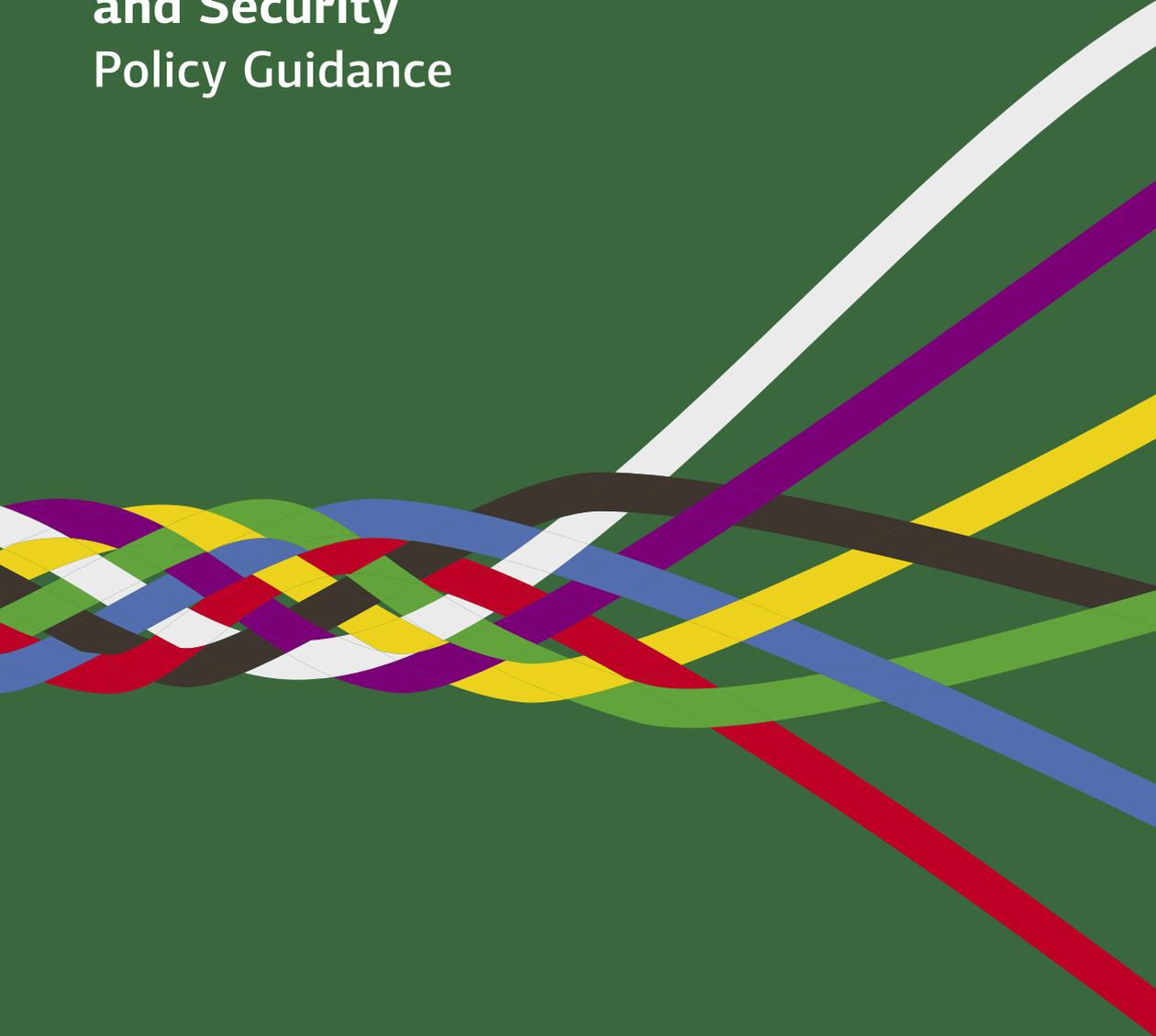


# Freedom of Religion or Belief and Security Policy Guidance



# Freedom of Religion or Belief and Security Policy Guidance



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The braided rope on this publication's cover represents the interrelationship between, or intertwined strands of, freedom of religion or belief and security, a metaphor suggested by Professor Brett Scharffs during the drafting process.

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# Introduction

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The potential challenges of diversity of religions and beliefs throughout the OSCE region, as well as the threat posed by violent extremism and radicalization that lead to terrorism,<sup>1</sup> have brought the relationship between freedom of thought, conscience, religion or belief<sup>2</sup> and the need to provide security into sharp focus.<sup>3</sup> While OSCE participating States have adopted different strategies to ensure that their own security measures are fully compliant with their international obligations and commitments pertaining to freedom of religion or belief, certain laws, security policies and practices have placed freedom of religion or belief and other universal human rights under significant pressure. Such measures, especially those that are very broad or applied arbitrarily, are often enacted in the name of “national”, “state” or “public” security, or in the interests of preserving or maintaining “peaceful

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- 1 While the OSCE has not provided a definition of violent extremism and radicalization that lead to terrorism, “radicalization that leads to terrorism” has been described as “[t]he dynamic process whereby an individual comes to accept terrorist violence as a possible, perhaps even legitimate, course of action. This may eventually, but not necessarily, lead this person to advocate, act in support of, or to engage in terrorism.” See: *Preventing Terrorism and Countering Violent Extremism and Radicalization that Lead to Terrorism: A Community-Policing Approach*, OSCE Office for Democratic Institutions and Human Rights (Warsaw: ODIHR, 2014), page 15. In line with OSCE commitments, terrorism and violent extremism cannot and should not be associated with any race, ethnicity, nationality or religion. This is outlined in the following documents: Bucharest Plan for Combating Terrorism, 2001 Bucharest Document, Decision no. 1, para. 3; OSCE Ministerial Council, Declaration No. 4/15 “Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism”, Belgrade, 4 December 2015; OSCE Ministerial Council, Declaration No. 1/16, “Strengthening OSCE Efforts to Prevent and Counter Terrorism”, Hamburg, 9 December 2016.
  - 2 Subsequently referred to in this document as “freedom of religion or belief” as a shorthand formulation.
  - 3 There are many important aspects to the interrelationship between freedom of religion or belief and security, including the security of religious or belief communities themselves, including the perpetration of hate crimes on grounds of religion or belief, but these are beyond the scope of this guidance.

coexistence”, “social stability” or “social harmony”. Experience shows that such limitations can worsen rather than improve security.

OSCE participating States have an obligation to safeguard the human rights of all individuals, groups and communities who may reside within their territories and of all persons subject to their jurisdiction. Every human being has the right to security of a person,<sup>4</sup> as well as the right to freedom of religion or belief. Participating States also bear the primary responsibility to guarantee these rights and are accountable for implementing them on an equal basis for everyone within their jurisdiction.

Protecting, respecting and ensuring the right to security of a person includes the obligation on the part of the state to protect individuals, groups and communities from threats such as crime, violence and terrorism.<sup>5</sup> States must consider security in all its different dimensions and adopt a comprehensive and co-operative approach that does not over-stress national security at the expense of other dimensions of security, including human rights.<sup>6</sup>

Nevertheless, much of the contemporary discourse on freedom of religion or belief and security calls for a balance between these values or suggests that at least some aspects of this freedom must be sacrificed to achieve security. This discourse contradicts the OSCE’s comprehensive approach to security, which does not frame freedom of religion or belief and security as competing rights, but recognizes them as complementary, interdependent and mutually reinforcing objectives that can and must be advanced together. As with other human rights, a comprehensive security regime is needed for freedom of religion or belief to be

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4 UN General Assembly, “Universal Declaration of Human Rights”, 10 December 1948, 217 A (III) (hereinafter, “UDHR”) Article 3, <<http://www.un.org/en/documents/udhr/index.shtml>>.

5 Numerous OSCE commitments have underscored the need for participating States to take action to prevent and counter violent extremism and radicalization that lead to terrorism, while respecting their obligations under international law, particularly human rights and fundamental freedoms (e.g., OSCE MC Declaration No. 4/15, OSCE MC Declaration No. 1/16, *op. cit.*, note 1).

6 The OSCE’s concept of comprehensive security is discussed in Chapter 1 of this publication.

fully respected, protected and fulfilled. At the same time, sustainable security is not possible without full respect for human rights, as they are essential pre-requisites for the trust that must underpin the relationship between the state and the population it serves. Without such trust, it is difficult for the state to effectively uphold its responsibility to ensure security and to protect and maintain a democratic society.

The OSCE Office for Democratic Institutions and Human Rights (ODIHR) is publishing *Freedom of Religion or Belief and Security: Policy Guidance* in order to clarify the interrelationship between freedom of religion and security in light of the OSCE's comprehensive framework for peace and security. It further explains the nature, status and scope of freedom of religion or belief as enshrined in OSCE commitments and international and regional standards. Finally, it provides guiding principles, practical guidance and recommendations to address a number of issues of note at the intersection of freedom of religion or belief and security in the OSCE region. The publication is primarily addressed to policymakers tasked with developing and implementing laws, policies and strategies in the area of security in ensuring that their security provisions are in line with their commitments and international obligations pertaining to this universal human right.

Finding long-term solutions in this area requires a collaborative approach involving the state and all other relevant stakeholders. This guidance is therefore also aimed at civil society organizations, especially those working on human rights and tolerance and non-discrimination agendas, religious or belief communities, national human rights institutions, academia, educational professionals and the media. As no religious or belief community can flourish in an environment that is not secure, they all have a stake in advancing security in broader society. By inspiring a positive vision of collective human existence and the common good, they can further ongoing society-wide efforts to strengthen social cohesion and comprehensive and sustainable security. A number of recommendations are, therefore, addressed to both state and non-state actors.

The standards discussed in this paper are those that apply in the OSCE region, although not every standard mentioned is binding for

every participating State. These standards are largely reflected in OSCE human dimension commitments. Certain relevant non-binding standards are also mentioned, as they provide useful clarification and elaboration of the principles underpinning OSCE commitments and international standards.

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# 1. Human rights and the OSCE's concept of comprehensive security

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In OSCE terms, security is understood as comprehensive, co-operative, equal, indivisible and grounded in human rights. The three complementary dimensions (politico-military, economic and environmental, and human) of the OSCE's comprehensive approach to security are each viewed as being of equal importance.

Freedom of religion or belief is specifically acknowledged as one of the fundamental principles guiding mutual relations among OSCE participating States and an integral aspect of the OSCE's concept of security.<sup>7</sup> The Kyiv Ministerial Council Decision on freedom of thought, conscience, religion or belief, for example, emphasizes “the link between security and full respect for freedom of thought, conscience, religion or belief.”<sup>8</sup>

In this regard, it should be noted that the peace and security facilitated by freedom of religion or belief, like all other human rights, is built on due recognition of people's most diverse convictions and the concrete possibility for each person “to profess and practice, alone or in community with others, religion or belief in accordance with the dictates of his own conscience”.<sup>9</sup> Freedom of religion or belief not only helps meet a fundamental need of each human being, namely the protection of the

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7 “Conference on Security and Co-operation in Europe Final Act”, OSCE, 1975, <<https://www.osce.org/helsinki-final-act?download=true>>. (hereafter, “Helsinki Final Act 1975”).

8 OSCE Ministerial Council, Decision No. 3/13, “Freedom of Thought, Conscience, Religion or Belief”, Kyiv, 6 December 2013, para. 6 (hereafter, “Kyiv MC Decision 3/13”).

9 Helsinki Final Act 1975, *op. cit.*, note 7.

right to a worldview, but also helps the public benefit from the articulation of diverse views.

Human rights, including freedom of religion or belief, are fundamental to flourishing societies and must therefore also be integrated into all responses to conflict and violence, whether they seek to address their causes, protect their victims or limit their consequences. Human rights and security measures therefore work towards the same objective. Freedom of religion or belief contributes to mutual respect, trust, understanding and equality among peoples of different religions and beliefs. It can, therefore, help make societies more resilient against the very issues that threaten security.

Full compliance with OSCE commitments and international standards on freedom of religion or belief brings several benefits that are conducive to comprehensive and sustainable security, particularly in the area of social and economic development and peace.<sup>10</sup> Freedom of religion or belief is a means of mobilizing and facilitating the positive resources of people professing different convictions, religious or otherwise, for the betterment of society. Undue restrictions on the right to freedom of religion or belief, therefore, obscure its potential to construct a social framework that ensures both freedom and security.

Freedom of religion or belief and the equality of men and women belong to the same indivisible human rights framework.<sup>11</sup> Comprehensive security requires the equal exercise by men and women of their freedom of religion or belief. In this regard, OSCE participating States have agreed that “the full and equal exercise of human rights by women is essential to achieving a more peaceful, prosperous and

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10 The growing evidence of the link between freedom of religion or belief and societal harmony and economic prosperity has been highlighted in a number of studies, including: Grim, B. & Finke, R., *The Price of Freedom Denied: Religious Persecution and Conflict in the 21st Century* (New York: Cambridge University Press, 2011); Grim, B. Clark, G. & Snyder, R.E., “Is Religious Freedom Good for Business?: A Conceptual and Empirical Analysis”, *Interdisciplinary Journal of Research on Religion*, Vol.10, No. (4), 2014.

11 “Vienna Declaration and Programme of Action”, United Nations Office of the High Commissioner for Human Rights, 25 June 1993, para. 5, <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>>. The declaration states that “[a]ll human rights are universal, indivisible and interdependent and interrelated.”

democratic OSCE area”<sup>12</sup> and that “the knowledge, skills and experience of both women and men are essential to peace ... security and stability in the OSCE region”.<sup>13</sup> A number of OSCE Ministerial Council Decisions on gender equality have further elaborated on this.<sup>14</sup> Given that men and women can be affected differently by violations of their right to freedom of religion or belief, it is important to tackle discrimination based on both religion or belief and gender.<sup>15</sup>

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12 “Istanbul Document: Charter for European Security 1999”, OSCE, (hereafter, “Istanbul Document 1999”) OSCE, <<https://www.osce.org/mc/39569?download=true>>.

13 “Document of the Thirteenth Meeting of the Ministerial Council Ljubljana 2005”, OSCE, (hereafter, “Ljubljana Document 2005”), <<https://www.osce.org/mc/18778?download=true>>.

14 See: OSCE Ministerial Council, Decision No. 14/05, “Women in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation”, Ljubljana, 2005; OSCE Ministerial Council, Decision No. 15/05, “Preventing and Combating Violence against Women”, Ljubljana, 2005; OSCE Ministerial Council, Decision No. 7/09, “Women’s Participation in Political and Public Life”, Athens 2009; and OSCE Ministerial Council, Decision No. 10/11, “Promoting Equal Opportunity for Women in the Economic Sphere”, Vilnius, 2011.

15 This underscores the importance for OSCE participating States of ensuring that gender analysis and gender-sensitive approaches to promoting and protecting freedom of religion or belief are integrated into measures, policies and practices for ensuring security. The 2004 OSCE Action Plan for the Promotion of Gender Equality calls for mainstreaming gender into programmes and projects with the goal of achieving gender equality. For an analysis of the differential impact of anti-Semitic hate crimes and related security challenges on men and women, see: *Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities: A Practical Guide* (Warsaw, ODIHR: 2017), pp. 13-15, <<https://www.osce.org/odihhr/317166>>.

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## 2. OSCE commitments and international standards on freedom of religion or belief

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Freedom of religion or belief is a multi-faceted human right, embracing individual, collective, institutional, educative and communicative dimensions, and is expressly recognized in OSCE commitments<sup>16</sup> and international and regional standards<sup>17</sup>. These standards set out a num-

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16 1975 Helsinki Final Act, *op. cit.*, note 7 ; “Concluding Document of the Third Follow-up Meeting, Vienna, 4 November 1986 to 19 January 1989”, OSCE, (hereafter, “Vienna Document 1989”); “Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE”, OSCE, (hereafter, “Copenhagen Document 1990”); “Charter of Paris for a New Europe 1990”, OSCE (hereafter, “Charter of Paris 1990”); “Budapest Document: Towards a Genuine Partnership in a New Era. Summit of Heads of State or Government 1994”, OSCE, (hereafter, “Budapest Document 1994”); Istanbul Document 1999, *op. cit.*, note 12; “Document of the Eleventh Meeting of the Ministerial Council Maastricht 2003”, OSCE, (hereafter, “Maastricht Document 2003”); “Document of the Twelfth Meeting of the Ministerial Council Sofia 2004”, OSCE, (hereafter, “Sofia Document 2004”); Ljubljana Document 2005, *op. cit.*, note 13; “Document of the Fourteenth Meeting of the Ministerial Council Brussels 2006”, OSCE, (hereafter, “Brussels Document 2006”); “Document of the Fifteenth Meeting of the Ministerial Council Madrid 2007”, OSCE, (hereafter, “Madrid Document 2007”); “Document of the Sixteenth Meeting of the Ministerial Council Helsinki 2008”, OSCE, (hereafter, “Helsinki Document 2008”); “Document of the Seventeenth Meeting of the Ministerial Council Athens 2009”, OSCE, (hereafter, “Athens Document 2009”); “Astana Commemorative Declaration 2010”; “Document of the Twentieth Meeting of the Ministerial Council Kyiv 2013”, OSCE, (hereafter, “Kyiv Document 2013”).

17 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171 (hereafter, “ICCPR”), Article 18, <<http://www.ohchr.org/en/professionalinter-est/pages/ccpr.aspx>>; Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950 (hereafter, “ECHR”), Article 9, <[http://conventions.coe.int/treaty/Commun/ QueVoulezVous.asp?NT=005&CL=ENG](http://conventions.coe.int/treaty/Commun/QueVoulezVous.asp?NT=005&CL=ENG)>; Organization of American States (OAS), American Convention on Human Rights, “Pact of San Jose”, Costa Rica, 22 November 1969 (hereafter: ACHR), Article 12 <[http://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights.htm](http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm)>; European Union, Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02, Article 10, <<http://eur-lex.europa.eu/legal-content/EN/ ALL/?uri=OJ:C:2012:326:TOC>>.

ber of key principles concerning the enjoyment of freedom of religion or belief, including its status as a right belonging to all human beings, men and women, whether believers or non-believers,<sup>18</sup> and the freedom of everyone to manifest, or act on, their religion or belief, individually or in community with others, in public or in private, through worship, teaching, practice and observance.<sup>19</sup> This document will refer to individuals acting in community with others to exercise their freedom of religion or belief as “religious or belief communities.”<sup>20</sup>

The exercise of freedom of religion or belief by human beings, whether alone or in community with others, whether in public or in private, is an inalienable right. As such, it cannot be conditional upon the permission of the state.<sup>21</sup> The normative status of freedom of religion or belief is underscored by the fact that it is a non-derogable right according to Article 4(2) of the International Covenant on Civil and Political Rights (ICCPR). This means that even a state of emergency, declared as a result of threats to the life of the nation, may not be used by a state to derogate from their obligations under ICCPR Article 18.<sup>22</sup>

States are under a duty imposed by international human rights law to act as impartial guarantors of freedom of religion or belief to all individuals and religious or belief communities within their jurisdiction.

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18 See: “General Comment No. 22”, United Nations Human Rights Committee, UN Doc. CCPR/C21/Rev.1/Add.4, which clarifies that freedom of religion or belief belongs to theistic, non-theistic, atheistic or other believers, para. 2. (hereafter, “General Comment No. 22”).

19 ICCPR Article 18(1); ECHR Article 9(1); American Convention on Human Rights (ACHR) Article 12(1); Vienna Document 1989, *op. cit.*, note 16; Copenhagen Document 1990, *op. cit.*, note 16, para 9.4.

20 *Joint Guidelines on the Legal Personality of Religious or Belief Communities*, OSCE/ODIHR and the Venice Commission, para. 11(Warsaw: OSCE/ODIHR, 2014), < <https://www.osce.org/odihr/139046>>.

21 *Ibid.* pp. 13, 17 and 39. Also see: *Metropolitan Church of Bessarabia v. Moldova*, European Court of Human Rights, (Application No.45701/99, judgment of 13 December 2001), paras. 128-130; “Report of the UN Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt”, United Nations General Assembly, UN Doc. A/HRC/19/60, 22 December 2011, paras. 25 and 41, <[https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-60\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-60_en.pdf)>.

22 See *The Guidelines for Review of Legislation Pertaining to Religion or Belief* (Warsaw: OSCE/ODIHR, 2004), <<http://www.osce.org/odihr/13993>>, page 19.

This duty is not limited to citizens and residents, but applies equally to asylum seekers, migrants, refugees and stateless persons.

A starting point for defining the application of freedom of religion or belief must be the self-definition of religion or belief, though of course the authorities have a certain competence to apply some objective, formal criteria to determine if indeed these terms are applicable to the specific case.<sup>23</sup> There is a great diversity of religions and beliefs,<sup>24</sup> and the terms “religion” and “belief” are broad.<sup>25</sup> Freedom of religion or belief is not limited in its application to traditional or large religions or beliefs, nor is the right limited to religions and beliefs with institutional characteristics or practices analogous to those traditional views.<sup>26</sup> The right to freedom of religion or belief protects the holders of theistic, non-theistic and atheistic beliefs, as well as the right not to profess

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23 The European Court of Human Rights has held that for a person’s position to fall within the ambit of the right to freedom of religion or belief it must display “a certain level of cogency, seriousness, cohesion and importance” (*Campbell and Cosans v United Kingdom*, European Court of Human Rights, Application Numbers 75111/76 and 7743/76, judgment of 25 February 1992).

24 See, “The Study of Discrimination in the Matter of Religious Rights and Practices by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities”, United Nations, UN Doc. E/CN.4/Sub.2/200/Rev.1, p. 1, <<https://undocs.org/E/CN.4/Sub.2/200/Rev.1>>, which states that “[i]n view of the difficulty of defining ‘religion’, the term ‘religion or belief’ is used in this study to include, in addition to various theistic creeds, such other beliefs as agnosticism, free thought, atheism and rationalism”.

25 “Report of the UN Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt”, UN Doc., *op.cit.*, 21, para. 38

26 “General Comment No. 22”, para. 2, *op. cit.*, note 18; “Joint Opinion on the Draft Law on Freedoms of Conscience and Religion and on the Laws Making Amendments and Supplements to the Criminal Code, the Administrative Offences Code and the Law on the Relations between the Republic of Armenia and the Holy Armenian Apostolic Church of the Republic of Armenia”, paras. 22-24; “Interim Joint Opinion on the Law on Making Amendments and Supplements to the Law on Freedom of Conscience and Religious Organizations and on the Laws on Amending the Criminal Code; the Administrative Offences Code and the Law on Charity of the Republic of Armenia”, OSCE/ODIHR and the Venice Commission, CDL-AD (2010) 054, 22 December 2010, para. 43, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)054-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)054-e) (hereafter, “Joint Opinion on Armenia”); *Grzelak v Poland*, European Court of Human Rights, (Application no. 7710/02, judgment of 15 June 2010), para. 85; *Kokkinakis v Greece*, European Court of Human Rights, (Application no. 14307/88, judgment of 25 May 1993) para. 31; and *Buscarini and Others v. San Marino*, European Court of Human Rights, (Application no. 24645/94, judgment 18 February 1999), para. 34.

any religion or belief.<sup>27</sup> This means that newly established religious or belief communities and those regarded as religious minorities must be afforded equal protection to the predominant religious community.<sup>28</sup>

Freedom of religion or belief is part of the broader human rights framework and is closely linked to other universal human rights and fundamental freedoms, such as freedom of expression,<sup>29</sup> freedom of assembly and association,<sup>30</sup> and the right to non-discrimination. In line with this, the Kyiv Ministerial Council Decision emphasized that “freedom of thought, conscience, religion or belief and all other human rights and fundamental freedoms are interdependent, interrelated and mutually reinforcing.”<sup>31</sup>

The *forum internum* refers to the inner dimension of the right to freedom of religion or belief, namely the freedom to have or to adopt a religion or belief of one’s choice, which also includes the right to change one’s religion or belief.<sup>32</sup> Since the inner freedom to have, adopt or change a religion is not subject to the limitation clauses enshrined in Article 18 of the ICCPR and Article 9 of the European Convention

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27 “General Comment No. 22”, para. 2, *op. cit.*, note 18; Joint Opinion on Armenia, paras 46-47, *op. cit.*, note 26.

28 The United Nations Human Rights Committee has warned that the “fact that a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population” may not justify discrimination against adherents to other religions or beliefs, *op. cit.*, note 18.

29 For a detailed analysis and discussion of the relationship between the right to freedom of religion or belief and the right to freedom of opinion and expression, see: “Report of the UN Special Rapporteur on freedom of religion or belief”, United Nations General Assembly, UN Doc. A/HRC/31/18, 23 December 2015, < <https://undocs.org/A/HRC/31/18>>.

30 *Guidelines on Freedom of Peaceful Assembly*, OSCE/ODIHR and the Venice Commission, (Warsaw: ODIHR, 2010), 2<sup>nd</sup> edition, < <https://www.osce.org/odihr/73405>>; and *Guidelines on Freedom of Association*, OSCE/ODIHR and the Venice Commission, (Warsaw: ODIHR, 2015), <<https://www.osce.org/odihr/132371>>.

31 “Vienna Declaration and Programme of Action”, United Nations Office of the High Commissioner for Human Rights, 25 June 1993, < <https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx>>.

32 ECHR Article 9(1); Copenhagen Document 1990, para 9.4, *op. cit.*, note 16; Kyiv Document 2013; UDHR, Article 18. With respect to the ICCPR, the UN Human Rights Committee in its General Comment No. 22 has interpreted Article 18 so as to include the freedom to change one’s religion or belief.

on Human Rights (ECHR), this *forum internum* is afforded absolute protection.<sup>33</sup>

The freedom to manifest a religion or belief, which constitutes the external component of freedom of religion or belief, or the *forum externum*, protects a wide range of acts. OSCE commitments and international and regional standards protect various individual and community manifestations of religions and beliefs. The freedom to manifest a religion or belief consists primarily, but not exclusively, of the freedom to worship and the freedom to teach, practice and observe one's religion or belief.<sup>34</sup> There may be considerable overlap between these different types of manifestation. The manifestations of freedom of religion or belief have been elaborated in detail in the OSCE's 1989 Vienna Document, particularly in relation to the collective, community dimensions.<sup>35</sup>

Certain limitations are permitted with respect to the freedom to manifest a religion or belief only<sup>36</sup>, and these are tightly circumscribed. Limitations must be strictly justified, and the state always bears the burden of justifying any limitation. Each limitation is a narrow exception to the rule that everyone must be free to exercise their right to freedom of religion or belief in full. OSCE commitments also stipulate that the right to freedom of religion or belief will not be subject to any restrictions except those provided by the law and consistent with the obligations of participating States under international law and with their international commitments.<sup>37</sup>

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33 ACHR, Article 12(2) affords similar protection. See General Comment No. 22, para. 3, *op. cit.*, note 18.

34 General Comment No. 22, *op. cit.*, note 18, has elaborated on the freedom to manifest a religion or belief.

35 For a full list of these manifestations, see Vienna Document 1989, para. 16.4, *op. cit.*, note 16. Examples include establishing and maintaining places of worship, organizing according to own hierarchical and institutional structures, selecting, appointing and replacing personnel, producing, importing and disseminating religious literature and soliciting and receiving voluntary financial and other contributions.

36 Limitations are conceptually different from derogations, which are not permitted.

37 Vienna Document 1989, para. 17, *op. cit.*, note 16; Copenhagen, Document 1990, *op. cit.*, note 16 para 9.4. See also, OSCE MC Decision No. 3/13, *op. cit.*, note 8.

For a limitation to the freedom to manifest one's religion or belief to be permissible under international human rights law it has to fulfil each of the following criteria:

- a. The limitation must be prescribed by law;<sup>38</sup>
- b. The limitation has the purpose of protecting public safety, public order, public health or morals, or the fundamental rights and freedom of others;<sup>39</sup>
- c. The limitation is necessary for the achievement of one of these purposes and proportionate to the intended aim;<sup>40</sup> and
- d. The limitation is not imposed for discriminatory purposes or applied in a discriminatory manner.<sup>41</sup>

In light of freedom of religion or belief's status as an inalienable right, it is essential that the criteria for possible limitations be applied with the utmost diligence and precision. State-imposed limitations should interfere as little as possible and only be employed as a last resort. In interpreting the scope of possible limitation clauses, states should adopt an open and broad understanding of freedom of religion or belief, in keeping with the need to ensure its full protection as guaranteed by international law.<sup>42</sup>

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38 ICCPR, Article 18(3); ECHR, Article 9(2); ACHR, Article 12(3); Vienna Document 1989, *op. cit.*, note 16; Copenhagen Document 1990, para 9.4, *op. cit.*, note 16.

39 ICCPR, Article 18(3); ECHR, Article 9(2), which limits the number of grounds for limitations to "the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others"; ACHR, Article 12, which limits the number of grounds for limitations to "public safety, order, health or morals, or the rights or freedoms of others".

40 ICCPR, Article 18(3); ACHR, Article 12; ECHR, Article 9(2) ("necessary in a democratic society in the interest of ...").

41 General Comment No. 22, para. 8, *op. cit.*, note 18.

42 *Ibid.* "In interpreting the scope of possible limitation clauses, States parties should proceed from the need to protect the rights guaranteed under the Covenant ... Limitations imposed ... must not be applied in a manner that would vitiate the rights guaranteed in article 18."

For a limitation to be “prescribed by law”, the legal provision specifying the limitation should be **accessible** and **predictable**. This requires that it should be formulated with sufficient precision to enable individuals or communities to regulate their conduct. Further, **limitations may not be retroactively or arbitrarily imposed on specific individuals and groups; neither may they be imposed by rules that purport to be laws, but which are so vague that they do not give fair notice of what the law requires or they allow for arbitrary enforcement.**<sup>43</sup>

Legitimacy: The “legitimate aim” criterion means that limitations may be applied only for purposes for which they were prescribed in provisions with regard to freedom of religion or belief, and are not allowed on grounds that are not specified in international instruments, even if these grounds would be allowed as restrictions to other human rights and fundamental freedoms.<sup>44</sup> **In this regard, “security” or “national security” are not recognized by international law as permissible grounds for restricting the manifestation of freedom of religion or belief.**

Necessity: Limitations must be “necessary” in accordance with the grounds for restriction specified in provisions on freedom of religion or belief. **For a limitation to be necessary, it must be directly related and proportionate to the specific need on which it is predicated,<sup>45</sup> and the interference must correspond to a pressing social need and be proportionate to the legitimate aim pursued.<sup>46</sup>** The concept of a “pressing social need” should be narrowly interpreted.<sup>47</sup>

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43 “Joint Opinion on Freedom of Conscience and Religious Organizations in the Republic of Kyrgyzstan”, OSCE/ODIHR and the Venice Commission, CDL-AD(2008)032, 28 October 2008 <[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2008\)032-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2008)032-e)>.

44 General Comment No. 22, *op. cit.*, note 18.

45 ICCPR Art. 18(3); ACHR, Art. 12(3); ECHR, Art. 9(2).

46 *Wingrove v. The United Kingdom*, European Court of Human Rights, (Application No.17419/90, judgment of 25 November 1996), para. 53.

47 *Svyato-Mykhaylivska Parafiya v. Ukraine*, European Court of Human Rights, (Application No.77703/01, judgment of 14 June 2007) para. 116; *Gorzelik and Others v. Poland*, European Court of Human Rights, (Application No.44157/98, judgment of 17 February 2004) paras. 94-95.

Proportionality: For an interference to be “proportionate,” there must be a logical and sound connection between a legitimate aim and the means employed to achieve it. Even in the context of security, measures taken to limit human rights must be appropriate to achieve their protective function. The mere fact that a measure is sufficient to achieve a security-related aim is not enough to satisfy the rigorous test of proportionality. The principle of proportionality requires the restriction to be strictly necessary in order to achieve the intended aim, and the use of the least intrusive means available.<sup>48</sup>

The United Nations Human Rights Committee has stated that a limitation may not be imposed for discriminatory purposes or applied in a discriminatory manner.<sup>49</sup> As a general principle, a distinction will be considered indirectly discriminatory if it has no objective and reasonable justification or it is disproportionate to the purpose it allegedly serves. In the context of freedom of religion or belief and security, participating States must ensure that measures are not adopted that discriminate on the grounds of religion or belief.

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48 See both Joint Opinion on Armenia and Interim Joint Opinion on Armenia, *op. cit.*, note 26.

49 General Comment No. 22, para. 8, *op. cit.*, note 18. The OSCE has recognized the need to protect against discrimination if sustainable peace and security are to be established. For example, see “OSCE Strategy Document for the Economic and Environmental Dimension”, OSCE, 2 December 2003, <<https://www.osce.org/eea/20705>>.

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### 3. Freedom of religion or belief and security: guiding principles

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This chapter offers a set of principles to help guide OSCE participating States in the formulation and implementation of a range of measures, policies and laws to ensure both freedom of religion or belief and security. The guiding principles listed below are grounded in the OSCE's approach to comprehensive security. They are non-exhaustive and are informed by and consistent with the full range of OSCE commitments in the human dimension and relevant international standards.<sup>50</sup> The analysis and recommendations that follow in Chapter 4 should be read in light of these seven guiding principles.

#### GUIDING PRINCIPLES

1. Educational measures that foster respect for religious or belief diversity are essential. They should:<sup>51</sup>
  - a. Take place not only in schools but also in other institutions (for example, museums, libraries, cultural heritage centres);
  - b. Impart unbiased and accurate information on different religions and beliefs, thereby combating religious illiteracy, which fosters negative stereotypes, misperceptions and religious prejudice;

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<sup>50</sup> For a full list of commitments, see Footnote 16.

<sup>51</sup> See, for example, Vienna Document 1989, Copenhagen Document 1990, Budapest 1994, Porto 2002, Sofia Document 2004, Ljubljana 2005, Brussels Document 2006, and Madrid 2007.

- c. Provide possibilities for participants of different religious or belief backgrounds, including non-believers, to meet each other and experience diversity in a natural way;
  - d. Equip participants with the knowledge, attitudes, values and skills to live well together in the midst of diversity;
  - e. Be based on respect for human dignity and everyone's human rights; and
  - f. Aim to reduce conflicts based on a lack of understanding of other people's beliefs.
2. Awareness-raising programmes that inform wider society about religious or belief communities, their human rights and the significance of religious or belief diversity are essential. They should:<sup>52</sup>
- a. Be developed and delivered through collaboration involving the state and other stakeholders, such as civil society organizations, national human rights institutions, cultural heritage institutions, education professionals, the media and religious or belief communities;
  - b. Sensitize the audience to the fact and experience of religious or belief diversity;
  - c. Emphasize the value of religious and belief diversity as a source of mutual enrichment of societies; and
  - d. Aim to reduce negative stereotypes that foster the rise of discrimination, hostility and intolerance in society by promoting a greater understanding and respect for different religions and beliefs.

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<sup>52</sup> See, for example, Bucharest 2001, Ljubljana 2005, and Brussels Document 2006.

3. Interfaith and interreligious dialogue and partnerships that combat intolerance and discrimination on grounds of religion or belief, foster understanding and mutual respect between individuals and communities of different religions or beliefs, and advance freedom of religion or belief for all, are essential. They should:<sup>53</sup>
  - a. Respect the autonomy of religious or belief communities;
  - b. Respect the voluntary nature of participation by religious or belief communities;
  - c. Accommodate the existing diversity of religious or belief communities, including newly-established and smaller communities, especially if promoted or facilitated by the state;
  - d. Ensure, as far as possible, the equal participation of women and men, and the substantive and substantial participation of youth, especially if promoted or facilitated by the state; and
  - e. Include informal activities, given the particularly important contribution they make to efforts to advance freedom of religion or belief for all and to enhance mutual understanding and promote tolerance.
  
4. Dialogue and engagement initiatives between participating States and religious or belief communities on issues pertaining to freedom of religion or belief and security are essential. They should:<sup>54</sup>
  - a. Advance freedom of religion or belief for all, as well as other human rights;
  - b. Prevent and counter discrimination and intolerance on grounds of religion or belief, including by speaking out strongly and

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53 See, for example, Maastricht Document 2003, Ljubljana 2005, and OSCE MC Decision No. 3/13.

54 *Ibid.*

- promptly against any advocacy of hatred that constitutes incitement to discrimination, hostility or violence;
- c. Ensure broad-based and sustainable security;
  - d. Be open to participation by the full range of religious or belief communities in society;
  - e. Respect the autonomy of religious or belief communities;
  - f. Respect the voluntary nature of participation by religious or belief communities;
  - g. Not be limited to efforts at the national or federal level but also take place at local or municipal levels;
  - h. Ensure that channels of communication are always open and that dialogue and engagement are developed on a regular and not a sporadic basis; and
  - i. Serve to raise awareness of the role that religious or belief communities can play in addressing security-related concerns and encourage their proactive involvement in such efforts.
5. Policies that promote respect for and build upon existing and emerging religious or belief diversity are essential to develop a peaceful, secure and cohesive society. They should:<sup>55</sup>
- a. Ensure violence is not identified or associated with religion or belief in general;
  - b. Ensure violence is not identified or associated with any one religion or belief;

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55 See, for example, Porto 2002, Ljubljana 2005.

- c. Ensure that responsibility for violent acts committed by individuals or groups of individuals is not attributed to a religious or belief community;
  - d. Ensure that any challenges and tensions that may arise in addressing religious or belief pluralism are not exploited for political purposes;
  - e. Encourage representatives of participating States to always speak out strongly and promptly against any advocacy of hatred that constitutes incitement to discrimination, hostility or violence.
6. A constitutional and legal framework that advances freedom of religion or belief for all is essential, and should take into account the following principles:<sup>56</sup>
- a. Respect for freedom of religion or belief and other human rights is integral to ensuring security;
  - b. When measures that limit freedom of religion or belief are necessary to ensure security in specific cases, comprehensive and sustainable security can be attained only if these measures respect human dignity and human rights;
  - c. Differences in impact on men and women should be borne in mind when formulating and implementing measures that limit freedom of religion or belief;
  - d. Differences in impact on individuals or groups in vulnerable positions, including but not limited to children, persons with disabilities, national minorities, minority religious or belief communities, non-believers, converts, asylum seekers, migrants and refugees, should be borne in mind when formulating and implementing measures that limit freedom of religion or belief;

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<sup>56</sup> See, for example, 1975 Helsinki Final Act, Vienna Document 1989, Copenhagen Document 1990, and OSCE MC Decision No. 3/13.

- e. Laws, regulations, practices and policies must be transparent and non-discriminatory, including on grounds of ethnicity, gender, nationality, race, religion or belief;
  - f. Security concerns should be addressed through specific criminal or public order legislation and not through laws created to target and restrict freedom of religion or belief in the name of security;
  - g. Measures imposing limitations on freedom of religion or belief must be prescribed by law;
  - h. Grounds for limitation should be clearly stated and limitations should be necessary for the achievement of the legitimate aims exhaustively listed in Article 18(3) of the ICCPR; and
  - i. Individuals should have effective recourse to appeal or review of the measures in question and/or decisions taken regarding their implementation.
7. Any legal measures restricting freedom of religion or belief that are deemed necessary by participating States to ensure security should:<sup>57</sup>
- a. Specifically address criminal or illegal conduct and not thoughts or beliefs;
  - b. Address the specific unlawful activity of individuals or groups, and avoid targeting them for their religion or belief;
  - c. Clearly define terms used in the legal framework, avoiding vaguely-defined terms that renders them open to widely differing interpretations and arbitrary application;

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57 See, for example, Vienna Document 1989, Copenhagen Document 1990, OSCE MC Decision No. 3/13, and Declaration No. 1/16, "Strengthening OSCE Efforts to Prevent and Counter Terrorism", Hamburg, 2016. See also the Overview of OSCE Counter-Terrorism Related Commitments (as last updated in March 2018), <<https://www.osce.org/node/26365?download=true>>.

- d. Not sanction religious or belief communities for the unlawful conduct of individuals or groups belonging to them;
- e. Be non-discriminatory, including on grounds of ethnicity, gender, nationality, race, religion or belief;
- f. Be imposed only as a last resort;
- g. Be directly related and proportionate to the legitimate aim being pursued and constitute the least intrusive means to achieve that aim; and
- h. Be accompanied by guidance in order to minimize the potential misuse of such measures or discretionary abuse by government officials or administrators.

The following three points should be taken into account when considering the application of the guiding principles listed above:

1. The guiding principles should be viewed as part of a holistic approach to ensuring freedom of religion or belief and security, which is envisaged in the Helsinki Final Act and endorsed in subsequent OSCE commitments. Although the authorities of OSCE participating States are primarily responsible for ensuring security while protecting freedom of religion or belief, others such as religious or belief communities,<sup>58</sup> national human rights institutions, civil society organizations, including faith-based and other organizations working to advance human rights in general, as well as the media, have important roles to play in the interface between freedom of religion or belief and security;

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<sup>58</sup> OSCE Ministerial Council Decision No. 3/13 called upon OSCE participating States to “[e]ncourage inclusion of religious or belief communities, in a timely fashion, in public discussions of pertinent legislative initiatives”, *op. cit.*, note 8.

2. By ensuring the full implementation of all their human dimension commitments, participating States will create the conditions for non-state actors to play their role in contributing to sustainable security; and
3. Challenges related to freedom of religion or belief and security cannot be solved merely through legal sanctions by the state, but need to include in the first instance a broader range of non-restrictive measures, such as educational activities, awareness-raising programmes, interfaith and interreligious dialogue and partnerships, and community engagement.

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## **4. Issues and recommendations related to freedom of religion or belief and security**

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This chapter will discuss four issues of relevance at the intersection of freedom of religion or belief and security. All four – registration, “extremist” speech and literature, searching places of worship and conversion – are common issues across the entire OSCE region. They are also at the forefront of freedom and religion or belief and security for policymakers and religious communities. They are illustrative of how freedom of religion and belief and security overlap in a practical way.

The question and answers at the beginning of each section seek to clarify a number of complex issues within the topic of freedom of religion or belief and security. They are followed by recommendations for each of the four issues covered.

#### 4.1 REGISTRATION AND DE-REGISTRATION OF RELIGIOUS OR BELIEF COMMUNITIES AND SECURITY

The values, principles and teachings of some religious or belief communities are sometimes viewed by authorities in OSCE participating States as incompatible with those held by the majority of the country's population. They argue that this incompatibility may pose a threat to coexistence and social cohesion and, therefore, to security. Such fears are heightened where religious or belief groups regarded by the state as "extremist" propagate ideas deemed to threaten public order, national identity, societal homogeneity or peaceful coexistence. Some governments are concerned that such religious or belief communities have acquired legal personality through registration procedures, thereby gaining legal status, recognition, benefits, exemptions and privileges. Authorities have responded by denying registration to some communities or revoking it once granted, or by enacting more restrictive registration laws and requiring formerly registered communities to re-register. As a consequence of such measures, some religious or belief communities are unable to register and gain access to or maintain legal personality status.

*Why is the issue of legal personality important for religious or belief communities?*

Access to legal personality falls within the scope of the right to freedom of religion or belief. When the organizational life of the community is not protected by freedom of religion or belief, many aspects of the individual's freedom in this area become vulnerable.<sup>59</sup> This includes the ability of individuals to practice their religion or belief together with others, jeopardizing the viability of the community itself.

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<sup>59</sup> *Hasan and Chaush v. Bulgaria*, European Court of Human Rights (Application no. 30985/96, judgment of 26 October 2000), para. 62.

Under international human rights law, refusal by the state to accord legal personality status to an association of individuals based on religion or belief amounts to an interference with the exercise of the right to freedom of religion or belief in the context of freedom of association, unless it has been proven that the association is engaged in unlawful activities.<sup>60</sup> OSCE participating States have, therefore, committed to “grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their states, recognition of the status provided for them in their respective countries.”<sup>61</sup>

Notwithstanding the importance of legal personality for the enjoyment of the right to freedom of religion or belief,<sup>62</sup> religious or belief communities should not be obliged to seek legal personality if they do not wish to do so. The acquisition of legal personality is an option provided for by some participating States. In designing registration systems, participating States should be guided by the principle that registration is meant to facilitate, rather than hamper or control, the activities of religious or belief communities.<sup>63</sup> Participating States should, therefore, ensure that religious or belief communities have the right to acquire legal personality of such a type and level as to allow them to carry out the full range of their religious or belief-related activities.

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60 *Kimlya and Others v. Russia*, European Court of Human Rights, (Application nos. 76836/01 and 32782/03, judgment of 1 October 2009), para. 84; *Jehovah's Witnesses of Moscow and Others v. Russia*, European Court of Human Rights, (Application no. 302/02, judgment of 10 June 2010), para. 101; *Gorzelik and Others v. Poland*, European Court of Human Rights, para. 52; and *Sidiropoulos and Others v. Greece*, European Court of Human Rights, (Application no. 26695/95, judgment of 1 July 1998), para. 31.

61 The Vienna Document 1989, para. 163, *op. cit.*, note 16.

62 *Bessarabia v. Moldova*, European Court of Human Rights, *op. cit.*, note 26.; *Religionsgemeinschaft der Zeugen Jehovas and Others v. Austria*, European Court of Human Rights, (Application No. 40825/29, judgment of 31 July 2008); *Izzettin Dogan v. Turkey*, European Court of Human Rights, (Application No. 62649/10, judgment of 26 April 2016). It should be noted that individual believers and non-believers and religious or belief communities still hold rights under international human rights law even if registration is not provided for, is not granted, or is revoked by a state or authority.

63 A detailed description of the international legal framework pertaining to the access to legal personality for religious or belief communities, together with examples of good practices from individual OSCE participating States, can be found in Part III of the *Guidelines on the Legal Personality of Religious or Belief Communities*, *op. cit.*, note 20.

An accessible registration system can encourage religious or belief communities, including those about whom a participating State may have concerns, to act within the boundaries of the legal system. Experience has shown that registration can help to build stable and trustful relations between states and religious or belief communities.

*Why is the term “extremism” problematic in connection with the registration and de-registration of religious or belief communities?*

Concerns about “extremism” are often cited by states to justify the need for strict control over the activities of individuals and religious or belief communities in the interest of security. However, “extremism” is an imprecise term without a generally accepted definition, which leaves it open to overly broad and vague interpretations and opens the door to arbitrary application of the law.

“Extremism” is often conflated with violence, even though there is no empirical evidence to suggest a causal link or progression from “extremist” thinking to violent acts or that “extremist” thinking implies an intent to engage in violent behaviour that would warrant state intervention.<sup>64</sup> The phenomenon of violent extremism must, therefore, be clearly distinguished from notions of “extremism.” Holding “extreme” views does not, in itself, constitute a security threat.<sup>65</sup>

In addition, there are risks of human rights violations if measures to prevent and counter “extremism” focus on non-violent activity. The

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64 See: “Expert Meeting on Security, Radicalization, and the Prevention of Terrorism”, OSCE, 10 October 2008, <<https://www.osce.org/odihr/34379>>. Para. 26 states that “[a]ssumptions which remain unproven include ‘slippery slope’ conceptions of radicalization, which conflate a more fundamental form of religious belief with a willingness to use terrorist tactics. According to this theory an individual moves in a roughly linear fashion from mainstream religious views through more extreme religious views and practices before making the leap to violence. The empirical support for this theory is lacking.”

65 For a critique of the concept of “extremism” and its consequences, see: “Report of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism”, United Nations General Assembly, UN Doc.A/HRC/31/65, 29 April 2016, paras. 21-22, <<https://undocs.org/en/A/HRC/31/65>>.

right to hold an opinion and the freedom to have or adopt a religion or belief of one's choice must not be subject to any restrictions.<sup>66</sup> International standards explicitly caution that terms such as “extremism” should not be used to suppress legitimate manifestations of religion or belief, or to target individuals or religious or belief communities whose beliefs are different or considered “unusual.”<sup>67</sup> Freedom of thought and freedom of religion or belief are jeopardized by a focus on convictions and ideologies rather than on evidence of criminal conduct. Therefore, participating States should ensure that security-related measures address behaviour rather than opinions or beliefs and distinguish between violent extremism and “extremism.”<sup>68</sup> They should refrain from targeting “extremism” without evidence of a connection to acts of violence or incitement.

*What grounds are there for the denial of legal personality and de-registration of a religious or belief community?*

In light of the far-reaching consequences of denial of legal personality or de-registration for religious or belief communities, any decisions in this regard must be strictly justified under the criteria set out in Article 18(3) of the ICCPR. Since denial of legal personality and de-registration are measures of last resort, they will require particularly strong justifications to be proportionate. They can only be contemplated in cases of grave and repeated violations of endangering public order and if lighter

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66 Article 18 ICCPR does not permit any limitations whatsoever on the freedom of thought and conscience. This freedom is protected unconditionally, as is the right of everyone to hold opinions without interference under Article 19.1 ICCPR.

67 See: “Comments on Amendments and Additions to the Law of the Kyrgyz Republic On Freedom of Religion and Religious Organizations in the Kyrgyz Republic”, OSCE/ODIHR, 22 March 2012, paras. 18-19, <<http://www.legislationonline.org/documents/id/16881>>.

68 “Report of the United Nations High Commissioner for Human Rights”, United Nations General Assembly, UN Doc A/HRC/33/29, 21 July 2016, para. 6.1, <<http://www.undocs.org/A/HRC/33/29>>; “Opinion on the Federal Law on Combating Extremist Activity on the Russian Federation”, Venice Commission, CDL-AD(2012)016, 20 June 2012, para. 59 <[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)016-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)016-e)>.

sanctions, such as a warning, a fine or withdrawal of tax benefits, cannot be applied effectively.<sup>69</sup>

Denial of legal personality or de-registration of a religious or belief community should not be based on alleged threats to security, but be clearly based on evidence of illegal acts by the religious or belief community in question. From a human rights perspective, these measures can only be considered a necessary step when there is proof that the community is involved in criminal activity or engaged in acts that fall within the scope of the limitations on the collective manifestation of religion or belief recognized in international human rights law. The burden of proof lies with the state in demonstrating that individuals or religious or belief communities engage in violence or in the advocacy of hatred that constitutes incitement to discrimination, hostility or violence, or are undermining the rights and freedoms of others in other ways.

Unproven concerns that individual believers, or even leaders of a religious or belief community, are involved in violent extremist activities, i.e., activities that involve violence or incitement to violence, are not sufficient grounds to deny legal personality to or de-register the whole community. The fact that some individuals engage in such acts is not an indication that an entire religious or belief community shares these views or condones these activities. In such cases, personal and group actions and responsibilities should always be regarded as separate. Any wrongdoings on the part of individuals should, therefore, be addressed through criminal, administrative or civil proceedings against that person, rather than directed at the religious or belief community as a whole.<sup>70</sup>

Where denial of legal personality or de-registration has been authorized, the procedure should be subject to an effective process of appeal

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69 “Law on Freedom of Religious Belief of the Republic of Azerbaijan”, CDL-AD(2012)022, 15 October 2012, paras. 93–94, <[http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2012\)022-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2012)022-e)>.

70 “Interim Joint Opinion on the Law on Making Amendments and Supplements to the Law on Freedom of Conscience and Religious Organizations and on the Laws on Amending the Criminal Code; the Administrative Offences Code and the Law on Charity of the Republic of Armenia”, OSCE/ODIHR and Venice Commission, para. 92, *op. cit.*, note 26.

and/or review by the courts.<sup>71</sup> The appeal process should be quick, transparent and non-discriminatory. Denial of legal personality or de-registration of religious or belief communities should not be permitted until all avenues of appeal have been exhausted.

*Is denial of legal personality or de-registration an effective tool to combat violent extremism and radicalization that lead to terrorism?*

The effectiveness of the denial of legal personality and the de-registration of religious or belief communities to combat violent extremism and radicalization that lead to terrorism has not been proven. On the contrary, in addition to potentially imposing unwarranted restrictions on the freedom of religion or belief of individuals and religious or belief communities, such measures may also have a number of unintended, adverse consequences. They can heighten a community's perception of being unfairly targeted and discriminated against, which can make them more susceptible to views that could be deemed violent extremist or contribute to terrorist radicalization. Further, they can erode trust between state authorities and religious or belief communities and risk isolating them in broad-based societal efforts to ensure security. In some cases, they may cause the community's activities to go underground, which can lead to greater difficulties when it comes to obtaining reliable information about their activities.

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71 *Jehovah's Witnesses of Moscow and others v. Russia*, European Court of Human Rights, (Application no. 302/02, judgement of 10 June 2010) para. 175; "Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities of Hungary", Venice Commission, para. 38.

## Recommendations

### *Participating States*

1. Participating States should refrain from enacting legal or other measures that are founded on or make reference to concepts such as “extremism” or “religious extremism”, given the vagueness of these terms and the potential for their misuse in excessively discretionary or discriminatory ways.
2. Where individual believers or groups of believers are involved in criminal or illegal activities, participating States should not attribute blame to the community as a whole and should sanction only the individuals concerned.
3. Participating States should offer appropriate options and procedures for religious or belief communities to achieve legal personality status of such a type and level as to allow them to carry out the full range of their religious or belief-related activities, if they so wish. However, participating States should not make acquisition of legal personality status a pre-condition for communities or individuals to exercise the right to freedom of religion or belief.
4. Participating States should ensure that any decision to deny legal personality or de-register a religious or belief community respects the criteria set out in Article 18(3) of the ICCPR.
5. When a decision is taken to deny legal personality to or de-register a religious or belief community, participating States should provide the community in question with a reasoned decision indicating the specific grounds for denial or de-registration.

6. In communicating decisions that deny legal personality or de-register a religious or belief community, participating States should avoid expressions that could be perceived as stigmatizing the religious or belief community in question. They should also take active steps (such as awareness raising, education and encouraging interfaith and interreligious dialogue) to address any resulting suspicion, mistrust, intolerance or discrimination towards the community, in order to ensure peaceful coexistence and security.
7. Participating States should ensure that decisions to deny legal personality to or de-register a religious or belief community are subject to an effective appeal and review process.

#### *Religious or belief communities*

8. Religious or belief communities are encouraged to contribute to efforts to ensure security in their societies by engaging in open, constructive and trustful dialogue with state authorities and other relevant stakeholders.

#### *Civil society*

9. Civil society organizations are encouraged to engage in advocacy efforts to ensure that legislation and policies on registration and legal personality, as well as practices, are in line with international standards.

#### 4.2. “EXTREMIST” SPEECH AND LITERATURE AND SECURITY

Speech deemed to be “extremist” by individual believers or leaders of religious or belief communities may be considered a threat to security. In order to guard against the envisaged harm such speech may cause, some OSCE participating States have enacted measures that criminalize and/or censor it.

Concerns have also been expressed that some forms of religious literature (both online and offline), including sacred texts, may threaten peace and security due to supposedly “extremist” content. Such material is alleged to incite violence, contain violent imagery or language, or make claims of religious absolutism or superiority. As a result, states may enact measures that ban or censor certain religious materials or prohibit them from being imported and distributed. The assessment of government-appointed “experts” has sometimes been used to determine whether or not religious texts are doctrinally sound or amount to “extremist” material.

#### *Is religious expression protected by freedom of opinion and expression and freedom of religion or belief?*

Religious expression is protected both by the right to freedom of opinion and expression and by the right to freedom of religion or belief. Both freedoms are central to democratic societies. They are interdependent and mutually reinforcing rights, and “serve as complementary safeguards of communicative freedom.”<sup>72</sup> The freedom to express one’s internal convictions is fundamental to the pluralism that characterizes democratic societies, and communicating within and across religious

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72 See: “Report of the UN Special Rapporteur on freedom of religion or belief”, *op.cit.*, note 29. pp. 13-14; Bielefeldt, H. Ghanea, N. & Wiener, M., *Freedom of Religion or Belief – An International Law Commentary*, pp. 481-506.

or belief communities is an essential aspect of freedom of religion or belief.

*What legitimate restrictions can be imposed on incitement to discrimination, hostility or violence?*

Under international law, the rights to freedom of religion or belief and freedom of expression do not grant a right to advocate for beliefs that incite discrimination, hostility or violence towards others. Freedom to engage in religious speech is generally protected under international law by Article 19 of the ICCPR. Article 19(2) states that the exercise of the right to freedom of expression “carries with it special duties and responsibilities” and lists respect of the rights or reputations of others and the protection of national security, public order or public health and morals as legitimate grounds for restricting it. Freedom of expression is also impacted by Article 20(2), which requires State Parties to prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. International standards, then, do not prohibit all advocacy of hatred. Article 4(a) of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and Article 20(2) of the ICCPR impose a requirement on State Parties to curtail advocacy of hatred that incites discrimination, hostility or violence. Further, Article 4(a) of CERD also prohibits the mere “dissemination of ideas based on racial superiority or hatred” without reference to incitement.

The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, is a non-binding text that has, nevertheless, received broad approval by the international community. It lists six factors to determine whether speech amounts to “incitement to discrimination, hostility or violence” and is serious enough to warrant restrictive legal measures. These six criteria are: context, speaker (including the individual’s or organization’s standing), intent, content or

form, extent of the speech, and likelihood of harm occurring (including imminence).<sup>73</sup>

Before criminalizing, prosecuting or imposing other intrusive limits on religious speech that appears to be “extremist”, state authorities should carefully establish the facts. They should assess the speech act in light of the aforementioned six factors to determine whether it constitutes incitement to real acts of discrimination, hostility or violence<sup>74</sup>. Training law enforcement officials and the judiciary to understand and apply the six-part test set out in the Rabat Plan of Action can assist in determining whether the incitement to hatred threshold is met. It is only speech that falls within the scope of Article 20(2) of the ICCPR that has to be prohibited. Furthermore, as all restrictions on free speech must satisfy the general rules and safeguards in relation to permissible limitations, even where Article 20(2) is engaged, State Parties must justify any restrictions in strict conformity with Article 19(3).<sup>75</sup> In this

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73 “Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”, in “Report of the United Nations High Commissioner for Human Rights on the prohibition of incitement to national, racial or religious hatred”, United Nations General Assembly, 11 January 2013, appendix, para. 29, <<https://undocs.org/A/HRC/22/17/Add.4>>. This six-part threshold test has been endorsed by various independent experts and human rights monitoring bodies, e.g. in the “Report of the United Nations Special Rapporteur on freedom of religion or belief (Tackling manifestations of collective religious hatred)”, United Nations General Assembly, UN Doc. A/HRC/25/58, 26 December 2013, para. 58 <<https://undocs.org/A/HRC/25/58>>; and in “General Recommendation 35: Combating racist hate speech”, the Committee on the Elimination of Racial Discrimination, UN Doc. CERD/C/GC/35, 12-30 August 2013, para. 15 <<http://undocs.org/en/CERD/C/GC/35>>. The European Court of Human Rights uses similar criteria to determine whether the statements were made against a tense political or social background; whether such statements, being fairly construed and seen in their immediate or wider context, could be seen as a direct or indirect call for violence or as a justification of violence, hatred or intolerance; the manner in which the statements were made; their capacity – direct or indirect – to lead to harmful consequences; and the proportionality of sanctions – *Perinçek v. Switzerland* [GC] (Application no. 27510/08, judgment of 15 October 2015), paras 204-208; *Stomakhin v. Russia*, (Application no. 52273/07, judgement of 8 October 2018), paras 88-134, especially par 93. <<http://hudoc.echr.coe.int/eng?i=001-1827310>>.

74 See *Stomakhin v. Russia*, (Application no. 52273/07, judgement of 8 October 2018), par 93.

75 “General Comment 34: Article 19: Freedoms of Opinion and Expression”, United Nations Human Rights Committee, UN Doc. CCPR/C/GC/34, 11-29 July 2011, para. 52, <<https://undocs.org/en/CCPR/C/GC/34>>.

regard, the Rabat Plan of Action suggests a sliding scale of responses to incitement, in which criminal law measures should be a last resort.<sup>76</sup>

### *What is the place of religious literature?*

In 1989, OSCE participating States confirmed they would respect the right of individual believers and communities of believers to acquire, possess and use sacred books and religious publications in the language of their choice, as well as other articles and materials related to the practice of religion or belief. They also committed to allowing religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials.<sup>77</sup>

Religious literature is an aspect of religious expression and is equally protected both by freedom of opinion and expression, and by freedom of religion or belief. Any interference with the production, importing or dissemination of such literature can constitute a violation of these human rights and should be strictly justified in line with the criteria set out in Articles 18(3) and 19(3) of the ICCPR. Whereas “national security” is one of the possible limitation grounds for restricting freedom of expression, it is not included among the limitation grounds in Article 18(3), which means that the freedom to manifest one’s religion or belief cannot be restricted on this ground.

Two issues that frequently arise in connection with religious literature are that it may contain violent narratives and imagery, and that it may make claims of religious absolutism and superiority. The relationship between religious literature and violence is complex, controversial and

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76 “Report of the United Nations Special Rapporteur on freedom of religion or belief”, para. 58, *op. cit.*, note 29. See also: “Rabat Plan of Action”, appendix, para 34, *op. cit.*, note 74.

77 Vienna Concluding Document 1989, para 16.9. Moreover, the 1981 UN “Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief” stipulates that freedom of religion or belief includes the freedom to write, issue and disseminate relevant publications (Article 6(d)) and to establish and maintain communications with individuals and communities in matters of religion or belief at the national and international levels (Article 6(i)).

beyond the scope of this publication.<sup>78</sup> It is clear, however, that harm and violence are always the result of human agency. On this basis, the then UN Special Rapporteur on freedom of religion or belief noted that:

*“it is important to avoid ‘essentialist’ views that falsely ascribe violence to the essence of certain religions or to religion in general [...] [P]erpetrators of violent crimes are always human beings, not religions as such. It is human beings – individuals, groups, community leaders, State representatives, non-State actors and others – who invoke religion or specific religious tenets for the purposes of legitimizing, stoking, spreading or escalating violence. In other words, the relationship between religion and violence can never be an immediate one; it always presupposes human agency, that is, individuals or groups who actively bring about that connection — or who challenge that connection”.*<sup>79</sup>

Developing and sharing interpretations that place these violent narratives and imagery in their historical contexts, promoting critical thinking and providing a reading that upholds human dignity and human rights are much more effective and much more respectful of freedom of expression and freedom of religion or belief than banning or censoring religious texts or limiting their circulation.

Truth claims are inherent to many religious or non-religious belief systems, and they may imply the idea that there is only one path or way to comprehend truth and to live a good life in conformity with the requirements they profess. This may encourage the understanding that one religion or belief system, including its teachings on ethical and moral conduct, is superior to another, which may in turn be a source of conflict and societal insecurity. As long as these claims do not result in expressions that incite discrimination, hostility or violence towards others they are part of the expression of religious or

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<sup>78</sup> For an analysis of any putative connection between religion and violence, see the “Report of United Nations Special Rapporteur on freedom of religion or belief”, United Nations General Assembly, UN Doc A/HRC/28/66, 29 December 2014, <<https://undocs.org/A/HRC/28/66>>.

<sup>79</sup> *Ibid*, para. 15.

belief diversity and are protected by freedom of expression and freedom of religion or belief.<sup>80</sup>

Sanctioning truth claims would exert a chilling effect on communicative freedom in the domain of religion or belief. Legislation that restricts or criminalizes such claims of religious or belief-related superiority should, therefore, be repealed. In the long run, freedom of religion or belief, which includes strong communicative and educational dimensions, contributes to an environment for questioning, discussing and assessing such claims, exposing them to different viewpoints and understandings. This may facilitate the exploration of common ground both among individual adherents of the same religion or belief system and across religious or belief boundaries.

*Do government-appointed experts have a role to play in the evaluation of “extremist” religious literature?*

Some OSCE participating States appoint experts and rely on their opinion to decide whether religious texts are considered “extremist”. Given the concerns surrounding the use of this term and the lack of consensus in the expert community about how to formulate criteria for the interpretation of religious texts, the opinions of these experts are not a sufficiently sound basis for measures aimed at censoring or banning sacred texts or doctrinal works. Consequently, the appointment of state experts with a mandate to provide the correct interpretation of such literature is deeply problematic. Freedom of religion or belief includes the right of religious or belief communities to provide their own authorized interpretations of the community’s sacred texts or doctrinal works. State authorities in charge of evaluating religious literature should carefully take into account these interpretations and not automatically give precedence to expert readings of the same texts.

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80 For a discussion of the criminalization of religious superiority claims see: “Report of United Nations Special Rapporteur on freedom of religion or belief United Nations General Assembly, paras. 66-68, UN Doc. A/HRC/31/18, 23 December 2015 < <https://undocs.org/A/HRC/31/18>>.

*What can be done to combat a wider culture of discrimination, hatred and intolerance on grounds of religion or belief?*

OSCE participating States have noted that '[d]iscrimination and intolerance are among the factors that can provoke conflicts, which undermine security and stability',<sup>81</sup> and have been addressing the need for effective measures aimed at the elimination of discrimination and intolerance on the grounds of religion and belief for many years.<sup>82</sup>

Measures that can play a positive role in combating discrimination, hatred and intolerance on grounds of religion or belief include awareness-raising and educational measures, as well as interfaith and interreligious dialogue and collaboration, together with efforts undertaken by the media. These activities, which address the root causes of religious intolerance, help to build trust and understanding among and between individuals and communities of different religions and beliefs, remain underutilized in the OSCE region, despite numerous commitments in these areas.<sup>83</sup>

Awareness-raising programmes can help to inform broader society about religious or belief communities and their human rights. By promoting a greater understanding and respect for different religions and beliefs, these programmes can reduce the scope for biased views and negative stereotypes that facilitate and foster the rise of discrimination, hostility and intolerance in society. State authorities, the media, cultural heritage institutions, national human rights institutions, civil society organizations, interreligious and interfaith bodies, education

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81 "OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century", OSCE, Maastricht 2003, para. 36.

82 See relevant OSCE documents and agreements: Copenhagen Document 1990, Charter of Paris 1990, "Helsinki Document: The Challenges of Change 1992", OSCE, "Document of the Fourth Meeting of the CSCE Council of Ministers Rome 1993", OSCE, Budapest Document 1994, Istanbul Document 1999, "Document of the Ninth Meeting of the Ministerial Council Bucharest 2001", OSCE, "Document of the Tenth Meeting of the Ministerial Council Porto 2002", OSCE, (hereafter, "Porto Document 2002"), Maastricht Document 2003, Sofia Document 2004, Ljubljana Document 2005, Brussels Document 2006, Madrid Document 2007, Helsinki Document 2008, Athens Document 2009, *op. cit.*, note 16, Kyiv Document 2013, *op. cit.*, note 8.

83 Similar positive measures were proposed in the Rabat Plan of Action, appendix, paras. 23-29, *op. cit.*, note 74.

professionals and religious or belief communities themselves all have valuable contributions to make in this area.

Education, particularly concerning human rights, is key to combating discrimination and intolerance based on religion or belief.<sup>84</sup> It is a life-long process, not limited to formal school education. In order to learn how to live together well, educational processes are needed that foster appreciation and respect for diversity and promote tolerance and mutual understanding based on respect for everyone's dignity and human rights, including freedom of religion or belief. Schools need to impart the knowledge, information and skills, including critical thinking skills, required to address the growing religious, belief and cultural diversity in the OSCE region.<sup>85</sup>

Women and girls are disproportionately targeted by offensive or derogatory statements, hate crimes and incidents more generally on the basis of their adherence to a specific religious tradition, which is often made visible by their religious attire or symbols. These women suffer double discrimination, based both on their gender and religion. Education should also promote a more sensitive understanding of the choices women and girls make generally, also in matters pertaining to how they practice their religious beliefs.

OSCE participating States have recognized the importance of open and transparent interfaith and interreligious dialogue, as well as partnerships for fostering understanding between individuals of different religious or belief backgrounds and between religious or belief

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84 See OSCE/ODIHR and UNESCO co-publication *Addressing Anti-Semitism Through Education: Guidelines for Policymakers* (Warsaw: ODIHR, 2018), which suggests concrete ways to address anti-Semitism, counter prejudice and promote tolerance through education, by designing programmes based on a human rights framework, global citizenship education, inclusiveness and gender equality <<https://www.osce.org/odihr/383089>>. See also OSCE/ODIHR *Guidelines for Educators on Countering Intolerance and Discrimination against Muslims: Addressing Islamophobia through Education* (Warsaw: ODIHR, 2011) <<https://www.osce.org/odihr/84495>>.

85 See "Final Document of the International Consultative Conference on School Education in Relation to Freedom of Religion or Belief, Tolerance and Non-Discrimination", UN Doc. E/CN.4/2002/73, appendix <<https://undocs.org/E/CN.4/2002/73>>.

communities.<sup>86</sup> This helps to combat intolerance and discrimination on grounds of religion or belief, and thereby contribute to greater security.<sup>87</sup>

All forms of communication and exchange across religious or belief boundaries, including interfaith and interreligious dialogue, fall within the scope of freedom of religion or belief. This is a universal human right, and interfaith and interreligious dialogue therefore require an inclusive approach that accommodates the full diversity of religious or belief communities in a society, including newly-established and numerically smaller groups.

OSCE participating States have committed to “[p]romote and facilitate open and transparent interfaith and interreligious dialogue and partnerships”.<sup>88</sup> It is important that any dialogue initiatives promoted or facilitated by states be non-discriminatory and meticulously respect the autonomy and voluntary participation of religious or belief communities. Religious or belief communities also remain free to establish interfaith and interreligious dialogue activities of their own accord, without state approval or permission. Civil society organizations also have a role in encouraging and supporting interfaith and interreligious dialogue and partnerships.

There is no one-size-fits-all approach to interfaith and interreligious dialogue, which can take place in formal and informal settings and at all levels – local, national and international. There are numerous

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86 The United Nations Human Rights Council has also stated that “the open public debate of ideas, as well as interfaith and intercultural dialogue, at the local, national and international levels can be among the best protections against religious intolerance”. United Nations Human Rights Council Resolution 16/18, UN Doc, A/HRC/RES/16/18, 24 March 2011, para. 4, <<https://undocs.org/A/HRC/RES/16/18>>.

87 References to interfaith and interreligious dialogue can be found in a number of OSCE commitments, including Porto Document 2002, Maastricht Document 2003, Sofia Document 2004, Ljubljana Document 2005, Helsinki Document 2008, Kyiv Document 2013, “Final Document of the Twenty-First Meeting of the Ministerial Council Basel 2014”.

88 OSCE, Ministerial Council, Decision No. 3/13, *op. cit.*, note 8, and OSCE Ministerial Council, Declaration No. 8/14, “Enhancing Efforts to Combat Anti-Semitism”, Basel 2014, call upon participating States to, *inter alia*, “[p]romote and facilitate open and transparent intercultural, interfaith and interreligious dialogue and partnerships.”

examples of thriving formal dialogue activities involving those in positions of leadership in religious or belief communities in the OSCE region. However, the role of informal activities at the grassroots level in advancing mutual understanding, social cohesion, and security remains underexplored. Formal and informal dialogue activities should be seen as complementary, and both should be taken into account when designing strategies in this area. Systematic efforts should also be made to ensure the full and equal participation of women and the substantive and substantial involvement of youth in all interfaith and interreligious initiatives because they are usually under-represented in such activities, meaning their voices are less likely to be heard.<sup>89</sup>

The media, both public and private, also play an important role in shaping societal attitudes about religious or belief diversity. While respecting their independence and freedom, the media has a public obligation to provide accurate information and fair representations about religious or belief communities. By sharing positive narratives about all religious or belief communities and avoiding negative and discriminatory stereotypes, the media can contribute to a more tolerant societal discourse that is rooted in real life experiences of individuals and communities, without ignoring the challenges that exist. Indeed, the media are a key stakeholder in the development of a critical public discourse on coexistence among peoples of different religions or beliefs.

The important role of the media has been recognized in a number of OSCE commitments,<sup>90</sup> which have also encouraged “the adoption of voluntary professional standards by journalists, media self-regulation and other appropriate mechanisms for ensuring increased professionalism,

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89 For example, in Madrid 2007, participating States explicitly acknowledged “the important role youth can play in fostering mutual respect and understanding between cultures and religions”.

90 See various OSCE documents: Istanbul Document 1999, Porto Document 2002, Ljubljana Document 2005, Sofia Document 2004, Brussels Document 2006, and Madrid Document 2007.

accuracy and adherence to ethical standards among journalists”.<sup>91</sup> In recent years, the digital space has become a forum for the expression of intolerance and a platform for incitement to discrimination, hostility or violence on grounds of religion or belief. To combat this phenomenon, educational measures that promote tolerance, understanding and respect for the rights and freedoms of others on social media platforms are urgently needed.

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91 Brussels Document 2006, para. 9, and Madrid Document 2007, para. 4. The importance and relevance of the Camden Principles on Freedom of Expression and Equality in this regard should be noted. The Camden Principles advocate making use of freedom of expression, including media freedom, to promote equality and non-discrimination in society. According to Principle 6: “all mass media should, as a moral and social responsibility, take steps to: (i) ensure that their workforces are diverse and representative of society as a whole; (ii) address as far as possible issues of common concern to all groups in society; (iii) seek a multiplicity of sources and voices within different communities, rather than representing communities as monolithic blocs; (iv) adhere to high standards of information provision that meet recognized professional and ethical standards.” See: “Camden Principles on Freedom of Expression and Equality”, Article 19 organization, <[www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf](http://www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf)>.

## Recommendations

### *Participating States*

1. Participating States should consider establishing programmes that raise awareness about religious or belief communities and their human rights. These could be developed in collaboration with civil society organizations, national human rights institutions, cultural heritage institutions, the media, education professionals and religious or belief communities.
2. Participating States should ensure that school curricula provide unbiased and accurate information at all levels on the diversity of religions and beliefs that educates students about the importance of tolerance and respect for human rights. The educational process should also provide opportunities for students of different religious or belief backgrounds to interact with each other, in order to allow them to experience difference and diversity in a natural and meaningful way.
3. Participating States are encouraged to promote and facilitate initiatives of interfaith and interreligious dialogue and partnership at all levels in society, while respecting the autonomy of religious or belief communities and their voluntary participation in such efforts. States should ensure that they reflect the existing and emerging diversity of religious or belief communities and make every effort to ensure the equal participation of men and women, as well as substantive and substantial involvement of youth.
4. Participating States should encourage and promote informal dialogue efforts at the grassroots level given their potential to contribute to efforts to enhance mutual understanding and promote tolerance in society.

5. Participating States considering measures to prevent incitement to discrimination, hostility or violence on grounds of religion or belief must comply with their obligations relating to freedom of opinion and expression, as well as freedom of religion or belief, under international human rights law. In particular, participating States should comply with the general rules and safeguards stipulated by Articles 18(3) and 19(3) of the ICCPR in relation to permissible limitations and the requirement of Article 20(2) of the ICCPR to prohibit advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.
6. Participating States are encouraged to train law enforcement officials and the judiciary to understand and apply the six-part test set out in the Rabat Plan of Action (context; speaker; intent; content or form; extent of the speech; and likelihood of harm occurring, including imminence), in order to determine whether the threshold of incitement to hatred is met or not.
7. Participating States should repeal any laws that impose sanctions against claims of religious or belief-related superiority, as those do not constitute “extremism”.
8. Participating States should discontinue the practice of relying solely on state-appointed experts to interpret and evaluate the sacred texts of religious or belief communities for “extremism”.
9. While respecting their different organizational structures, the autonomy of religious or belief communities and the voluntary nature of their engagement, states should engage proactively and systematically with all religious or belief communities within their jurisdiction in efforts to advance freedom of religion or belief and security for all. Participating States should establish permanent channels of communication and/or focal points at national, regional and local levels to build trust with representatives of different religious or belief communities.

*Religious or belief communities*

10. Religious or belief communities are encouraged to engage in interfaith and interreligious dialogue and partnerships.
11. Religious or belief communities are encouraged to facilitate the greater involvement of women, with the aim of ensuring their equal participation in interfaith and interreligious dialogue activities.
12. Religious or belief communities are encouraged to facilitate the greater involvement of youth, with the aim of ensuring their substantive and substantial participation in interfaith and interreligious dialogue activities.
13. The leaders of religious or belief communities should speak out strongly and promptly against advocacy of hatred that constitutes incitement to discrimination, hostility or violence, dissociating the community from co-religionists or co-believers who engage in such advocacy.
14. Religious or belief communities are encouraged to proactively and systematically engage with state authorities and other relevant stakeholders in efforts to advance freedom of religion or belief and security for all.

*Civil society*

15. Civil society organizations are encouraged to contribute to the development and implementation of awareness-raising programmes to inform broader society about religious or belief communities and their human rights.

16. Civil society organizations are encouraged to use social media to promote a culture of religious tolerance and understanding, and to promote the prevention of social media as a platform for incitement to discrimination, hostility or violence on grounds of religion or belief.
17. Civil society organizations are encouraged to systematically engage with state authorities, religious or belief communities and other relevant stakeholders in efforts to advance freedom of religion or belief and security for all.
18. Civil society organizations are encouraged to support the efforts of those in positions of leadership in religious or belief communities who speak out against advocacy of hatred that constitutes incitement to discrimination, hostility or violence.
19. Civil society organizations are encouraged to support and assist interfaith and interreligious dialogue and partnerships that combat intolerance and discrimination on grounds of religion or belief, foster understanding and mutual respect between individuals and communities of different religions or beliefs, and advance freedom of religion or belief for all.
20. Civil society organizations are encouraged to collaborate with the media and other relevant stakeholders in developing a culture of critical public discourse on coexistence among peoples of different religions or beliefs.
21. Civil society organizations are encouraged to counter advocacy of hatred that constitutes incitement to discrimination, hostility or violence by speaking out in support of the targets of hatred.

*The media*

22. Both public and private media are encouraged to make every effort to increase respect for religious and belief diversity by conveying unbiased and accurate information and representations of different religions and beliefs, and countering negative stereotypes and prejudices.
  
23. The media are encouraged to develop voluntary guidelines and standards, such as journalists' codes of ethics for unbiased and accurate reporting, on matters pertaining to religion and belief in their societies, and should ensure that such accounts are based on reliable sources and informed by different points of view. Media outlets are encouraged to disseminate such guidelines widely and provide training on them to relevant members of staff.

### 4.3. SCREENING, MONITORING AND SEARCHES IN PLACES OF WORSHIP AND MEETING PLACES AND SECURITY

Places of worship and meeting places of religious or belief communities are sometimes viewed as environments for radicalization that leads to terrorism and recruitment to groups that espouse violence. Participating States may respond to this perceived threat to security in a number of ways, including by screening, questioning, and monitoring those who enter and leave places of worship. Additional responses often include search warrants that allow the authorities to search for evidence of illegal activities, and, in some cases, to conduct police searches. Occasionally, governments decide to close down a place of worship in light of security concerns.

*What is the importance of places of worship and meeting places in light of freedom of religion or belief?*

Self-administration, including the management and regulation of a place of worship or meeting place, is part of the right to freedom of religion or belief and an important aspect of the autonomy of religious or belief communities.

Freedom of religion or belief includes an important institutional dimension that gives places of worship, meeting places and the personnel in charge of them a particular position and role in the life of the religious or belief community. Places of worship and meeting places perform special functions within such communities. Normally, they are the meeting place for a community of believers and the place where important ceremonies based on these beliefs are performed. They can also serve as spaces for individual and collective prayer and worship, reflection and meditation, as well as venues for a range of educational, social, cultural, charitable and humanitarian activities. In light of this, prudence is required before taking any action that may affect places of worship or meeting places and the religious or belief community personnel who perform functions within them.

It is also important to recognize the different ways in which men and women may exercise their freedom of religion or belief in places of worship or meeting places. For example, in some religious or belief communities, men and women meet and pray together in the same shared space. In others, men and women engage in prayer and worship in different, gender-segregated areas.

*Can it be appropriate to restrict access to or close places of worship and meeting places in response to individual misconduct?*

The putative misconduct of an individual should not be attributed to an entire religious or belief community. “Care should be taken not to inhibit or terminate the activities of a religious community merely because of the wrongdoing of some of its individual members. Doing so would impose a collective sanction on the community as a whole for actions that in fairness should be attributed to specific individuals”.<sup>92</sup>

Restricting access to or closing down a place of worship or a meeting place would not be justified as a necessary or proportionate response to individual misconduct, as these measures would sanction the whole community for the acts of an individual or a small group of individuals. It may also be counterproductive from the perspective of security, given the potentially adverse consequences arising from the sense of exclusion and resentment generated by the actions of the state.

The closure of places of worship or meeting places could have a significantly detrimental effect on the vitality and viability of the community, including its contributions to wider society. When a place of worship or a meeting place is closed down, the procedure must therefore respect the strict criteria laid out in international human rights law pertaining to limitations on the right to freedom of religion or belief.

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92 *Guidelines on the Legal Personality of Religious or Belief Communities*, para. 34, *op. cit.*; note 20. *Guidelines on Freedom of Association*, para. 236, *op. cit.*, note 30. Also see, *Guidelines on the Protection of Human Rights Defenders*, OSCE/ODIHR, (Warsaw: ODIHR 2014), para. 209, <<https://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders>>.

Religious or belief communities' self-administration of their places of worship or meeting places requires trust on the part of the state that this power will be exercised within the limits of the law. Careful monitoring of activities carried out in these spaces is the responsibility of the religious or belief community in question. They must ensure that there are no signs of a drift towards intolerance, hostility or violence, thereby safeguarding the community and wider society from harm. This includes exercising due vigilance in relation to advocacy of hatred that constitutes incitement to discrimination, hostility or violence and activities that pose a genuine threat to security on the part of anyone in attendance at the place of worship or meeting place. In this regard, it is important for those in positions of leadership in a religious or belief community to speak out strongly and promptly against advocacy of hatred that constitutes incitement to discrimination, hostility or violence, dissociating the community from co-religionists or co-believers who advocate those beliefs.<sup>95</sup>

*What forms can screening and monitoring take? Are they an infringement of freedom of religion or belief?*

Screening can take different forms. It includes checking people entering or leaving a place of worship or meeting place, as well as conducting personal interviews, asking for identification documents, conducting body searches, and installing and using metal detectors.

Methods of monitoring people entering and leaving a place of worship or meeting place include the use of closed circuit television (CCTV) systems, audio wire taps or other electronic devices. Monitoring can be temporary or permanent, overt or covert, and limited to places of worship or extended to also include the homes of religious personnel who perform duties at the place of worship.

Screening and monitoring can have a negative effect on the enjoyment of an individual's right to a private and family life and, in the context

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95 Beirut Declaration and its 18 Commitments on "Faith for Rights", Commitment VII, <[www.ohchr.org/Documents/Press/Faith4Rights.pdf](http://www.ohchr.org/Documents/Press/Faith4Rights.pdf)>.

of a place of worship, the right to freedom of religion or belief. Such activities must, therefore, be strictly justified by law. This is particularly important with respect to procedures such as covert surveillance. Any measures adopted should comply with all relevant international human rights principles and domestic legislation.

A key test in this regard is that proportionality. Any special investigative techniques, such as covert surveillance, should only be used as last resorts and where there is sufficient reason to believe that a serious crime has been committed, prepared or is in the process of being prepared, by one or more individuals or an as-yet unidentified individual or group of individuals.<sup>94</sup> Further, adequate and effective guarantees against abuse must exist when such measures are put in place. Surveillance operations, in particular, require independent supervision, preferably by a judge.

From the perspective of freedom of religion or belief, these measures, if performed without the necessary care and sensitivity, can easily disrupt the attendance of a place of worship or meeting place by members of a religious or belief community. Community members could be reluctant to accept forms of screening such as body searches and prefer avoiding attending the place of worship or meeting place altogether, out of anxiety and fear. This could unduly limit their freedom of religion or belief, which includes the right of individuals to freely enter or leave religious premises.

Considering the impact of screening and monitoring measures on the enjoyment of freedom of religion or belief, participating States should scrupulously respect the conditions prescribed for limiting this right, and always demonstrate that these measures are genuinely necessary and are proportionate to the perceived security threat. States should ensure adequate training of the competent authorities in charge of

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94 For a fuller discussion, see: *Countering Terrorism, Protecting Human Rights: A Manual*, OSCE/ODIHR, (Warsaw: ODIHR, 2008), especially pp. 201-205, <<https://www.osce.org/odihr/29103>>; and *Human Rights in Counter-Terrorism Investigations: A Practical Manual for Law Enforcement Officers*, OSCE/ODIHR, (Warsaw: ODIHR, 2013), p. 34, <<http://www.osce.org/odihr/108930>>.

screening and monitoring, both in religious literacy and in freedom of religion or belief, ensuring that they acquire the skills to deal with those attending places of worship or meeting places with due sensitivity. State officials should also engage in dialogue with the religious or belief community in question before engaging in screening or monitoring, and<sup>95</sup> as far as possible, screening and monitoring should be conducted with the consent and co-operation of the community.

Information and data obtained through screening or monitoring of individuals attending a place of worship or meeting place must be necessary to the purpose for which they were collected, and should not be shared with third parties unauthorized by law to receive, process and use such material. Further, such data and information must be stored within time limits prescribed by law, and then disposed of promptly, safely and securely.<sup>96</sup>

### *When are searches appropriate?*

Under international human rights law, state-imposed restrictions should interfere as little as possible with freedom of religion or belief. Searching a place of worship or a meeting place is an extreme measure that can deeply disrupt the life of the whole religious or belief community and can undermine its trust in the state as a guarantor of fairness towards and respect for religious or belief communities. It should, therefore, only be considered a measure of last resort.

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95 In 2013 in Kyiv, the OSCE Ministerial Council called on participating States to promote dialogue between religious or belief communities and governmental bodies, including, where necessary, on issues related to the use of places of worship and religious property; Kyiv MC Decision 3/13, *op. cit.*, note 8.

96 *Guidelines on the Protection of Human Rights Defenders*, para. 87, *op. cit.*, note 92. See also: “Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data”, the Council of Europe, CETS No. 108, 1 October 1985, <<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/108>>; and “Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data”, the Council of Europe, CETS No. 1811, July 2004, <<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/1811>>.

Places of worship or meeting places are not exempt from searches if there is sufficient evidence suggesting that a crime is being committed or prepared within one. However, the search should be conducted in a way that has as little disruptive impact as possible on activities conducted in the place of worship or meeting place. Moreover, when it is possible to do so without frustrating the purpose of the search, searches should be conducted with the consent and co-operation of those in charge of the place of worship or meeting place, and in their presence. At the same time, state authorities should engage in open and transparent dialogue with the religious or belief communities in question<sup>97</sup>.

Searches or screening of people attending a particular place of worship or meeting place can be necessary in specific circumstances to ensure security but, at the same time, can foster unintended consequences. These can include stereotyping and stigmatizing entire religious or belief communities, and instilling a mutual sense of mistrust between state authorities and those who attend such places of worship or meeting places. As a result, members of religious or belief communities may feel a sense of grievance and be less willing to co-operate with state authorities. Such mistrust can lead to greater insecurity in the medium – and long-term.

*What gender considerations should be taken in screening, monitoring and searches?*

Screening and monitoring measures and searches raise important gender issues. For example, profiles of people to be screened and monitored when attending a place of worship or meeting place can be built on stereotypical gender assumptions that are both discriminatory and unlinked to genuine security concerns. In some situations men are disproportionately targeted for identification and questioning. In other contexts, women may be disproportionately impacted by requests to remove items of clothing, for example face or head coverings, for

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<sup>97</sup> Kyiv MC Decision 3/13, *op.cit.*, note 8.

identification purposes. As a consequence of such measures, it is possible that men and women, for different reasons and on different occasions, feel inhibited from visiting places of worship or meeting places. This may also affect the attendance of family members, particularly if individuals concerned have parental responsibilities.

In light of this, states contemplating screening and monitoring measures and searches should be sensitive to potential discrimination based on gender, and seek, in dialogue with religious or belief communities, to avoid or minimize these as far as possible. As a general rule, requests to remove items of clothing for the purposes of identification or security searches should only be made and conducted by security personnel of the same gender and in a private and closed space. State authorities should also ensure that individuals searching gender-segregated spaces within places of worship or meeting places are also of the same gender as those using them.

## Recommendations

### *Participating States*

1. Participating States should ensure that policies concerning the screening, monitoring (including overt and covert surveillance procedures) and searching of places of worship and meeting places of religious or belief communities should be governed by appropriate procedures and are documented and reviewed at regular intervals. Overt surveillance procedures should also be made public.
2. Participating States should ensure that policies concerning the screening, monitoring and searching of places of worship and meeting places of religious or belief communities comply with relevant international human rights standards and domestic legislation.
3. Screening or monitoring measures at places of worship or meeting places should be adopted only when strictly necessary and as a last resort, and should be as minimally intrusive as possible and proportionate to the perceived threat.
4. Screening and monitoring of places of worship or meeting places should be conducted as far as possible with the consent and cooperation of the religious or belief community concerned. Before adopting such measures, states should state explicitly that they do not equate violence and threats to security with the religious or belief community.
5. Before adopting screening or monitoring measures of people attending a place of worship or meeting place, participating States should raise concerns with leaders of religious or belief communities about individuals suspected of inciting discrimination, hostility or violence at the place of worship or meeting place.

6. Before engaging in screening or monitoring at places of worship or meeting places, participating States should engage in dialogue with religious or belief communities to determine whether less intrusive measures could first be applied to address security-related concerns effectively.
7. Once screening and monitoring measures are adopted, states should ensure that they are accompanied and followed by dialogue and initiatives that rebuild any loss of confidence in state institutions on the part of communities.
8. Participating States should ensure that the competent authorities in charge of screening, monitoring and searching at places of worship and meeting places are trained in both religious literacy and in freedom of religion or belief. The authorities should ensure that they acquire the skills to deal with those attending places of worship or meeting places with due sensitivity and respect for everyone's dignity and freedom of religion or belief.
9. Participating States should elaborate guidance setting out the principles that law enforcement and security officials should follow when carrying out screening, monitoring and search activities at places of worship and meeting places.
10. Participating States should ensure that those tasked with performing screening, monitoring and search activities at places of worship and meeting places are aware of and trained to deal with potential issues specific to men and women, including the different ways in which they might exercise their freedom of religion or belief in those spaces.
11. Participating States should ensure that individuals affected by screening, monitoring and searching measures have access to an effective complaints procedure.

12. Participating States should ensure that information and data obtained through screening, monitoring or searching individuals attending a place of worship or meeting place are processed in line with relevant international standards on the collection, protection and use of personal data.
13. Given the significant adverse consequences of closing down a place of worship or meeting place, states should only adopt this measure as a last resort, if it is strictly necessary under the circumstances. These measures should only be adopted after careful consideration, in consultation with the religious or belief community in question, of alternative approaches to dealing with the security-related concerns.

*Religious or belief communities*

14. Religious or belief communities are encouraged to exercise due vigilance in relation to advocacy of hatred that constitutes incitement to discrimination, hostility or violence and activities that pose a genuine threat to security on the part of anyone in attendance at the place of worship or meeting place.
15. Leaders of religious or belief communities are encouraged to speak out strongly and promptly against advocacy of hatred that constitutes incitement to discrimination, hostility or violence, dissociating the community from co-religionists or co-believers who engage in such advocacy.

### *Civil society*

16. 16. Civil society organizations are encouraged to support the efforts of those in positions of leadership in religious or belief communities who speak out against advocacy of hatred that constitutes incitement to discrimination, hostility or violence.
17. 17. Civil society organizations are encouraged to counter advocacy of hatred that constitutes incitement to discrimination, hostility or violence by speaking out in support of the targets of such hatred.

### *The media*

18. 18. The media should avoid sensationalizing or misrepresenting certain developments within religious or belief communities. For example, the adoption of screening, monitoring or search measures at a place of worship or meeting place should not be presumed to imply involvement of a religious or belief community in illegal activities. The media should make every effort to research and report ethically on such issues, in order not to conflate the acts of individuals or groups with the actions of a community as a whole.

#### **4.4.RESTRICTIONS ON CONVERSION AND LIMITATIONS ON RELIGIOUS OR BELIEF COMMUNITY ACTIVITIES THAT HAVE A FOREIGN CONNECTION**

In the OSCE region, some religious or belief communities that engage in efforts to convert others by means of non-coercive persuasion can become the object of social hostilities. Participating States may therefore view such activities as disruptive of public order, interreligious harmony and peaceful coexistence. In response, they may enact measures that limit efforts to convert others through non-coercive persuasion or make the right to convert more difficult. Suspicion toward a new set of religious or belief practices in the local culture may increase when religious or belief communities host foreign missionaries or have connections or parent organizations outside the country. In such cases, state responses can include measures such as the expulsion of foreign missionaries.

#### *What is non-coercive persuasion?*

This document uses the term “non-coercive persuasion” to refer to communication and activities aimed at converting others without using violence, intimidation, threats or other unlawful forms of pressure.<sup>98</sup> The term “proselytism” is not used here, given that it is an undefined term that carries negative connotations. Further, this document understands a missionary to be a person whose main activity consists in bearing witness to and promoting a religion among individuals and/or communities who profess a different religion or no religion at all, through teaching, preaching and other activities. Missionary activities are not restricted to particular individuals or certain groups or communities.

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<sup>98</sup> For a discussion of the term “non-coercive persuasion”, see “Report of the United Nations Special Rapporteur on freedom of religion or belief United Nations General Assembly”, UN Doc. A/67/303, 13 August 2012, <<https://undocs.org/A/67/303>>.

### *What is the right to convert?*

The right to convert, in the sense of the right to adopt, leave or change one's religion or belief, enjoys absolute protection under international law, since it concerns the internal dimension of an individual's freedom of religion or belief (*forum internum*). The right to change one's religion or belief is also specifically recognized in OSCE commitments.<sup>99</sup> Provisions that aim to limit conversion by implementing criminal or civil law sanctions or adding burdensome administrative measures, for example requiring that state representatives are notified of or authorize conversions in advance, go against the absolute nature of the right to adopt, leave or change one's religion or belief.

### *What is the right to engage in non-coercive persuasion as part of both freedom of religion or belief and freedom of expression?*

Individuals have the right to engage in non-coercive persuasion as part of freedom of religion or belief. The right to manifest religious or non-religious convictions includes the freedom to try to persuade other people about the truth of one's own beliefs and the relevance of those beliefs and associated practices to a meaningful and fulfilling life. Indeed, for many religious believers, sharing their message with others is a religious obligation. The right to persuade others in a non-coercive manner is also protected under the right to freedom of expression, which includes "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of one's choice."<sup>100</sup>

Freedom of religion or belief also includes the right to not hold a religion or belief, to be indifferent towards religion or belief, and to refuse to be exposed to conversion activities, all of which enjoy absolute protection as part of the *forum internum*.

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99 Copenhagen Document 1990, Kyiv Document 2013.

100 ICCPR Article 19.

The right to try to persuade others about religious or belief matters through communication is not absolute and can be limited in specific situations, for example, when individuals that are particularly vulnerable on account of their age (for example, young people in a school setting) or mental disability. There may also be a general limitation on persuasion that amounts to coercion, and special considerations may apply in hierarchical relationships where a subordinate feels unable to decline the invitation of a superior.

However, efforts by a state to distinguish between proper and improper persuasive activities are fraught with difficulty, and can exert a chilling effect on communication about matters pertaining to religion or belief. Restrictions on the right to engage in non-coercive persuasion can only be justified if they strictly meet all the criteria set out in ICCPR Article 18(3). This means that “any limitations require a legal basis, must pursue a legitimate aim, should be clearly and narrowly defined, must be proportionate and should not be implemented in a discriminatory manner”.<sup>101</sup> It is important that states provide clear empirical evidence that certain activities amount to coercion, as otherwise mere peaceful invitations to converse on religious or belief matters may be criminalized or restricted.

Concerns surrounding efforts to engage in non-coercive persuasion, particularly when undertaken by more recently established and numerically smaller religious or belief communities, can be exploited by political representatives to unduly restrict the legitimate activities of such communities in the name of ensuring security and social stability. Such communities may be accused of endangering security by advancing “alternative truths”, and unwelcome religious or belief claims deemed an “insult to religious feelings” and incompatible with the traditional values and norms of the society in question. Consequently, they may be subjected to impermissible restrictions on their freedom of religion or belief. Individuals or communities engaging in non-coercive efforts to persuade others can be exposed to prejudice, suspicion and negative stereotypes that may lead to hostility and violence towards them.

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101 “Report of the United Nations Special Rapporteur on freedom of religion or belief”, para. 28, *op. cit.*, note 98.

The state has a duty to provide a legal and social framework in which the rights to conversion and to engage in non-coercive persuasion can be freely and fully exercised. This includes the duty to protect the right of individuals to convert (adopt, leave or change religion or belief), as well as to protect individuals and communities engaging in non-coercive persuasion from violence, intimidation, harassment and discrimination.

Freedom of religion or belief is necessarily contingent on exposure to new ideas and the ability to share and receive information. In light of the increasing communications opportunities that now exist, with the related shifts in response and association that these evoke, state and other relevant stakeholders should endeavour to promote security and social cohesion grounded in religious or belief pluralism. In discussing the responses of states to the “unavoidable consequences of pluralism”, the European Court of Human Rights has stated that, “the role of the authorities in such circumstances is not to remove the cause of tension by eliminating pluralism, but to ensure that the competing groups tolerate each other.”<sup>102</sup>

It should also be noted that public order disturbances, such as riots, in response to conversions may result from a reaction by dominant or influential religious or belief communities that may feel threatened by the emergence or growth of other communities. In this regard, states should ensure that public order considerations are not influenced by orchestrated outcries or overreactions to a purported provocation, which could lead them to arbitrarily or unduly restrict a legitimate manifestation of freedom of religion or belief.

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102 *Serif v. Greece*, European Court of Human Rights, (Application no. 38178/97, judgment 14 December 1999), para 53.

*What can be done to mitigate security concerns regarding foreign individuals or religious personnel engaging in conversion activities?*

For the most part, genuine security issues are not raised by the involvement of foreign individuals or religious personnel (“foreign missionaries”) in conversion activities, even if they are deemed more persuasive in their communication or influential than local individual believers.

Specific individuals should not be prohibited to enter and live in a country on the grounds of their religion or belief unless the individual has a clear history of coercive conversion activities, engagement in advocacy of hatred that constitutes incitement to discrimination, hostility or violence, or evidence that they are planning to engage in such activities in the country. When visas are required, rules regulating visitors are typically extensive and detailed, allowing the screening of the behaviour of the applicant in his or her own country. Ordinarily, such measures are sufficient to address any issues regarding foreign individuals, including religious personnel. Enhanced screening of individual visa applications can also be used to satisfy security concerns, but a general prohibition of visits by all foreign religious personnel would not meet the requirement of necessity.

## Recommendations

### *Participating States*

1. Participating States' security concerns should not be used to limit the right of individuals to convert (adopt, leave or change religion or belief), which is protected by international law in absolute terms. Criminal, civil and administrative measures that prevent or make conversion difficult should, therefore, be repealed.
2. Participating States should ensure that converts are protected from violence, harassment, intimidation or discrimination, so that they are free to fully exercise their freedom of religion or belief.
3. Participating States must ensure that any restrictions on the right of individuals and religious or belief communities to engage in acts of non-coercive persuasion meet all the criteria set out in Article 18(3) of the ICCPR (for example, if there is evidence that such activities are being undertaken coercively or amount to incitement to discrimination, hostility or violence).
4. Participating States are encouraged to support the efforts of religious or belief communities to resolve any concerns or tensions pertaining to conversion activities through dialogue and co-operative activities.
5. Participating States should ensure that law enforcement and security officials and other public officials are provided with relevant training and guidance to make sure they respect the right of individuals to convert and their attempts to convert others through non-coercive persuasion.

6. Participating States should not restrict foreign individuals' entry into or residence in a country, including religious personnel, on the grounds of their religion or belief, unless he or she has a clear history of coercive conversion activities, engagement in advocacy of hatred that constitutes incitement to discrimination, hostility or violence, or evidence that he or she is planning to engage in such activities in the state. Any restriction or revocation of entry or residence rights should be undertaken in full compliance with national law.

*Religious or belief communities*

7. Religious or belief communities, including community leaders, should recognize that conversion is an integral part of freedom of religion or belief that enjoys absolute protection, as does replacing one's religious belief with atheistic or agnostic views, and vice versa.
8. Leaders of religious or belief communities should refrain from calling for a restriction on the right to convert others on the grounds of preserving traditional values or ensuring social cohesion.
9. Religious or belief communities are encouraged to develop methods of communicating their religion or belief that are respectful of the freedom of religion or belief of others and that are sensitive to the cultural and social context in which they are performed, and to train individual believers to communicate in ways that are respectful of the choices of others.
10. Religious or belief communities, or interreligious bodies or councils, are encouraged to develop voluntary codes of conduct or guiding principles on how to share one's religion or belief in a non-coercive manner.

11. Religious or belief communities are encouraged to resolve any concerns or tensions pertaining to conversion activities through dialogue and co-operative activities operating formally and informally. States are encouraged to support these efforts.

#### *Civil society*

12. Civil society organizations are encouraged to support the efforts of religious or belief communities to resolve any concerns or tensions pertaining to conversion activities through dialogue and co-operative activities.
13. Civil society organizations are encouraged to support the efforts of religious or belief communities to develop voluntary codes of conduct or guiding principles on how to share one's religion or belief in a non-coercive manner.
14. Civil society organizations are encouraged to pay attention to the situation of converts who are at risk of violence, harassment, intimidation or discrimination, and to offer appropriate support so that they are free to fully exercise their freedom of religion or belief.

#### *The media*

15. Public and private media are encouraged to provide unbiased and accurate information concerning conversion activities, including the rights of converts to exercise their freedom of religion or belief.

