

Collective Religious Autonomy *versus* Individual Rights – a Challenge for the ECtHR?

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The paper will focus on the conflicts between individual rights and collective religious autonomy in Europe. The goal is to analyze the approach taken by the European Court of Human Rights to these conflicts, how this approach influences or disturbs domestic solutions and how it relates to other relevant processes in the field of law, religion and politics at the European level, e.g. in the context of the European Union. The paper will put forward an individual autonomy based framework for the court to deal with these conflicts.

Religious liberty is one right among several strongly advocated in liberal democratic states, especially freedom of speech, privacy and equality. There is increased attention and pressure at least by part of the human rights community to protect human rights and liberal values within religious communities or in their affiliated institutions. This in turn presents the challenging question as to how far the State needs to go in protecting individual rights. What is the (justified) interest of states in restricting or protecting collective or individual autonomy in the case of a conflict? For some time the approach taken by the ECtHR indicated that individual rights, in the case of conflict were primarily protected by leaving the community (lets call it the principle of voluntarism). It could be argued that there is evidence of a new contextual approach in Strasbourg, which does not focus on voluntarism but on the balancing of different rights in given factual circumstances. However, the way this new approach is applied in different circumstances and how it affects diversity and the internal life of religious communities (right to collective freedom of religion or belief) is not clear. It is also not clear how it influences or disturbs the domestic understandings of collective religious autonomy in different European states. The lack of attention to individual autonomy in the Court's practice today leaves it without a good argument for the protection of communal life/communal freedom of religion or belief, which is so important to many people (forming these communities).

The paper fits well with three **ICLARS** conference themes: Religious pluralism and treatment of religious minorities, Religion and anti-discrimination norms and Religion and gender issues