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MOTION FOR A RESOLUTION

further to Question for Oral Answer B7-0238/2009

pursuant to Rule 115(5) of the Rules of Procedure

on human rights, religious symbols and subsidiarity

Sophia in 't Veld, Jeanine Hennis-Plasschaert
on behalf of the ALDE Group

European Parliament resolution on human rights, religious symbols and subsidiarity

The European Parliament,

- having regard to freedom of thought, conscience and religion, the right to education and the prohibition of discrimination, as protected by Articles 9 and 14 of the European Convention on Human Rights (ECHR), Article 2 of Protocol No 1 thereto and Articles 10, 14 and 21 of the Charter of Fundamental Rights of the European Union,
 - having regard to the judgment of the European Court of Human Rights in the case of *Lautsi v. Italy*,
 - having regard to the Treaty of Lisbon and the future accession of the EU to the ECHR,
 - having regard to the question of 4 December 2009 to the Commission on defence of the principle of subsidiarity (O-0152/2009 – B7/0238),
 - having regard to Rules 115(5) and 110(2) of its Rules of Procedure,
- A. whereas Article 6(3) of the Treaty on European Union (TEU) states that 'fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law',
- B. whereas, on the basis of Article 6(2) of the TEU, the EU recognises the importance of the ECHR and of the case law of the European Court of Human Rights,
- C. whereas the European Charter of Fundamental Rights was drafted on the basis of the ECHR text and *acquis*, and whereas it is binding on EU Member States on the basis of Article 6(1) of the TEU, which states that 'the Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties',
- D. whereas the Treaty of Lisbon lays down that 'the Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms', thereby ensuring that the EU, in its area of competences, does not violate the ECHR,
- E. whereas accession to the ECHR is a precondition for membership of the EU, as laid down by the Copenhagen criteria; whereas the EU bases its international dialogue on human rights on the ECHR and the Charter of Fundamental Rights,
- F. whereas the ECHR is fully in line with the subsidiarity principle, since the European Court of Human Rights intervenes only after internal appeals are exhausted, and only when a State party to the convention does not respect the human rights and fundamental

freedoms under the convention to which they have signed up; whereas, furthermore, the ECHR provides for appeal mechanisms,

1. States its attachment to the principle of separation of church and state, freedom of thought, conscience and religion, the right to education and the prohibition of discrimination as core values of the EU;
2. Points out that fundamental rights and freedoms are individual and inalienable rights of each individual EU citizen;
3. Considers that Member States have an active duty to ensure freedom of religion and freedom of conscience for all citizens, and to ensure that state and public institutions at all levels of government represent all citizens, regardless of belief, religion or philosophy, and without discrimination; points out that a high level of protection of rights and freedoms will reduce the need for judicial intervention; believes that Member States must ensure and protect freedom of religion and freedom of conscience for minorities, whether or not they are organised, also by encouraging citizens to find consensual solutions, in mutual respect, within their communities;
4. Believes that freedom of religion includes the use, wearing or display of religious symbols, but that the compulsory display of religious symbols on premises used by public authorities, e.g. state schools or court rooms, favouring one religion or life stance over another or banning symbols of any particular religion or life stance in a discriminatory way, needlessly constrains freedom of religion and freedom of conscience;
5. Points out that Member States, on the basis of the principle of subsidiarity, must respect and apply human rights and fundamental freedoms as enshrined in the ECHR and in the Charter of Fundamental Rights at national level too;
6. Points out that it is an internal, international and European legal obligation for EU Member States to apply the judgments of the European Court of Human Rights, both on the basis of the undertakings given by signing and ratifying the ECHR and through their membership of the EU, as provided for by Article 6 of the TEU;
7. Considers that the European Court of Human Rights must operate in full independence and that its rulings must be challenged in court, not in the political arena;
8. Instructs its President to forward this resolution to the Commission, the Council, the parliaments and governments of the Member States and the Council of Europe.