, Pierre Falcone, was involved in illegal sales of weapons to Angola. He was then the President of APM (Association Professionnelle des Magistrats). Sentence will be pronounced on 27 October 2009.



By way of background, a few days after his Parliamentary mandate was cancelled for violating election laws, Mr. Fenech was appointed in April 2008 by the Prime Minister to conduct a study and evaluation of the Judiciary to ensure that it is set up to "fight more efficiently" against "sectarian abuses". The Report, presented to the Prime Minister in September 2008, advocates a series of draconian measures to "fight" targeted faiths in the Courts. For example:

- The Report recommends having Guardianship Judges intervene at the request of third parties or families in order to place the "*consenting victims*" under guardianship and a higher sensitization of Guardianship Judges to "sectarian drifts".
- The Report recommends that, during judicial investigations, a psychiatric examination should occur to confirm if the adherence to the religious minority group constitutes a state of subjection and that, during custody, a special support be organized with a psychologist and anti-sect associations as "*followers who are not conscious of living in a situation of dependency*" are "*susceptible of strong emotional reactions at the time of their arrest and in the following hours*".
- The Report recommends the creation of "Cells of mobile intervention on sectarian subjection" (Cellules d'Intervention Mobile sur l'Emprise Sectaire or CIMES) composed of a psychologist expert in "sectarian" matters and anti-sect associations to carry out these "interventions" during police operations and custody, concluding that "Such a cell which relies to date on the sole initiative of dedicated professionals could be very usefully turned into a permanent institution under either the Ministry of Justice or the MIVILUDES".

Many of the recommendations in the Report stem from the premise that the doctrines and beliefs of religions derogatorily referred to as "movements of sectarian character" are inherently dangerous and not entitled to be treated like other religions. The Report champions the theory that *all members* of these minority religious movements are victims.

For example, characterizing consenting adults who choose to be members of minority faith communities as "*happy slaves*" who are "*not yet conscious of being victims*" (Report at 42) exposes a bias against the beliefs of targeted religions that cannot be countenanced with France's duty to remain neutral, objective and impartial on matters relating to religion.

According to Mr. Fenech's repressive Report, one issue at stake is to "protect" children from their parents' beliefs. Such a backwards approach, and the recommendations that flow from that approach, constitutes a clear violation of the right of parents to educate their children according to their own beliefs guaranteed by international human rights treaties that France has signed and ratified, including Article 2 of Protocol 1 of the European Convention on Human Rights, which states that:

*"The State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions".*

These recommendations regarding children who have parents in minority faiths are especially egregious as the United Nations Rapporteur on Freedom of Religion or Belief published a report in March 2006 regarding her visit to France in which she determined that the divisive policies adopted by the government at that time has resulted in " *the public condemnation of some of these groups, as well as the stigmatization of their members, which has led to certain forms of discrimination, in particular vis-à-vis their children*".

Rather than attempt to repair these human rights shortcomings identified by the UN Religious Freedom Rapporteur, the foremost UN expert on international human rights law and religious freedom, MIVILUDES under Mr. Fenech's leadership, has instead attempted to compound the problem of religious intolerance directed at children of minority faiths by advocating draconian laws and "awareness campaigns" designed to:

- Take custody away from a parent or parents of children of minority faiths simply due to their religious association and belief;
- Stigmatize and marginalize such children in public educational institutions;
- Refuse to respect the fundamental human right of parents to raise their children in accordance with their own religious beliefs;
- Bias court officials against members of minority faiths;
- Stigmatize hundreds of thousands of law abiding French citizens due to their personal religious beliefs and religious association with faiths denigrated as "sects"; and
- Expand the highly controversial and internationally criticized About-Picard law through further repressive legislation.

Despite Mr. Fenech's protests to the contrary, not only purported "sectarian abuses" but *beliefs themselves* are targeted for repression. For example, the Report quotes psychologist Mrs Sonya Jougla with approval:

*"Until today, the children who are victims of sects remain the forgotten of society and of professionals of childhood in danger; maybe because it is even more difficult to protect a child from his parents' beliefs than from their beating or their incestuous sexuality; maybe also because the duress that the parents impose on their child by immersing him into a sect is perfectly legal "(Report at 30).*

This statement is very clear: the issue at stake is to protect children from their parents' beliefs. Such an approach, and the implementation of recommendations

that flow from that approach, constitutes a clear violation of the right of parents to educate their children according to their own beliefs guaranteed by the International Covenant on Civil and Political Rights and the European Convention of Human Rights.

The French State simply has no business intruding into the sphere of religious convictions to “fight against” beliefs it does not approve of, yet that is what Mr. Fenech advocates.

### **Renewed Call for a “Sect List”**

In February 2009, Mr. Fenech called on the government to re-institute a so-called official “sect list” in France similar to the infamous blacklist established by a Parliamentary Commission in 1995.

Mr. Fenech publicly lobbied for this blacklist even though the previous “sect-list” had been officially withdrawn in a Circular letter by then Prime Minister Raffarin in May 2005 on the grounds that it operated as a blacklist, because of the overwhelming prejudice it caused to organizations on the list and due to its misuse by MIVILUDES officials to justify harassment and persecution of religious minorities. As reported in Le Parisien on 13 February 2009:

“The policy of Michèle Alliot-Marie in this field is in conformity with the 2005 circular letter released by Jean-Pierre Raffarin (2) which was rejecting lists of movements likely to have cultish misbehaviors and was following another line of thought: to qualify in legal terms facts that could be viewed as criminal offences. In her letter addressed to François Fillon, the Minister of the Interior expresses her “surprise” about the policy change of Miviludes, “without any previous inter-ministerial dialogue” and severely points at the move: infringement of freedom of conscience, weakening of France on the European and international scene, repeated condemnations of its intransigence on religious freedom issues by the annual report of the US Department of State but also by the OSCE (Organization for Security and Cooperation in Europe)”.

There is no question that Mr. Fenech’s incendiary statements to reinstitute a blacklist are designed to incite religious intolerance in France. The previous religious black list represented dark days for religious freedom in France. Human Rights groups, interfaith groups, NGOs, officials from intergovernmental bodies such as the UN, Council of Europe and OSCE, the United States State Department in its human rights reports and other governments spoke out against religious repression in France and France’s reputation as a champion of human rights was undermined. Initiation of another blacklist would constitute a giant step backward for religious freedom in France.

Under the previous blacklist, 173 movements and hundreds of thousands of French citizens were officially transformed into second class citizens who were denied basic human and civil rights and “fought against”. Targeted groups were routinely subjected to never-ending investigations, audits and inspections. Municipal

authorities refused to rent blacklisted movements. Custodial rights of parents were challenged in court on the grounds that a parent belonged to a religious group on the blacklist. The government provided information to the public regarding businesses it identified as employing individuals who associated with religious organizations on the blacklist, falsely accusing these businesses of “infiltrating” the French economy by conducting legitimate business in France. Individuals were fired from jobs or not hired due to their religious associations. Ministries cancelled contracts with reputable business if it was discovered principals or employees were members of a religious organization on the “sect list.”

As the UN Rapporteur on Freedom of Religion or Belief noted in her report on her September 2005 Mission to France (E/CN.4/2006/5/Add.4):

“The debate on this matter and the different measures that were taken at the governmental and parliamentary level in the second part of the 1990s undermined the right to freedom of religion or belief and raised serious concerns about religious intolerance. In particular, the establishment of a list, as well as the awareness-raising policies that were carried out, raised serious concerns in terms of freedom of religion or belief”.

Mr. Fenech’s call for a new blacklist in contravention of fundamental human rights provides further proof that he is unfit to hold high office in France. Instead of promoting religious pluralism and tolerance as require by the Helsinki Accords, Mr. Fenech incites religious intolerance towards hundreds of thousands of French citizens associated with religious groups he denigrates as targeted “sects”.

### **Improper State Support and Financing of Religious Hate Groups**

The Union of Associations for the Defense of the Family and Individual (UNADFI) and its affiliated organization, the Centre Against Mental Manipulation (CCMM) are umbrella organizations for anti-religious extremist groups in France. This deceptively-named UNADFI has a history of defaming minority faiths and breaking families apart, at times by violent means. One of the only reasons UNADFI (whose name is often shortened to ADFI) even exists today is because it performs a propaganda function for France’s high level anti-religious extremists.

UNADFI and CCMM receive substantial financial support from the French government to promote religious discrimination in France. A third anti-religious group, FECRIS, receives substantial funds from the French government to promote religious intolerance throughout Europe. National, regional, and local government entities administrations provide more than 90% of the budget for these groups. These organizations use these funds to incite religious hatred and fuel religious intolerance against specific groups through completely biased “awareness sessions,” conferences and incendiary statements in the media. France thus funds these groups to systematically defame minority religions and engage in the very activities France is forbidden to do under international human rights law, which mandates

religious neutrality and the promotion of religious pluralism. That is why these subsidies violate the law and should cease.

Indeed, these organizations enjoy such abysmal private sector support that they could not *exist at all* without public subsidies. In 2000, for example, ADFI received over 1,000,000 Euros from the Ministry of Justice and 8 other ministries. Yet, it received only approximately 12,000 Euros in membership fees and non-government donations. There obviously is no public support for these organizations (which is further evidenced by the dearth of complaints filed against the religions). ADFI uses this funding to mount propaganda campaigns, to solicit legal complaints against religious minorities, and work with their attorneys to prosecute these complaints in tandem with the office of the prosecutor to a chorus of media derision aimed at the targeted minority.

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The government continues to designate UNADFI as an association of public utility (*Association d'Utilité Publique*) to publicly subsidize ADFI's campaign of religious intolerance through propaganda based on false and derogatory data targeting minority faiths and to provide a means for it to be a civil party against "sects". In 2004, the French government granted 110,000 Euros to ADFI in a letter signed by the Prime Minister. Thus, the government sponsors and subsidizes ADFI's orchestrated campaign against a plethora of minority religions it designates by *fiat* as "sects".

Yet, the very concept of fighting "destructive sects", which constitutes ADFI's mandate, is anathema to international human rights standards as it attempts to make an arbitrary distinction between religions described as "good" and religions described as "bad". Based on the public subsidies and laws allowing it to intervene in trials, ADFI has a vested monetary interest in "fighting" religious groups designated as "sects". Its position is purely biased – as a policy it refuses to meet with targeted groups and instead it specializes in providing one-sided and uniformly negative information. . As an executive leader of a branch of UNADFI, Gerard Toussaint, declared on a local radio program in Pau, which was quoted in *La République* in June 2001, "*It is part of ADFI's policy to never enter in direct contact with the groups we are fighting against.*"

Such discrimination is incompatible with the duty of the state to remain neutral and impartial with respect to religions and with the policy of true religious pluralism.

Conscious of the fact that it may not so blatantly discriminate against certain religions consistent with the UN Bill of Rights, France has instead provided private anti-religious groups with the funds and the authority to discriminate against chosen religious denominations. But what France may not do directly under international human rights law it may not do indirectly through a private group. ADFI is nothing more and nothing less than the government's agent in the "fight against sects", and therefore any acts taken by ADFI must be attributable to the government and fall under the jurisdiction of the International Covenant on Civil and Political Rights and other relevant UN instruments.

It is through ADFI and CCMM that extremists have been able to impose their policies on the government and their propaganda attempting to marginalize minority faiths on the public. Yet without substantial government monetary subsidies, ADFI and CCMM would wither away through lack of interest and support from the public.

In September 2001, an individual who planted a bomb at the Church of Scientology's premises in the town of Anger was convicted and sentenced. Fortunately, the bomb never exploded. The man, who stated that he got his information only from public sources (such as the media and promotion from these anti-religious groups) stated in court that *"I was convinced that the cults ... are a threat for freedom, and I considered that almost any means was justified to fight against these organizations."* This underscores the influence that extremist statements made by these anti-religious groups and like-minded politicians can have.

## **Conclusion**

International and legal standards mandate that religious minorities be treated in conformance with the principles of pluralism, non-discrimination and equality. These standards also mandate a spirit of tolerance towards minority faiths and a responsibility on the part of the State to create dialogue and take action where discrimination occurs. Yet, MIVILUDES and its President have advocated policies and repressive measures that completely contravene fundamental human rights, including the Helsinki Accords.

Likewise, what France cannot do directly under human rights law, it cannot do indirectly by aiding and abetting religious hate groups. As long as France subsidizes, encourages and supports private groups to stigmatize minority faiths and promote religious discrimination in France, the right to religious freedom in France is in peril.

## EUROPEAN HUMAN RIGHTS OFFICE CHURCH OF SCIENTOLOGY INTERNATIONAL

OSCE Supplementary Human Dimension Meeting: Freedom of Religion or Belief

Warsaw 29 September 2009

### **Religious Discrimination in France: 2009**

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### **Renewed Call for a "Sect List" and Implementation of a "Reference List"**

In February 2009, Mr. Fenech called on the government to re-institute a so-called official "sect list" in France similar to the infamous blacklist established by a Parliamentary Commission in 1995.

Mr. Fenech publicly lobbied for this blacklist even though the previous "sect-list" had been officially withdrawn in a Circular letter by then Prime Minister Raffarin in May 2005 on the grounds that it operated as a blacklist, because of the overwhelming prejudice it caused to organizations on the list and due to its misuse by MIVILUDES officials to justify harassment and persecution of religious minorities. As reported in *Le Parisien* on 13 February 2009:

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Mr. Fenech's call for a new blacklist in contravention of fundamental human rights provides further proof that he is unfit to hold high office in France. Instead of promoting religious pluralism and tolerance as required by the Helsinki Accords, Mr. Fenech incites religious intolerance towards hundreds of thousands of French citizens associated with religious groups he denigrates as targeted "sects".

In July 2009, the Prime Minister rejected this call for a new blacklist. However, MIVILUDES determined to go forward with what it refers to as a "reference list" (apparently targeting over 200 religious groups) that it promises not to make "public" yet intends to make available to Judges, lawyers, doctors and other "professionals" –

a draconian weapon designed to bias them against targeted minority faiths.<sup>2</sup>

This system of reference will inevitably impose arbitrary restrictions on an individual's human rights in contravention of the Helsinki Accords and OSCE standards. The fact MIVILUDES will refrain from providing the information to the general public – Mr. Fenech has publicly stated that making the list public would "stigmatize" religious groups - does not make it acceptable. Rather, the potential for

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<sup>2</sup> See, e.g. MIVILUDES will not publish a "reference list" of sects, NOUVELOBS.COM, 30.07.2009

tyranny and oppression is even greater. Keeping the list hidden from public view means there can be no transparency and accountability. Restrictions on human rights will be done in the dark of night, without public knowledge or scrutiny. Moreover, leaking of the list to advance discrimination against targeted faiths is inevitable.

### **Improper State Support and Financing of Religious Hate Groups**

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Indeed, these organizations enjoy such abysmal private sector support that they could not *exist at all* without public subsidies. In 2000, for example, ADFI received over 1,000,000 Euros from the Ministry of Justice and 8 other ministries. Yet, it received only approximately 12,000 Euros in membership fees and non-government donations. There obviously is no public support for these organizations (which is further evidenced by the dearth of complaints filed against the religions). ADFI uses this funding to mount propaganda campaigns, to solicit legal complaints against religious minorities, and work with their attorneys to prosecute these complaints in tandem with the office of the prosecutor to a chorus of media derision aimed at the targeted minority.

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The government continues to designate UNADFI as an association of public utility (*Association d'Utilité Publique*) to publicly subsidize ADFI's campaign of religious intolerance through propaganda based on false and derogatory data targeting minority faiths and to provide a means for it to be a civil party against "sects". In 2004, the French government granted 110,000 Euros to ADFI in a letter signed by the Prime Minister. Thus, the government sponsors and subsidizes ADFI's orchestrated campaign against a plethora of minority religions it designates by *fiat* as "sects".

Yet, the very concept of fighting "destructive sects", which constitutes ADFI's mandate, is anathema to international human rights standards as it attempts to make an arbitrary distinction between religions described as "good" and religions described as "bad". Based on the public subsidies and laws allowing it to intervene in trials, ADFI has a vested monetary interest in "fighting" religious groups designated as "sects". Its position is purely biased – as a policy it refuses to meet with targeted groups and instead it specializes in providing one-sided and uniformly negative information. . As an executive leader of a branch of UNADFI, Gerard Toussaint, declared on a local radio program in Pau, which was quoted in *La République* in June 2001, "*It is part of ADFI's policy to never enter in direct contact with the groups we are fighting against.*"

Such discrimination is incompatible with the duty of the state to remain neutral and impartial with respect to religions and with the policy of true religious pluralism.

Conscious of the fact that it may not so blatantly discriminate against certain religions consistent with the UN Bill of Rights, France has instead provided private anti-religious groups with the funds and the authority to discriminate against chosen religious denominations. But what France may not do directly under international human rights law it may not do indirectly through a private group. ADFI is nothing more and nothing less than the government's agent in the "fight against sects", and therefore any acts taken by ADFI must be attributable to the government and fall under the jurisdiction of the International Covenant on Civil and Political Rights and other relevant UN instruments.

It is through ADFI and CCMM that extremists have been able to impose their policies on the government and their propaganda attempting to marginalize minority faiths on the public. Yet without substantial government monetary subsidies, ADFI and CCMM would wither away through lack of interest and support from the public.

In September 2001, an individual who planted a bomb at the Church of Scientology's premises in the town of Anger was convicted and sentenced. Fortunately, the bomb never exploded. The man, who stated that he got his information only from public sources (such as the media and promotion from

these anti-religious groups) stated in court that *"I was convinced that the cults ... are a threat for freedom, and I considered that almost any means was justified to fight against these organizations."* This underscores the influence that extremist statements made by these anti-religious groups and like-minded politicians can have.

### **"Awareness" Sessions for Judges and Prosecutors against the Practices of Targeted Religions**

Starting in 1996, training and "awareness" programs for the police, state prosecutors, judges of instruction and sitting judges were initiated<sup>3</sup>.

The 2005 Guide for Public Agents on Sectarian Deviations notes that each year the National School for Magistrates (Ecole Nationale de la Magistrature) organizes a one-week seminar on sects for prosecutors, judges, police officers, and government officials from the youth and sports ministry, national education, judicial protection of youth, general direction of competition and consumer offices. Up to 140 trainees take part in this course. The anti-sect magistrate at DACG<sup>4</sup> runs these seminars together with an official at the Labor Ministry.

Along with the Circulars, these seminars and awareness programs improperly prejudice attendees against targeted faiths by providing biased stereotypes and unscientific information, and thus clearly violate human rights standards. Belgian officials have also lectured and participated in these seminars on "sects."

Based on documents released under the Freedom of Information law, the presentations on the targeted religions have been biased. The seminars delivered to the judges have included specific briefings on Scientology, Jehovah's Witnesses and other targeted groups, with information provided by UNADFI and CCMM, and without any possibility of contradiction, debate or rebuttal by the concerned groups. As part of the documents distributed to the attending judges, press articles hostile to these groups were provided, as evidenced by the list of documents attached to the programs of the seminars.

The positive jurisprudence and official recognitions regarding these groups has been completely ignored. Only a few negative court decisions were provided, and decisions from higher judicial authorities directly contradicting those decisions were also not discussed. Objective and scientific information regarding these groups was not included – neither objective scholars nor experts in the field of religion were

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<sup>3</sup> "State prosecutors" and "judges" stand for the French term *magistrats*, which have a different meaning than the English term "magistrate". In the French system, *magistrat* refers to state officials who administer justice and who have their decisions enforced. This term includes both state prosecutors and judges. In France, the distinction between state prosecutors and judges is conveyed by the use of *debout* and *assis* – the prosecutor is a *magistrat debout* and the judge a *magistrat assis*.

<sup>4</sup> *Direction des Affaires Criminelles et des Grâces*: Office of Criminal Affairs and Pardon at the Ministry of Justice

included in the program, exposing the program as an attempt to prejudice the judiciary against minority religious organizations.

Mr Fenech, in his Report to the Prime Minister, recommended that the education of Magistrates on "sectarian drifts" be extended. Recommendation 10 of the Report focused on "develop[ing] the continued education of Magistrates" in this matter.

In particular, The Report recommended that Magistrates in charge of decentralized education at the Appeal Courts should include training on "sectarian drifts".

Asked about its objectives for 2009 on "sectarian drifts", the Ministry of Justice answered that it intended followed this recommendation (letter to Mr. Fenech, 6 March 2009, page 147 of the Report):

***To develop continued education of Magistrates at a decentralized level***

*This request which you formulated during an executive committee of operational guidance of 26 November 2008 catches up with a project implemented by the Office of Criminal Affairs and Pardon and the National School of Magistrates.*

*To this end, the National School of Magistrates has proposed training sessions to the Magistrates in charge of the education of Magistrates at the Appeal Courts for the year 2009.*

*They will complement the continued education session organized at the National School of Magistrates and lead by the person in charge of sectarian drifts at the Office of Criminal Affairs and Pardon, which will take place from 30 November to 2 December 2009."*

This objective was reaffirmed on 8 August 2009 in an answer of the Ministry of Justice to a written question of an MP. This training will be delivered to prosecutors and judges.

Such "awareness" programs for court officials have been condemned by the United Nations Human Rights Committee. In its *Concluding Observations of the Human Rights Committee: Germany. 18/11/96 (CCPR/C/79/Add.73)*, the Human Rights Committee recommended, in strikingly similar circumstances, that Germany discontinue the holding of "sensitizing sessions for judges against the practices of certain designated sects". Otherwise, the right to a fair trial is destroyed for religious minorities.

These programs operate to prejudge entire groups, thereby infringing the right of the minorities to be presumed innocent, and contravene the principle of equality of arms since these minorities are not in a position where they can contradict the biased information given to the judges.

## **Recommendations**

1. The dissolution of the MIVILUDES and its replacement by an Observatory of neutral and impartial sociologists and experts, and
2. The intervention of the OSCE to facilitate dialog between the authorities and minority religions or belief groups.

## **Conclusion**

International and legal standards mandate that religious minorities be treated in conformance with the principles of pluralism, non-discrimination and equality. These standards also mandate a spirit of tolerance towards minority faiths and a responsibility on the part of the State to create dialogue and take action where discrimination occurs. Yet, MIVILUDES and its President have advocated policies and repressive measures that completely contravene fundamental human rights, including the Helsinki Accords.

Likewise, what France cannot do directly under human rights law, it cannot do indirectly by aiding and abetting religious hate groups. As long as France subsidizes, encourages and supports private groups to stigmatize minority faiths and promote religious discrimination in France, the right to religious freedom in France is in peril.



**Submission  
by the Church of Scientology**

**OSCE Review Conference  
(Warsaw, 30 September – 8 October 2010)**

**Session 2**

**Discrimination in France:  
The Policy of MIVILUDES Contravenes  
European Court of Human Rights' Findings**

The French Interministerial Mission of Vigilance and Fight against Sectarian Deviances (MIVILUDES) has adopted and implemented a policy of repression of religious minorities which is in contravention of international human rights instruments, in particular the Helsinki Accords standards on freedom of religion and non-discrimination in matters relating to religion and the European Convention on Human Rights and Fundamental Freedoms (European Convention) as interpreted by the European Court of Human Rights in Strasbourg.

The European Court of Human Rights issued a unanimous, landmark decision on 10 June 2010 in favor of religious freedom throughout the 47 nations that have signed and ratified the European Convention, adopted by the Council of Europe in 1950. The case, *Jehovah's Witnesses of Moscow v. Russia*<sup>1</sup> has direct application to issues relating to religious minorities throughout the OSCE region.

In this decision, the Court strongly reaffirmed rights which flow from the Convention and which are violated by the French policy:

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<sup>1</sup> Application no. 302/02

- The right to conduct one's life in a manner of one's own choosing following one's religious beliefs;
- The right to freedom of association and of self-dedication to religious matters, however unhappy one's family members may be with that decision;
- The right to engage in voluntary work or missionary activities; and
- The right of parents to ensure education and teaching in conformity with their own religious convictions.

An examination of the very method and manner of operation of MIVILUDES and its basic assumptions which serve as justifications for it are in total contradiction with these findings.

## **1. Denial of One's Own Choice in Religious Matters**

MIVILUDES justifies its fight against religious communities it labels as "sectarian movements" by the fact that it has received letters of complaint from some individuals unhappy about the choice of life of one of their relatives or friends adhering to a religious community, and who allege that the association with a religious group has interfered with family relations.

MIVILUDES has legitimized its action against religious minorities with these complaints by unhappy family members. According to MIVILUDES, these complaints should prevail upon the right of the religious community members to conduct their life according to their own sincere religious beliefs. The entire French apparatus of fighting against "sectarian movements" is actually based on this improper approach and this mode of operation. Indeed, in furtherance of this policy, the French government supports the anti-sect association UNADFI (the National Union of Associations of Defence of Families and Individuals) with over 90% public funding, so they can "defend families".

UNADFI, which sits at MIVILUDES' Orientation Council, is financed by the French government to collect testimonies of individuals unhappy with the choice of life of some relatives or friends who are members of minority religious or belief groups, and to then spread one-sided and uniformly derogatory accusations in the media and to judicial authorities regarding these groups. UNADFI has been designated in Circular (Decree) of 1<sup>st</sup> December 1998<sup>2</sup> as the principal informer of the judicial authorities, in particular Prosecutors, so that prosecutions could be initiated against such groups in order to remedy "insufficiency of denouncements" of such groups.

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<sup>2</sup> CRIM.98.11/G3.01.12.98, see <http://www.cesnur.org/testi/guigou.htm>

The European Court of Human Rights has analyzed very clearly this phenomenon in the *Jehovah's Witnesses Moscow* case. It found that what was alleged to constitute "coercion into destroying the family" *was actually the frustration that non-Witness family members experienced as a consequence of disagreements over the manner in which their Witness relatives decided to organise their lives* in accordance with the religious precepts, and their increasing isolation resulting from having been left outside the life of the community to which their Witness relatives adhered.

As a matter of principle, the Court has reasserted the right to conduct one's life in a manner of one's own choosing and in particular the right of self-dedication to religious matters, adding that "It is a known fact that a religious way of life requires from its followers both abidance by religious rules and self-dedication to religious work that can take up a significant portion of the believer's time and sometimes assume such extreme forms as monasticism".

The Court concluded that:

Nevertheless, as long as self-dedication to religious matters is the product of the believer's independent and free decision and *however unhappy his or her family members may be about that decision*, the ensuing estrangement cannot be taken to mean that the religion caused the break-up in the family. Quite often, the opposite is true: *it is the resistance and unwillingness of non-religious family members to accept and to respect their religious relative's freedom to manifest and practise his or her religion that is the source of conflict.* (§111)

The whole method and manner of operation of MIVILUDES contravenes these findings. The fact that some family members complain about problems in family relations because of the adherence of their relatives to minority religious groups is not an argument *per se*.

But MIVILUDES, instead of pushing dialog within families, uses letters of complaint from persons unhappy about the choice of life of their relatives or friends who adhere to religious minorities to: 1) classify them as "sectarian" without further investigation; 2) stigmatize them in the media; 3) include them in a depository of records which is available to judges and prosecutors; and  
4) organize raids on the targeted communities.

The extent of MIVILUDES non-compliance with these human rights standards mandated by the Convention and established by the Human Rights Court is evidenced by MIVILUDES classification of religions such as Jehovah's Witnesses as "sectarian" on these grounds. Indeed, MIVILUDES goes as far as to accuse religious minorities of systematically breaking-up families in its 2009 Annual Report:

One must understand that the break-up of the family unit and the isolation of close relatives 'resistant' to the discourse are part of the sectarian strategy and constitute the first step of the indoctrination.

In May 2009, the President of MIVILUDES, Mr. Georges Fenech, announced to the media the creation of a repository of records on approximately 600 "sectarian movements" established solely on the basis of denouncements or complaints against minority religious or belief movements. No access to these records has been provided for these targeted groups to respond and correct the record regarding the one-sided accusations and allegations it contains.

These records are not public but have been made available to Judges, Prosecutors and social workers, as well as public officials who have to make decisions such as authorizing or denying the renting of conference halls or nursing licences to members of minority religious or belief groups.

In the general conclusion of its 2009 Annual Report, MIVILUDES underlines its "constant activity of collaboration with the services of intelligence, police and judicial investigation". Noting that although this activity cannot be brought to public knowledge in details, MIVILUDES affirms that it has fully informed investigators and Judges and Prosecutors and intends to continue to do it "with the discretion required".<sup>3</sup>

By fuelling this biased information in a covert way, MIVILUDES is exerting undue influence on judicial authorities and public officials in violation of the rights of the members of religious or belief groups to be presumed innocent and to not be discriminated in family matters, in their private life and occupation and in the practice of their faith.

In 2008, MIVILUDES initiated a new way of "vigilance" and "fight" against minority belief groups it labels as "sectarian". Under the pretext that it had been alerted by communications from worried individuals and families, it has engaged in unannounced strong-arm "visits" (accompanied by the media) to certain religious communities whose members felt they had to open their doors to an official institution such as MIVILUDES. MIVILUDES had no judicial mandate to do an investigation nor had it any power to officially impose the media on the community, but still it used its official capacity to impose unannounced "visits" and questioning to the various communities, which were each time followed by derogatory media and biased reporting against the groups concerned.

Under allegations of family break-ups, such an unannounced inspection was done on a Catholic community "Amour et Miséricorde" (Love and Mercy) in the East of France, near Dijon. The leader of the group had monthly visions of the Virgin Mary which occasioned its followers to gather for weekends of prayer retirement. Following MIVILUDES' "visit" to question the group and its leader accompanied by the media, the uniformly derogatory reporting by the

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<sup>3</sup> p. 315: [http://www.miviludes.gouv.fr/IMG/pdf/rapport2009\\_mise\\_en\\_ligne.pdf](http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf)

media was such that the community announced its dissolution, as reported in an article of *Le Progrès* of 18 December 2008:

Dominique Balestrat, owner of the land on which the community was living who has been a member of the group for ten years, feels this is incomprehensible and sad. He says: "We welcomed Georges Fenech; he told us that he was not coming for an investigation but just to meet with us. And we are now bombarded with slander. He did not come as an enemy. He came as a traitor. He used the media to crush us when there is nothing to crush. We used to be ten people or so here".

In February 2009, alleging again that it had received letters complaining of family break-ups, MIVILUDES conducted a similar unannounced raid on another Catholic Community "Les Béatitudes" in the South of France and questioned its members. National and local media widely covered the raid as reported by MIVILUDES in its 2009 Annual Report.

As in its previous raid, MIVILUDES met with the local ADFI (Association for the Defence of Families and Individuals). It also met with local officials to urge them to withdraw their support to the request for official status as a religious community the group had filed.<sup>4</sup>

Other "visits" were performed in communities by MIVILUDES in 2009, accompanied by press and TV journalists like the one at the "Moulin des Vallées" in the West of France in Brittany in October 2009, which was claimed to be a "raid" by the media themselves.<sup>5</sup> The members of the community complained afterwards to the local government representative about MIVILUDES barging into the monastery alleging a ministerial investigation to help journalists make a show – something the members never gave permission for. They complained further that, through innuendos and untruths, their choice of life was disparaged and they were made to appear as criminals in the media.

The basic justification and assumption of MIVILUDES to justify this repression of religious communities is that the followers did not make an independent and free decision as stated by the European Court about Jehovah's Witnesses, but rather that their adherence to such groups and beliefs has been dictated by "mental manipulation".

However, the European Court has been very clear as to the validity of such notion in its decision:

129. Leaving aside the fact that there is no generally accepted and scientific definition of what constitutes "mind control" and that no definition of that term was given in the domestic judgments, the Court finds it remarkable that the courts did not cite the name of a single

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<sup>4</sup> Status of "congrégation religieuse" under the Law of 1<sup>st</sup> July 1901

<sup>5</sup> Article Aujourd'hui en France, 16 October 2009

individual whose right to freedom of conscience had allegedly been violated by means of those techniques. Nor is it apparent that the prosecution experts had interviewed anyone who had been coerced in that way into joining the community. On the contrary, the individual applicants and other members of the applicant community testified before the court that they had made a voluntary and conscious choice of their religion and, having accepted the faith of Jehovah's Witnesses, followed its doctrines of their own free will.

Contrary to these findings, MIVILUDES proclaims that the members of religious minorities, although they sincerely adhere to religious beliefs and associate with a religious community of their own free will, should somehow be considered as "*consenting victims*" who, despite their protestations to the contrary, are under "mental subjection".

Even though these individuals have made a "voluntary and conscious choice" as in the *Jehovah's Witnesses v. Russia* case, MIVILUDES considers that such a choice is not worthy of respect and has no value; the individuals concerned are treated by MIVILUDES as incompetent.

In the Report he submitted to the Prime Minister in 2008 entitled *Justice Facing Sectarian Abuses*, in which he laid out his plan of fight against "sectarian movements", the President of MIVILUDES, Mr. Fenech, explained that some doctrines or beliefs are "pseudo-religious" and "degrading"<sup>6</sup> to the individual and that their followers, who are under mental subjection, are only "*apparently consenting*" and are actually victims "*who do not consider themselves as victims*". For these followers, Mr. Fenech recommended that they be deprived of their civil rights and put under guardianship by a judge at the request of a third party or the family.

For these consenting followers he deems incompetent, Mr. Fenech recommended also that after police raids on their communities, they be monitored during custody by a psychologist and officials from associations of defense of families because they are "susceptible of strong emotional reactions" of protest. This follow-up is allegedly needed to ensure the "treatment" of the followers and prevent them from re-forming their community.

These recommendations have been implemented. On September 1, 2009 a special police Task Force was created. The principal objective of CAMAIDES (Cellule d'Assistance et d'Intervention en Matière de Dérives Sectaires: Task Force of Assistance and Intervention in Sectarian Drifts) is to enforce the provisions of the About Picard law on mental subjection. It is designed to act on its own or help the police, Judges and Prosecutors throughout France to

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<sup>6</sup> p. 11: <http://lesrapports.ladocumentationfrancaise.fr/BRP/084000443/0000.pdf>

<sup>7</sup> p. 42: <http://lesrapports.ladocumentationfrancaise.fr/BRP/084000443/0000.pdf>

characterize criminal offences of mental subjection in specific cases where investigations are opened on minority religious or belief groups.

CAMAIDES can be assisted by psychologists, psychiatrists and anti-sect associations as detailed in the "Report 2009 and Orientations for 2010 of Ministry of Interior for the Fight against Sectarian Drifts".<sup>8</sup> CAMAIDES has already investigated 15 cases in 2009 and the orientations of the Ministry of Interior for 2010 are to activate further this anti-sect Task Force and ensure that information on groups suspected of "sectarian subjection" are obtained locally, in particular from intelligence services, and centralized so that CAMAIDES can intervene.<sup>9</sup>

On the basis of the same assumption, MIVILUDES organized the raids on the communities where some family members alleged that their relatives, who were voluntarily adhering to such groups, were under "mental subjection".

In its Annual Report 2008<sup>10</sup> MIVILUDES, quoting the Ministry of Interior which orientations it instills, explained the following:

The particular context of mental subjection is specific to sectarian drifts. Repression has to be implemented by the State when a certain number of criteria are met:

– One or several people start to adhere to new ideas, differing from those usually shared by social consensus. The person who receives these ideas is lead to change all of her reference marks, relationships and projects.

At the first national conference of MIVILUDES at the Lyon City Hall on 26 November 2009, French Secretary of State for Justice, Jean-Marie Bockel, stated:

*The sectarian phenomenon can be analyzed as pathology of belief on a background of individuation and deregulation of belief.*

It is not the States' prerogative to regulate beliefs. No State is entitled to declare that some beliefs are "pseudo-religious" or pathological.

The European Court of Human Rights reminded in the Jehovah's Witnesses decision that:

119. The Court further reiterates that the State's duty of neutrality and impartiality prohibits it from assessing the legitimacy of religious beliefs or the ways in which those beliefs are expressed or manifested (see

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<sup>8</sup> p. 260-264 : [http://www.miviludes.gouv.fr/IMG/pdf/rapport2009\\_mise\\_en\\_ligne.pdf](http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf)

<sup>9</sup> p. 264, 290 : [http://www.miviludes.gouv.fr/IMG/pdf/rapport2009\\_mise\\_en\\_ligne.pdf](http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf)

<sup>10</sup> p. 59: [http://www.miviludes.gouv.fr/IMG/pdf/Miviludes\\_Rapport\\_2008-EN.pdf](http://www.miviludes.gouv.fr/IMG/pdf/Miviludes_Rapport_2008-EN.pdf)

*Leyla Şahin*, cited above, § 107, and *Hasan and Chaush*, cited above, § 78). Accordingly, the State has a narrow margin of appreciation and must advance serious and compelling reasons for an interference with the choices that people may make in pursuance of the religious standard of behaviour within the sphere of their personal autonomy.

Thereby, the Court reaffirmed the right to one's own choice in religious matters and the prohibition for States like France and its governmental agency MIVILUDES to assess the legitimacy of beliefs.

MIVILUDES, in violation of the right to freedom of conscience and belief, ignores the right of individuals to choose to associate with a religion or adhere to certain religious beliefs if the religion or the beliefs have not received majority social consensus. Rather than respect the right of an individual's personal autonomy, MIVILUDES recommends and implements measures designed to crush undesired beliefs or doctrines. These actions and policies implemented by MIVILUDES and the French government contravene the right to religious freedom guaranteed by the Helsinki Accords, the Human Rights Convention, the International Covenant on Civil and Political Rights and other international human rights instruments.

## **2. Denial of the Right to Engage in Volunteering**

An extension of the right to make one's own choice and dedicate oneself to religious matters is the right to engage in voluntary work in support of a religious association.

The European Court of Human Rights noted in *Jehovah's Witnesses of Moscow v. Russia* that:

Jehovah's Witnesses who carried out religious service at the Bethel community centre were not employees of the centre but unpaid volunteers. For that reason, the provisions of labour law relating to standard working hours, paid holidays and professional orientation were not applicable to them, as they did not work there for material gain.

The Court emphasized that:

[T]he decisions of Jehovah's Witnesses whether to take full-time or part-time, paid or unpaid employment, whether and how to celebrate events significant to them, including religious and personal events such as wedding anniversaries, births, housewarmings, university admissions, were matters that fell within the sphere of "private life" of community members" and that "it is a common feature of many religions that they determine doctrinal standards of behaviour by which their followers must abide in their private lives.



Therefore the Court concluded that volunteering was an expression of their beliefs in their private lives protected by Article 9 of the Convention:

121. It follows that what was taken by the Russian courts to constitute an infringement by the applicant community of the right of its members to respect for their private life was in fact a manifestation of their beliefs in their private lives in the sense protected by Article 9. *Voluntary work or part-time employment or missionary activities are not contrary to the Convention principles* and the Court is unable to discern any pressing social need that could have justified the interference.

In total opposition to these findings, MIVILUDES and the French authorities deny members of religious minorities the right to do any kind of voluntary work.

In the 2008 Annual Report of MIVILUDES, the French Ministry of Labour confirmed its cooperation with MIVILUDES to fight against volunteering in minority religious or belief groups.

In the Jehovah's Witnesses case, the Russian authorities had justified their sanctioning of volunteering with the specious argument that it infringed the members' right to respect for their private life, although as noted by the European Court "community members testified in the proceedings that they followed the doctrines and practices of Jehovah's Witnesses *of their own free will* and personally determined for themselves their place of employment, the balance between work and free time, and the amount of time devoted to preaching or other religious activities".

Like Russian authorities in the *Jehovah's Witnesses* case, French authorities justify their fight against volunteering with the specious argument that it violates the followers' rights through moral or financial exploitation, even though the concerned religious community members do volunteering *of their own will*, based on their religious convictions, which is an expression and manifestation of their beliefs according to the European Court.

The French Minister of Labour stated that "The sectarian movements can already be convicted for violation of labour law, for example for moral harassment, excessive duration of work, absence of remuneration, even absence of work contract". He added that "by making the followers do false volunteering, sects are criminally liable for illegal work, which has not been reported to social or tax authorities".

Pursuing this policy, MIVILUDES has been inciting harassment of religious communities by labour authorities to fight against volunteering.

During its raid on the Catholic community Les Béatitudes for example, MIVILUDES urged the local government representative (Préfet) to do an investigation into the legality of the volunteering done by its followers alleging that they were financially exploited.

Other communities routinely experience the same troubles, like the Jehovah's Witnesses who have been sued before the French courts for illegal work and were recognized to be innocent, but were still stigmatized in the media as "mafia" exploiting their members by UNADFI.<sup>11</sup>

Under the specious argument of defending the rights of the members of religious or belief minorities, MIVILUDES actually violate their right to express their beliefs and manifest them through activity in support of their religion, a right protected by Article 9 of the Convention.

### **3. Denial of the Right to Raise Children According to One's Religious Beliefs**

The European Court has also reaffirmed the right for parents to ensure education of their children in conformity with their religious convictions:

125. The Court reiterates that Article 2 of Protocol No. 1 requires the State to respect the rights of parents to ensure education and teaching in conformity with their own religious convictions and that Article 5 of Protocol No. 7 establishes that spouses enjoy equality of rights in their relations with their children.

The European Court noted also that confrontational situations may arise when parents have different convictions. This can happen with parents from religious minorities as well as traditional denominations:

"It is true that friction often exists in marriages where the spouses belong to different religious denominations or one of the spouses is a non-believer. However, this situation is common to all mixed-belief marriages and Jehovah's Witnesses are no exception." (§111)

And the Court confirmed that in cases of conflict both parents have equally the right to raise their children in accordance with their convictions:

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

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<sup>11</sup> By decision of 17 September 2001, the Court of Appeal of Rouen dismissed the charges of illegal work against the head of the association and the same Court sentenced on 17 July 2007 the President of UNADFI for defamation.

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.

In MIVILUDES' 2009 Annual Report, half of which is devoted to "Youth and the Sectarian Risk", Mr. Fenech opened a chapter on "Parents and their convictions, the role of the judge" by the following question:

"From where do parents have a "right" to raise their children following certain principles, and in certain practices which are theirs? Probably it is the corollary of their obligation to educate their child. As a matter of fact, can one educate his child other than following one's own system of values, one's own convictions and beliefs?"

The *Jehovah's Witnesses Moscow* decision of the European Court and the reference to the Protocols to the Convention should definitively answer his question. Mr Fenech ignores the Protocols to the European Convention and chooses rather to refer to the civil obligation of education of parents (and not a right) and to the right to freedom of thought, belief and religion of the child under the International Convention of the Rights of the Child of 1990, to push his attempt to limit parents' right to raise their child according to their sincerely held religious beliefs.<sup>12</sup>

In spite of the hypocritical assertion contained in the Report that in situations of conflict both parents have the same rights and the family judge has to rule case by case, the system which has been set in place actually denies the rights of those parents who adhere to minority belief groups.

For parents who belong to religious minorities he labels as "sectarian movements", MIVILUDES' President has set unusual procedures in domestic family law. In his 2008 *Justice Facing Sectarian Drifts* Report, the President of MIVILUDES recommended, as concerns family conflicts with "a sectarian background", that these cases, although civil cases, be communicated to the General Prosecutors who would check for penal offences and be assigned to specialized family judges, who would be assisted by specially trained professionals (social investigators, psychologists).

He explained this derogatory regime by the need to protect children from their parents' beliefs, approvingly quoting a psychologist who stated regarding children "victim of sects" that "*it is even more difficult to protect a child from his parents' belief than from their beatings or their incestuous sexuality*".

In order to ensure such "protection", Mr. Fenech made reference to a Circular (Decree) of 29 February 1996 which gave instruction to the Prosecutors to have, pursuant to Article 375 of the Civil Code, a special educational assistance ordered for these children in order to avoid "*that they be subjected*

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<sup>12</sup> p. 181-182: [http://www.miviludes.gouv.fr/IMG/pdf/rapport2009\\_mise\\_en\\_ligne.pdf](http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf)

*to harmful influence or dangerous indoctrination, even if it is true that their implementation is tricky when both parents are members of the sect”.*

In MIVILUDES Annual Report 2009, Mr. Fenech gave a similar explanation. Under the heading “Assimilation of the sole beliefs of the movement”, he explained that children brought up in a context of “sectarian subjection” are ideologically isolated because they are subjected to a unique and exclusive discourse, for example by the daily repetition of a credo of allegiance to a superior entity or the substitution of a mythical discourse to rational explanations. According to him, such education - which could correspond to the raising of children in any religion - enslaves and diminishes the possibilities of the child.<sup>13</sup>

He concluded by this question: “If such a [psychological] risk is established, isn’t the solution, as very often, to protect the young, and mostly the teenager, from a univocal vision of the world by arranging for him, giving the largest place possible to the non-follower parent, some windows on other realities, and this even if he, in the exclusive sphere of his follower parent, has blossomed, works well at school and does not complain about anything?”<sup>14</sup>

Such statements graphically evidence, whatever affirmations to the contrary, that MIVILUDES does not give equal rights to parents who are members of targeted religious minorities in case of conflicts, and that it recommends an encroachment of the parent’s rights presenting it as a “solution” to protect the child from parents’ beliefs, in violation of Articles 9 (religious freedom) and 14 (non-discrimination) of the European Convention.

What Mr. Fenech derogatorily refers to as “mythical discourse” as opposed to rational explanations is precisely belief in the sense of the religious freedom principles articulated in the Helsinki Accords and the European Convention on Human Rights. He considers that some beliefs are acceptable while others are not and assesses their legitimacy, in total violation of his duty of neutrality as a State agent.

In a chapter on “Youth and the Sectarian Risk” in the 2009 Report, MIVILUDES’ President, after recommending that family judges decide case by case and motivate their decisions with facts so that they do not get quashed by the European Court of Human Rights, noted with satisfaction that the law had changed following his recommendation as President of the 2006 Parliamentary Inquiry Commission on “the influence of sectarian movements and the consequences of their practices on the physical and mental health of minors”.

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<sup>13</sup> [http://www.miviludes.gouv.fr/IMG/pdf/rapport2009\\_mise\\_en\\_ligne.pdf](http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf), p. 128-129

<sup>14</sup> [http://www.miviludes.gouv.fr/IMG/pdf/rapport2009\\_mise\\_en\\_ligne.pdf](http://www.miviludes.gouv.fr/IMG/pdf/rapport2009_mise_en_ligne.pdf), p. 214

A law of 5 March 2007 modified Article 375 of the Civil Code, making it possible for the judicial authorities to order a special educational assistance not only when a child's health, security, morality or conditions of education are in danger like the Article used to provide, but also when the conditions of a child's "physical, affective, intellectual and social development are seriously endangered". These new criteria are designed to cover "situations of sectarian subjection" where the child "has blossomed, works well at school and does not complain about anything" but has a "univocal vision of the world" referred to by Mr. Fenech.

Mr. Fenech stated that the legal arsenal is now sufficient but that repression of sectarian movements will not be efficient if the Judges and social workers dealing with the Protection of the Youth are not specially informed on what movements and practices should be targeted with these measures:

However, as regards specific knowledge of the sectarian context, the actors of the protection of children are still lacking detailed and updated information. Due to the extremely fast evolution of the movements and practices, the personnel in charge of children matters must be kept informed of the variety of situations in a regular and precise manner.

Mr. Fenech recommended further information and training of these personnel as part of their continuing education on the various movements and practices which should be considered as "sectarian" by the Judges and social workers adding that "Only on the condition of this preliminary step can prevention and repression of the sectarian phenomenon be really efficient".

This kind of one-sided, biased information on religious or belief minorities, which has already been given by MIVILUDES in the form of "awareness" seminars proposed to Judges as part of their continuing education, has shown to be entirely based on documentation provided by anti-sect associations without any possibility for the concerned communities to contradict the accusations it contained.

Based on documents released under the Freedom of Information law, the presentations on the targeted religions have been biased. The seminars delivered to the judges have included specific briefings on Scientology, Jehovah's Witnesses and other targeted groups, with information provided by UNADFI and CCMM, and without any possibility of contradiction, debate or rebuttal by the concerned groups. As part of the documents distributed to the attending judges, press articles hostile to these groups were provided, as evidenced by the list of documents attached to the programs of the seminars.

The mountain of positive jurisprudence and official recognitions regarding these groups has been completely ignored. Only a few negative court decisions were provided, and decisions from higher judicial authorities directly contradicting those decisions were also not discussed. Objective and scientific

information regarding these groups was not included – neither objective scholars nor experts in the field of religion were included in the program, exposing the program as an attempt to prejudice the judiciary against minority religious organizations.

Such “awareness” programs for court officials have been condemned by the United Nations Human Rights Committee. In its *Concluding Observations of the Human Rights Committee: Germany. 18/11/96 (CCPR/C/79/Add.73)*, the Human Rights Committee recommended, in strikingly similar circumstances, that Germany discontinue the holding of “sensitizing sessions for judges against the practices of certain designated sects”. Otherwise, the right to a fair trial is destroyed for religious minorities.

These recommendations of MIVILUDES regarding the treatment of family cases will inevitably result in an infringement of the rights of believers to educate their children in their own faith and in discrimination.

In her report following her official visit to France on 18-29 September 2005,<sup>15</sup> Asma Jahangir, the United Nations Special Rapporteur on Freedom of Religion or Belief, noted as regards “new religious movements or communities of belief”:

108. However, she is of the opinion 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.

The UN Rapporteur made the following recommendations:

111. The Special Rapporteur hopes that future actions of MIVILUDES will be in line with the right to freedom of religion or belief and avoid past mistakes. She will continue to closely monitor the various efforts that are carried out by MIVILUDES.

112. The Special Rapporteur urges the Government to ensure that its mechanisms for dealing with these religious groups or communities of belief deliver a message based on tolerance, freedom of religion or belief and on the principle that no one can be judged for his actions other than through the appropriate judicial channels.

Instead of complying with these recommendations from the United Nations, MIVILUDES continues to implement, through the adoption of administrative or legislative measures, a policy of repression which violates the rights of

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<sup>15</sup> E/CN.4/2006/5/Add.4, 8 March 2006, Mission to France

believers protected by the European Convention, the Helsinki Accords and the International Covenant on Civil and Political Rights.

## **CONCLUSION**

The right to religious freedom is in serious peril in France for religious minorities as the government, through MIVILUDES, continues to foster an atmosphere of intolerance and discrimination against these targeted religious communities and their members.

International and legal standards mandate that religious minorities be treated fairly and without discrimination in the same way as other religions. These standards also mandate strict impartiality by government officials and entities and in the judicial process. The case, *Jehovah's Witnesses of Moscow v. Russia* provides a clear map as to how these standards must be respected by the State.

Yet, France, through the policies and actions of MIVILUDES, has contravened these standards and instead has instilled a climate of prejudice and has implemented oppressive measures designed to severely infringe upon the rights of members of targeted religions.

Such oppressive measures have no place in a democratic society.