



## **Lautsi v Italy**

### **Summary of the Submissions of the Intervening States.**

The following is a draft compiled by the ECLJ from the submissions of the intervening States in the *Lautsi v Italy* case. This is not an official document but rather a summary of the points we have thought to be of relevance and importance.

#### **Submission of the Government of the Republic of Armenia:**

Armenia fully supports the submitted position of the Italian government that it is impossible to remove all religious symbols and ideas from the public sphere. Religious symbols and ideas are an integral part of European Civilization. The Armenian government submits that the presence of a crucifix in classrooms does not deprive parents of their right to educate their children in conformity with their own religious and philosophical convictions. Moreover, the government is of the opinion that Italy, as well as all other states, should be permitted to regulate their system of education in accordance with their own historical and cultural traditions with the margin of appreciation afforded to the State under the European Convention of Human Rights.

#### **Submission of the Bulgarian Government:**

“The Bulgarian Government hereby holds that the judgement delivered...raises serious questions affecting the interpretation and application of the Convention...” The Bulgarian Government believes that the Grand Chamber shall overrule the justification of the Second Section’s findings. “The Bulgarian Government shares the opinion that if the Grand Chamber of the ECHR does not take into a consideration the legal arguments against the precedent set by the judgment on the case *Lautsi v Italy* this will violate the principle of margin of appreciation. Such an approach will depart from the judicial principles set by the Convention.” The Bulgarian Government also stresses that there is a broad consensus among State Parties that there should be a wide margin of appreciation

afforded to States with regard to sensitive issues where there is no defined, clear, common ground and considerable differences in the laws and practises from State to State exist.

### **Submission of the Government of Cyprus:**

The Government of Cyprus invites the Grand Chamber to recognise that the passive display of a non-verbal religious symbol is not a curricular element that can be evaluated as objective or pluralistic. It is submitted by the Government of Cyprus that the margin of appreciation allowed to a state should cover the display or non display of religious symbols in classrooms based on the state's historical, religious and cultural background and/or the state's own interpretation of secularity and neutrality in education. The Government refers to the precedent of the cases of *Kurtmlus v. Turkey*, *Sahin v Turkey and Dahlab v Switzerland* in its written submission whereby the Court allowed the States a wide margin of appreciation. The Grand Chamber should not depart from this jurisprudence and should overturn the November 2009 decision.

### **Submission of the Greek Government:**

The Greek government submits that the decisions taken by the Chamber stretches the principles of the Convention and moves away from the jurisprudence of the Court. The Court did not base its decisions on any comparative law but merely on the theoretical idea that the presence of a crucifix in a classroom affects the rights of parents to teach their children in conformity with their own religious and philosophical beliefs. The Greek Government is of the opinion that a State knows, better than the Court, its own realities and is capable of applying the Convention suitably. The Court ignored the margin of appreciation and the capability of the Italian Government to regulate issues such as religion. In doing this, the Court revealed a fundamental problem in the core of its system. Furthermore, the absence of a comparative judgement has strongly influenced the Courts decision in favour of Ms. Lautsi as the Court based its decision solely on the theoretical issue brought before it and did not recognise the complex and sensitive matter at hand. The Court disregarded the self-restraint that it usually shows in cases concerning religion. In conclusion the Greek government advises that the Court must always respect the Constitutional rights in relation to religion.

### **Submission of the Government of the Republic of Lithuania:**

In their observations, the Republic of Lithuania addresses, in particular, the meaning and importance of religious symbols and their use in relation to the secularism principle within the State. This issue is closely linked with the margin of appreciation vested to the States guaranteeing secularism in relations between the State and Church and in connection with that, the right to education. The written submission stated that having regard to the

emphasis made by the Chamber in the *Lautsi case* that the State would have a duty to uphold confessional neutrality in public education. The Lithuanian government believes that in the context of this case it is important to assess a fair balance between different interests by taking into account the State's margin of appreciation, the State's particular history and its values and traditions. While a cross or crucifix might have a predominant religious meaning, it does not only mean that it is solely a religious symbol as many European States have a religious dimension to their national identity.

#### **Submission of the Government of Malta:**

Malta submitted that the 3rd November 2009 judgment of the Chamber in the case of *Lautsi v Italy* was seriously flawed as it ignores the decision of the Grand Chamber given in *Leyla Sahin v Turkey* and furthermore the Government of Malta asserts that the Court did not allow a wide margin of appreciation to Italy. In a society where a particular symbol with a religious connotation has for centuries found a place within public spaces as a symbol also of the national and social development and evolution through history of that society, the act by the public authorities, in the name of religious neutrality, of removing that symbol on the ground that it was also an expression of religious belief would imply a statement by the State in favour of atheism. In these circumstances, therefore, the State would be shedding its neutrality by resorting to an action which takes the side of unbelief. The written observation states that 'the suppression of a symbol of national identity in the public space for the reason that it also has a religious meaning for the majority of the community appears to be an incongruous and disproportionate path to peruse, besides being unnecessary, in order 'to secure civil peace and true religious pluralism, which is vital to the survival of a democratic society.'

#### **Submission of the Government of Monaco:**

The Government of Monaco agrees with the Italian Government insofar as believing that the display of a crucifix in a classroom is a passive religious symbol. It is the same as States having religious symbols in their crest or flag. The Government of Monaco believes that religious symbols do not attack the rights guaranteed by article 9 of the European Convention of Human Rights. Since they reflect a national identity rooted in history, they are more of a cultural and historical symbol than a religious symbol.

#### **Submission of the Government of Romania:**

The Romanian Government submits that States should enjoy a wide margin of appreciation for issues concerning the national regulation of religious matters. The Government does not dispute that public schools must appear as a place that respects all religious and philosophical beliefs. The banning of the crucifix in the classroom does not

conform to the principles of the Convention. Romania recognises that a general European consensus on religious symbols is far from being achieved due to the diversity of situations across Europe. Therefore, the Government suggests that the Court should consider the historical and political culture of the State and the margin of appreciation enjoyed by the States when reaching a decision on the matter.

#### **Submission of the Russian Federation:**

In its observations submitted to the Court, the Federation of Russia commented on the margin of appreciation of the contracting states in relation to freedom of religion and the right to education, the alleged violation of Article 2 of protocol No.1, taken together with Article 9 of the Convention. Where questions concerning the relationship between State and religions are at stake, on which opinion in a democratic society may reasonably differ widely, the role of the national decision-making body must be given special importance. The Russia Federation declares that ‘the notion of margin of appreciation of the Contracting States in questions of freedom of religion was substantially narrowed by the present judgment of the Honourable Chamber to one ‘strict formula’ not taking into account the differences in history and culture of the European countries, the legitimate diversity of national approaches and the unforeseeable consequences the judgment can lead to.’

#### **Submission of the Republic of San Marino:**

The government of San Marino sought third party intervention status in this case for a number of reasons stating that the underlying issues in *Lautsi* are very important for a number of European countries and merits a comprehensive evaluation for the Court of Human Rights. The Government asserted that the crucifix is not only a religious symbol but also a symbol of deep cultural value, recognising the role played by Christianity in the identity of the Christian people in the Republic of San Marino.