

# Parliamentary Assembly: New Texts Touching on Freedom of Expression Issues

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In June 2007, the Parliamentary Assembly of the Council of Europe (PACE) adopted three texts which engage with important aspects of the right to freedom of expression. They are (in chronological order): Resolution 1563 (2007), “Combating anti-Semitism in Europe”; Recommendation 1804 (2007), “State, religion, secularity and human rights”, and Recommendation 1805 (2007), “Blasphemy, religious insults and hate speech against persons on grounds of their religion”.

Resolution 1563 envisages a comprehensive range of strategies for combating anti-Semitism in Europe. It prioritises the effective enforcement of (national) legislation “criminalising anti-Semitic and other hate speech”; the prosecution of political parties which promote anti-Semitic ideas; the criminalisation of racially-motivated public denials of crimes of genocide, crimes against humanity or war crimes, and the strengthening of legislative provisions making anti-Semitic motivation an aggravating factor in criminal cases. It also stresses the need for intercultural and inter-faith dialogue; the fostering of tolerance, *inter alia* through educational and public awareness-raising and commemorative measures. The Resolution contains specific focuses on the media as well. For instance, it calls on States authorities to “encourage the media to exercise self-discipline, to promote tolerance and mutual respect and to counter anti-Semitic stereotypes and prejudices which have entered everyday speech” (para. 12.13) and to “strengthen media self-control mechanisms aimed at preventing anti-Semitism and other forms of hate speech” (para. 12.14).

Recommendation 1804 reaffirms a key pronouncement made by the PACE in its Resolution 1510 (2006) entitled “Freedom of expression and respect for religious beliefs” (see IRIS 2006-8: 3), *viz.* that freedom of expression, as guaranteed by Article 10 of the European Convention on Human Rights (ECHR), “should not be further restricted to meet increasing sensitivities of certain religious groups”. It builds on that pronouncement, stating: “While we have an acknowledged duty to respect others and must discourage gratuitous insults, freedom of expression cannot, needless to say, be restricted out of deference to certain dogmas or the beliefs of a particular religious community” (para. 19).

Against this background, the PACE recommends that the Council of Europe's Committee of Ministers (CM) *inter alia* : ensure that the right to freedom of religion is freely exercised by religious communities; "rule out any interference in religious affairs, but consider religious organisations as part of civil society and call on them to play an active role" in the advancement of peace, tolerance, intercultural dialogue and the values of the Council of Europe generally; explore the development of the religious dimension to intercultural dialogue, including by organising inclusive meetings with "religious leaders and representatives of humanist and philosophical circles" and identifying and disseminating relevant best practices.

Recommendation 1805 also draws explicitly on Resolution 1510 (2006), "Freedom of expression and respect for religious beliefs", as well as on recent relevant work by the Venice Commission of the Council of Europe. As such, it endorses the view that: "in a democratic society, religious groups must tolerate, as must other groups, critical public statements and debate about their activities, teachings and beliefs, provided that such criticism does not amount to intentional and gratuitous insult or hate speech and does not constitute incitement to disturb the public peace or to violence and discrimination against adherents of a particular religion. Public debate, dialogue and improved communication skills of religious groups and the media should be used in order to lower sensitivity when it exceeds reasonable levels" (para. 5).

Its key recommendations to the CM include ensuring that national law and practice:

- "permit open debate on matters relating to religion and beliefs and do not privilege a particular religion in this respect [...]";
- "penalise statements that call for a person or a group of persons to be subjected to hatred, discrimination or violence on grounds of their religion as on any other grounds";
- "prohibit acts which intentionally and severely disturb the public order and call for public violence by references to religious matters, as far as it is necessary in a democratic society [...]";
- "are reviewed in order to decriminalise blasphemy as an insult to a religion" (para. 17.2).

Additionally, the Recommendation calls on States authorities to use their influence to ensure that relevant dialogue and other activities at the level of the United Nations become more inclusive of different religious and secular groups and that national law and practice of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination "do not privilege persons with a particular religion" (para. 17.6). Furthermore, it asks

States authorities to officially condemn “any death threats and incitements to violence by religious leaders and groups issued against persons for having exercised their right to freedom of expression about religious matters” (para. 17.7). It also invites States authorities to increase their efforts to promote tolerance, in cooperation with the European Commission against Racism and Intolerance (ECRI) (para. 17.8).

*“Combating anti-Semitism in Europe”, Resolution 1563 (2007) (Provisional edition), Parliamentary Assembly of the Council of Europe, 27 June 2007*

*“State, religion, secularity and human rights”, Recommendation 1804 (2007) (Provisional edition), Parliamentary Assembly of the Council of Europe, 29 June 2007*

*“Blasphemy, religious insults and hate speech against persons on grounds of their religion”, Recommendation 1805 (2007) (Provisional edition), Parliamentary Assembly of the Council of Europe, 29 June 2007*

<http://www.enhcc.eu/erec1805.pdf>

