The previous section identified a number of key conceptual principles which underpin the approach to the freedom of religion and belief within the Convention framework. Some of these were specific to Article 9, others were of a more general nature but which had a particular relevance for the realisation of that freedom. This section continues the theme of identifying core strands in the approach of the Court to the freedom of religion or belief but, rather than looking at more general and overarching principles, it looks at how those principles work themselves out in practice.

(A) Neutrality and Impartiality

There has been a subtle, but significant, shift in the perception of the role of the state in relation to the freedom of religion and belief. We have already seen that the individual rights approach outlined in section II has been developed by the principle of ‘respect’ and by the recognition of the communal aspects of the rights as outlined in Section III. Whilst approaching Article 9 from the perspective of an individual works well when an individual is challenging the manner in which the state has acted in relation to their personal enjoyment of a particular aspect of that right, it works less well in situations in which what is really at stake is the approach of the state either to religion or belief generally or to a particular form of religion or belief. In recent times, the Court has increasingly been called on to consider cases of this nature and, indeed, a number of the cases previously considered from the perspective of the ‘individual’ might in reality be best viewed from this more community oriented perspective.

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religious forms of belief. In *Hasan and Chaush v. Bulgaria*, for example, it emphasised that the role of the state was not to ‘take sides’ by endorsing one religious community at the expense of another but was to act in an even-handed fashion, concluding that ‘a failure by the authorities to remain neutral in the exercise of their powers ... must lead to the conclusion that the state interfered with the believers’ freedom to manifest their religion.’ Unsurprisingly, the same approach has been taken in cases which have been brought not by individuals but by religious communities themselves. The leading case remains that of the *Metropolitan Church of Bessarabia v. Moldova*, which concerned the refusal of the Moldovan authorities to grant official recognition to the applicant Church which had the practical effect of making both the Church as an organisation and the religious activities of its adherents unlawful. The Court said that ‘in exercising its regulatory power in this sphere and in its relations with the various religions, denominations and beliefs, the state has a duty to remain neutral and impartial.’ The duty to remain neutral and impartial has now been re-iterated on many occasions and it is clear that any evidence that the state has failed to act in such a fashion in its dealings with religious bodies will require justification under Article 9(2) if it is not to amount to a breach of Article 9.

This duty has a number of facets, perhaps the most important being that ‘the state’s duty of neutrality and impartiality is incompatible with any power on the state’s part to assess the legitimacy of religious beliefs or the ways in which they are expressed.’ This is of particular importance for issues concerning religious clothing and religious symbols since it underscores the need to permit individuals themselves to determine whether the wearing or display of any particular items is of religious significance to them, and the state will be in breach of its duty of neutrality and impartiality if it imposes its interpretation of their significance at the expense of that of the believer.

So far, the case-law considered has established that the state must remain neutral and impartial when it has deal-

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