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9 September 2015, Halki, Istanbul, Turkey

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Advancing Freedom of Religion or Belief for All

Contributions from the Conference

6–9 September 2015, Halki, Istanbul, Turkey

Elizabeta Kitanovic and Fr Aimilianos Bogiannou (Eds.)



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Theological School of Halki, Hebeyliada Island, Turkey

FOREWORD

The Working Group for Human Rights of the Conference of European Churches in cooperation with the Liaison Office of the Orthodox Church to the European Union initiated a discussion about Freedom of Religion or Belief in Turkey in 2014. Several CEC Member Churches are monitoring day-by-day the Turkish accession process to the EU, as they have their own communities in that country and they are concerned about democracy, human rights, and the rule of law in a diverse, although predominantly Muslim society, like Turkey.

The first question on the agenda of the organisers was the reopening of the Theological School of Halki, which Turkish authorities arbitrarily closed down in 1971. For many human rights advocates on religious freedom or belief, the reopening of this school was a regular item on their agenda, but they never had an opportunity to visit and see it. Therefore, the Ecumenical Patriarchate and the Abbot of the Holy Trinity Monastery, Metropolitan Elpidophoros of Bursa via the Liaison Office of the Orthodox Church to the European Union, generously offered to host this conference in Halki. His All-Holiness, Ecumenical Patriarch Bartholomew, discussed in detail the possibility of realizing this conference. He gave us valuable advice and support, as well as His blessing for this conference to take place on the premises of the school and sent a personal message. The fact that this conference took place at the Theological School of Halki was a clear sign that the human rights situation and religious freedom has been progressing since the closing of

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the school and that Turkish authorities have been supportive of this development. In September 2015, the political landscape of the country was not an easy one. Turkey had generously received more than 2 million Syrian and Iraqi refugees, asylum seekers and migrants at that time. Just previously elections had taken place and therefore it was difficult to arrange any meetings with representatives of the Turkish authorities, who were on their way to forming a new government.

The president of CEC, Rt Rev. Bishop Christopher Hill KCVO, DD, showed his immense support during the whole preparation, advising us with his long-standing experience and diplomacy on how to go about the delicate political issues at that time. It should be emphasised that the different contributions and articles found in this publication represent the views and the personal opinions of the authors. They do not represent any official positions of the organizers, namely the Ecumenical Patriarchate and the Conference of European Churches. The editors of this publication have also asked a number of moderators and participants to put their thoughts in writing so that the reader would be able to also get an impression and feedback concerning the wider approach on the matter of religious freedom, both in Turkey, and elsewhere in Europe.

Finally, we would like to say word of thanks to all those who were involved in the organisation of the conference, both on the political and the practical level. At the end of the publication you will find the final statement of the conference, which was used for further political advocacy on the issues of religious freedom in Turkey. This publication will provide the readers with some insight, regarding the issues discussed and elaborated in the still closed Theological School of Halki, with the hope that we will all witness the reopening of it in the near future.

Dr Elizabeta Kitanovic and Archimandrite Aimilianos (Bogiannou)



Churches Together for Human Rights

The Ecumenical Patriarchate and the Conference of European Churches

“Advancing Freedom of Religion or Belief for All”

6-9 September 2015, Halki/ Istanbul, Turkey

Venue: Theological School Halki

PROGRAM

Arrivals – 6 September

I. DAY – Monday, 7 September

Halki

09:00-10:00

Moderator: Archimandrite Aimilianos (Bogiannou), Director of the Liaison Office of the Orthodox Church to the European Union

- a) Welcome by Metropolitan Elpidophoros of Bursa, Abbot of Holy Trinity Monastery
- b) Message from the Rt Rev. Christopher Hill KCVO, DD, President of CEC
- c) Keynote Address by His All-Holiness Ecumenical Patriarch Bartholomew

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10:00-11:30 European churches' engagement; human rights, democracy and rule of law – current trends in Europe

Moderator: OKR'in Katrin Hatzinger, EKD

- a) Ms Lena Kumlin, Evangelical Lutheran Church of Finland
- b) Mr Pasquale Ferrara, Secretary General - European University Institute
- c) Ms Katharina von Schnurbein, European Commission

11:30-12:00 Coffee break

12:00-13:30 European perspective of implementation of international legal standards of freedom of religion or belief I

Moderator: Prof.Dr. Yannis Ktistakis, Boğaziçi University of Istanbul & Democritus University of Thrace, Legal Advisor to the Ecumenical Patriarchate:

- a) Ms Sema Kilicer, Delegation of the European Union to Turkey
- b) Dr Peter Petkoff, Oxford University
- c) Dr Mine Yildirim, Freedom of Belief Initiative & Norwegian Helsinki Committee

14:00-15:00 Lunch

15:00-16:00 History of Halki - Metropolitan Elpidophoros of Bursa, Abbot of Holy Trinity Monastery

16:00-16:30 Coffee break

17:00–18:30 European perspective of implementation of international legal standards of freedom of religion or belief II – religious response

Moderator: Mr Colin Dürkop, Director of Konrad Adenauer Foundation, Ankara:

- a) Prof. Emre Öktem, Galatasaray University
- b) Dr José Luis Bazán, COMECE

- c) Dr Altana Filos, Evangelical Church of Greece
- d) Mr. Stephanos Stavros, ECRI

18:30 Vespers

19:30 Diner

II. DAY Tuesday, 8 September

Halki – Istanbul-Halki Halki-Istanbul-Halki

07:55-8:55 Ferry to Istanbul

09:15–11:00 Visit to Hagia Sophia

11:30-12:30 Visit to the Ecumenical Patriarchate, reception with
HE Metropolitan Athinagoras of Cydonia

12:30-14:30 Visit of Monitis Choras (Kariye Musesi)

15:15-16:00 Ferry back to Halki

18:00-19:30 Present challenges for religious tolerance, non-
discrimination and freedom of religion or belief

Moderator: Rev Dr Guy Liagre, General Secretary of CEC

- a) Mr Cole Durham, President, International Consortium on Law
and Religion Studies
- b) Prof. Dr Gün Kut, Turkish representative in ECRI
- c) Bishop Dr Michael Bünker, General Secretary of CPCE
- d) Mag Katerina Karkala-Zorba, Orthodox Academy of Crete

19:30 Vespers

20:00 Dinner

III. DAY Wednesday, 9 September

Halki

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09:00-10:30 The Role of Religious Communities in promoting and protecting freedom of religion or belief

Moderator: Rev. Canon Dr Gary Wilton, Wilton Park - UK

- a) Fr. Heikki Huttunen, Secretary General, Finnish Ecumenical Council
- b) Mag. Elizabeta Kitanovic, CEC Human Rights Secretary
- c) Ms Tina Mercep, KAS Brussels
- d) Mgr. Tatoul Anoushian, Armenian Apostolic Church in Turkey
- e) Representative of Dyanet (tbc)

10:30-11:00 Advancing Freedom of Religion or Belief in Europe - Next steps

Final statement – Archimandrite Aimilianos (Bogiannou) Director of the Liaison Office of the Orthodox Church to the European Union and Mag. Elizabeta Kitanovic, CEC Human Rights Secretary

11:00 Departure

**MESSAGE OF HIS ALL-HOLINESS
ECUMENICAL PATRIARCH
BARTHOLOMEW**

Churches Together for Human Rights
The Ecumenical Patriarchate and the Conference of European Churches
“Advancing Freedom of Religion or Belief for All”
6 to 9 September 2015, Halki/Istanbul, Turkey

* * *

Bishop Christopher Hill, President of Conference of European Churches, Metropolitan Elpidophoros of Bursa, Abbot of Holy Trinity Monastery
Distinguished Leaders of Faith Communities,
Beloved Friends,

It is indeed a real joy for us to greet you at the commencement of this important conference, convened at our precious Theological School on the island of Halki. Your presence here these days, at the very edge of Europe, where we are witnessing the mass exodus, *ex partibus Orientis*, of those suffering religious persecution, political oppression, and economic hardship, has a special poignancy for our Ecumenical Patriarchate. Our Martyric Spiritual Center has been experiencing these very conditions for centuries, to differing degrees of course. We have seen the forced mass deportation of our flock, felt the press of second-

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class citizenship, and known the loss countless churches, monasteries, properties and resources. Yet this has only intensified our compassion for the plight and circumstances of others. For we know deep in our hearts, along with the Psalmist and Prophet David:

Κύριος στερέωμά μου και καταφυγή μου και ρύστης μου, ό Θεός μου βοηθός μου, και έλπιδώ έπ' αυτόν, ύπερασπιστής μου και κέρασ σωτηρίας μου, άντιλήπτωρ μου.

The LORD is my rock, and my fortress, and my deliverer; my God, my strength, in whom I will trust; my buckler, and the horn of my salvation, and my high tower. (Psalm 17:3)

Therefore, knowing that *the sufferings of this present time are not worthy to be compared with the glory which shall be revealed in us* (Romans 8:18), we set our sights on the One Who condescended to ascend the Cross in the flesh, Who through His divine œconomy, showed us the *more excellent way* of love. And this brings us to the very kernel of the work before us during these valuable days together in our City.

As Christians, whose *Author and Finisher of our faith* (Hebrews 12:2) preached and lived the way of non-violence, even in the face of persecution and deprivation of the most basic human rights, we understand that the way of forgiveness and peace is the only response that will ultimately change the conditions. Only good can overcome evil. Only love can conquer hate. Only peace can vanquish violence.

And it cannot be only for Christians! If we do not advocate equally for all, knowing that our God is no *προσωπολήπτης*—no “respector of persons”—that He loves each and every human being created in His own image and likeness to the fullness of His infinite mercy, then we have failed in our Christian vocation. We have forgotten to imitate our spiritual forefather Abraham, who received the unexpected visit of the three strangers under the shade of the oak trees in Mamre (cf. Genesis

18). That great pioneer of the Heavenly life did not consider these strangers a threat or danger to his ways or possessions. He was not accursed by xenophobia – the fear of the stranger, but rather he was consumed by *philoxenia*, the love of the stranger. Instead, he spontaneously shared with them his friendship and his food, extending generous hospitality giving an example of just treatment and compassionate care of strangers. And in so doing, this sacred moment revealed itself in the Orthodox Christian tradition as the ever-flowing *perichoresis* of the All Holy and Live-giving Trinity!

Dear friends, Abraham recognized in the face of the strangers the very face of God. Are we able to do the same, even when the religion of the other is not the faith of our own profession? This is proving a real and present danger in the world today, as we are witnessing the monstrosities of a medieval past we all thought we had left long ago return with shocking violence.

As Christians, we are called to be prophetic communities. We are called to be prophetic communities of peace in a global society threatened by war. We are called to be prophetic communities of dialogue in a culture characterized by conflict and threatened by hatred. And we are called to be prophetic communities of reconciliation with God's creation at a time when the earth's future is at risk.

As you commence your sacred work, an honorable *leitourgia* based in fellowship and in love, we commend you to the ultimate fellowship of love, the Triune God. In Him, and through Him, and by Him, We are emboldened to continue our common struggle.

Let us face the task together. Let us hold our hands not only in prayer, but also in solidarity with one another. We owe it to our God, to each other, and to the world.

MESSAGE OF CEC PRESIDENT

Rt Rev. Christopher Hill KCVO, DD

Your Eminences, Graces, Sisters and Brothers in Christ:

We have been warmly welcomed by Metropolitan Elpidophoros, Abbot of Holy Trinity and we shall shortly hear the message of His All-Holiness the Ecumenical Patriarch. So we thank the Ecumenical Patriarchate for hosting this important conference organised jointly—and ecumenically—by the Conference of European Churches.

Let me begin by reminding you why the Conference of European Churches has not just a peripheral interest in human rights and the advance of freedom of religion and belief for everyone. For CEC a concern for human rights and religious freedom is part of our DNA. CEC was born out of the Cold War in Europe. We were one of the very few bridges between Christians divided by the so-called Iron Curtain. We were a ‘free space’ where Orthodox and Protestants in the Soviet sphere of influence could come to a meeting not controlled by secret police or Government Departments established precisely to *control* the Christian Churches and other faiths. On one famous occasion, delegates’ visas from the East were withheld for a CEC Assembly. No visas for a ‘western’ country. So a Baltic cruise-ship was chartered and CEC met upon the seas. The CEC logo is indeed a ship, the barque of the Church, with the Cross at its masthead. As a matter of fact I have a representation of this ecumenical vessel, the Ark of the Church on my episcopal staff—it was inspired by CEC long before I was either a Vice-President or President! Freedom of religion and belief is at the centre of

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CEC's work and close to my own heart as I serve it as President for the time being. CEC stands for the promotion and protection of all human rights and freedom of religion and belief—for every human being, nation and people.

With the end of the old divisions in Europe we might suppose there is less need for vigilance with regard to human rights and freedom of religion. Tragically this is not so, whether in Europe or the wider world. In the Middle East and elsewhere monuments of ancient cultures and religions are under threat, sometimes the cultural deposit of one faith in its ancient buildings and works of art is a target for popular iconoclasm. Even more serious are the 'fundamentalist' attacks upon one community of faith by adherents of another, or even within one family of faith. Christians in Europe know in our own history of the tragedy of sectarianism and mutual persecution. History and the ecumenical movement has taught us however to respect each other. So we look with compassion today at those who are killed or who are forced to flee from their homelands.

On the practical level in the last two decades CEC has collaborated with a number of international organisations: the United Nations, OSCE, Council of Europe, the European Union and others. We have also forged links with networks and civil society organisations in the field of human rights.

Nor is our work for human rights something 'external' to the 'being' of the Churches. Human rights did not come into existence because of either the European Enlightenment or the French Revolution! Deep within the central doctrines of the Christian faith, and even more widely in the monotheistic faiths, the 'Religions of the Book', Judaism, Christianity and Islam, are to be found the origins of what we now call Human Rights. The doctrine of creation, men, women and children created in the 'image of God' gives *all* humankind a precious and holy status. Here in Istanbul I recall that in the ancient Greek bible, the bible

of the Orthodox Church, the word used in the Book of Genesis is *icon*. Human beings are ‘icons’ of God himself. We are *holy per se*. Couple this to the Christian doctrine of Redemption in which we know that Christ died ‘for all’ we see the doctrine of human dignity crowned with salvific intent. Finally Christian eschatology sees humankind and the whole creation renewed, indeed re-created, in Christ as head of all things in the mystery of a new humanity and cosmic salvation—here the Orthodox tradition even speaks of the possibility of deification—*theosis*—of human beings. St Athanasius taught that God became man that man, human beings that is, might become gods. All human rights—and duties—stem *theologically* from this.

But the battle for human dignity and mutual responsibility and human rights continues and is no easier today than in the days of the Cold War. In some countries of Member Churches of CEC like the Western Balkans with an admittedly harsh communist past there are still some difficulties. Even in the more western Europe debates now arise over religious dress for women (in France and Belgium for example). Or in my own country, the UK which prides itself on freedoms, there were recent cases over the wearing of religious symbols—the cross—at work, settled only after lengthy court adjudications. We also sympathize with Islamic communities in Austria who according to a new law from this year will not be allowed to receive external funding for their activities. Here in Turkey there is still the law on Islam since 1912. Equally, we have the demand from Slovakia to receive only Christian migrants and for us as churches it is crucial that all human beings are treated equally. Popular prejudice can take the form of Islamophobia, or a revival of anti-Semitism. Secular cultural prejudice can be very anti-Christian in countries where our history and that of our Christian churches are inextricably bound together. And we see globally that the most persecuted religious groups today are the Christian communities. As an Anglican bishop my diocese was linked to Nigeria and I saw the

tragedy of a country divided north and south by Boko Haram. Even in Europe states find it hard to provide the proper framework for religious freedom as a fundamental human right.

Here in Turkey we need to record the generous hospitality for two million refugees from neighbouring southeast Europe and through which many refugees are in transit. In paying proper tribute to this generosity we bear in mind that Turkey itself is in a period of change. Only in 1971 was Halki Theological School closed by the authorities but things are changing and we support further moves to widen religious freedom in Turkey. This is not always easy. Some years ago I was in Istanbul and got to know one of the Turkish interpreters attached to the British Consulate. She was an excellent ‘ambassador’ for both Turkey and the City of Istanbul. Her mother had been one of the first women graduates in Turkey. She too had been to university. So also her daughter. Yet her daughter felt compelled to wear the veil, which neither her mother or grandmother had. So we applaud the progress—sometimes against opposition—the Turkish Government is making. Our gathering here—symbolically on Halki—is one step in that direction. We express our support as this continues.

As this continues we of course recognise the complexity of religious affairs in Turkey and the specific and rather unique understanding of secularism as compared to other states and cultures in Europe. One example of this is the lack of legal personality of the Orthodox, Jewish and Armenian communities. On the other hand the Sunni Muslim faith community is part of the government administration under the Presidency for Religious Affairs. Now I am *not* saying that this asymmetrical arrangement is wrong. In England we also have the historical situation of an ‘established’ national church, the Church of England of which I am a bishop and the Queen is technically our ‘Supreme Governor’; the word ‘head’ is not used. But where there is officially an asymmetrical relationship, as also for example in Greece

with the Orthodox Church, care has to be taken that the non-established faith communities are given full rights and freedoms.

Our conference is mindful of the fact that Turkey is rightly seeking membership of the European Union. We are supportive of this. In being genuinely supportive of such EU membership I recognise there are still obstacles. Turkey—like any other state on accession—would need to harmonise some aspects of its laws with some fundamental standards of the Union. The issue of minorities, especially the Kurdish minority, will also need good resolution. The question of Armenia is particularly sensitive but cannot be ignored if progress is to be made. But there are real signs that the two communities, Turkish and Greek, in Cyprus are close to a real reconciliation. That would be a great step forward and a sign of hope for all Europe and its Churches.

We also want the EU itself to pay fuller attention to its own cohesion in relation to freedom of religion and belief. The European External Action Service (EEAS) has adopted the EU Guidelines on freedom of religion and belief and their representative (who is monitoring the guidelines in Turkey) is with us at this gathering and she can tell us more of their important work. While there is an excellent section on religious freedom in their human rights report it would also be good to hear of their findings *outside* the EU as they are in daily receipt of important information.

Substantially, I suggest that we shall want to say to the EU, the European Commission and to the European Parliament that they should:

- Report on the state of fundamental religious freedoms of beliefs within the countries of the EU
- Verify that member states of the EU requesting the implementation of human rights externally also respect and implement them internally
- Encourage the same high standards and implementation of human rights in respect of migrants and asylum seekers

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These requests do not necessarily ‘point fingers’ at particular states. For example many in my own country are critical of some of the UK’s practices in regard to asylum seekers and their children, and many in my country admire the generosity of the hospitality of some other states of the EU to migrants and asylum seekers. But the European institutions can do great service to the cause of human rights, including the fundamental human right to belief and the practice of their religion, by such unbiased reporting.

This proposal does not foreclose our discussion over these days but will I hope stimulate our discussion and encourage us to think as churches how we can even more fruitfully work together with political and civil society for the good of all in Europe which is now richer in cultural and religious diversity than in former ages. Such diversity is, of course, a challenge to churches and society. But if we are to rejoice in the diversity of God’s wonderful creation we must also allow for the fact that our cultural diversity includes communities of different faiths and none. And as Churches we work with political and civil society for the flourishing of this diversity supported by law and the propagation of all human rights, including those to belief and the practice of faith.

SESSION I

European Churches' Engagement:
Human Rights, Democracy,
and the Rule of Law

HUMAN RIGHTS, DEMOCRACY AND RULE OF LAW: THE GERMAN EXAMPLE

OKR in Katrin Hatzinger, EKD

Indeed all European Churches, no matter if they come from the north or south, east or west should strive for a European Union living in stability and peace. At a time where the European neighbourhood is facing chaos and war, a high number of refugees and migrants are arriving at European soil and right wing movements and extremist parties are gaining more and more ground at national elections, churches cannot stay silent. Now more than ever churches from the Reformed, Orthodox, or Anglican tradition need to speak out clearly against any form of intolerance and extremism, defending the values of peaceful co-existence and mutual comprehension in an open and pluralistic Europe.

Some remarks on the situation in Germany: What do the churches, especially EKD, do to strengthen human rights, democracy and the rule of law?

In Berlin within the Protestant Agency for Diaconia and Development there is a human rights desk. In the EKD Church House in Hannover a human rights officer is working with a focus on religious freedom as a fundamental right. The situation on freedom of religion or belief is generally an indicator about the overall situation of human rights in a country. Therefore both churches in Germany, the Evangelical Church in Germany (EKD) and the German (Catholic)

Bishops' Conference (DBK), regularly issue an ecumenical report on religious freedom of Christians in the world. In order to foster mutual respect and understanding among different religions inter-cultural and inter-religious dialogue are important tools to counter amalgams, stereotypes and negative perceptions by learning about the other's cultural heritage or religion and finding common ground. Both churches in Germany are active in the field of inter-religious dialogue. These activities cover a wider variety of events, projects and publications on a regional as well as a federal level. In order to combat discrimination and to promote inter-religious cooperation, it is vital to actively engage with the different parties. Of course it is most effective if religious groups themselves take the first steps to engage in cooperation. EKD and DBK are actively involved in inter-religious cooperation with other religions on all levels. Representatives of the EKD and DBK hold annual meetings with the General Rabbis' Conference and the Conference of Orthodox Rabbis in Germany. Representatives of EKD also meet with the Coordination Council of Muslims in Germany every year. The meetings are used to show solidarity and to condemn any extremist tendencies within society and religion. Within this framework, a working group was established, which has worked on a "Dialogue brochure" giving advice to both—the Protestant and the Muslim community—about everyday interaction. Moreover, the EKD provides around 70 publications, brochures, handbooks etc. by EKD and its member churches on its website.¹ Via the *Arbeitsgemeinschaft der Evangelischen Jugend* (AEJ) cooperation with Muslim youth organisations is fostered and common projects have been developed.

Moreover the churches take both part in the "Roundtable of Religions" in Germany. This committee consisting of representatives of the main religious communities meets for mutual information twice a year. During the meetings the annual "Day of Religions" is planned. The

¹ <http://www.ekd.de/international/islam/dokumente/handreichungen.html>.

EKD also gathers its experts on Islam on an annual basis. At this conference bringing together experts on Islam-related issues from its member churches and organizations, basic questions of living together with Muslim are discussed and trainings are offered. EKD and DBK together with the Greek-Orthodox Metropolis of Germany also organize the annual “Intercultural Week”. This inter-cultural activity takes place one week every September. It is supported by trade unions, welfare organisations and migrant organizations. The “Intercultural Week” campaigns for a peaceful and equitable cohabitation of different cultures and religions within the German society promoting an open dialogue. Therefore ecumenical services, panel discussions and cultural events are organized. During this week about 5,000 events in approximately 500 cities take place. Both Churches in Germany are convinced that it is essential to fulfil a role model function and show how a respectful and peaceful coexistence of different religions and cultures is possible.²

When it comes to promoting democracy and the rule of law a famous quote of former constitutional court judge Ernst-Wolfgang Böckenförde is still valid: “The national state, but also the EU are dependent on prerequisites they cannot guarantee themselves.” Indeed the Churches and the values they are promoting form a major part of this fundament. In Germany, EKD has published several relevant papers on the attitude of the churches towards democracy, the *Demokratiedenkschrift* in 1985 (“Evangelische Kirche und freiheitliche Demokratie - Der Staat des Grundgesetzes als Angebot und Aufgabe”) and together with the DBK a text called “Demokratie braucht Tugenden” in 2006. Its content is still valid today:

² See also Joint Contribution of the Brussels Office of the Evangelical Church in Germany (EKD-Office Brussels) and of the Federal Commission of German Bishops – Catholic Office in Berlin to the public consultation on “Tolerance and respect: preventing and combating anti-Semitic and anti-Muslim hatred in Europe”, Berlin/Brussels 2015.

Moreover (in our society) there is a lack of understanding that democracy is not only dependent on reliable structures and procedures of political decision making, but at the same time on active participation of citizens... The churches do comment these questions and challenges, not in order to do politics themselves or to present political solutions for specific political fields. They see their task and their competence in promoting policies inspired by values having as a core the protection of human dignity, the respect of human rights and an orientation towards the common good.³

Still, when observing the rise in racism and xenophobia, anti-semitism and Islamophobia in European societies churches often react and deplore instead of being proactive.

Given the current trend of re-nationalisation and populism in Europe and a sense of disorientation in many European societies faced with the ongoing financial crisis and the challenges of integrating refugees and migrants with a different cultural and religious background churches should act more preventively and proactively when it comes to strengthen democracy, human rights and the rule of law. The meeting in Halki provided an excellent opportunity to build on existing ecumenical partnerships to face this endeavor together, but also allowed for enlarging the network and finding new partners.

³ Unofficial translation from the German original: Und es fehlt ebenso die Einsicht, dass die Demokratie nicht nur verlässliche Strukturen und Verfahren der politischen Entscheidungsfindung braucht, sondern zugleich auf die aktive Beteiligung der Bürgerinnen und Bürger an der politischen Willensbildung angewiesen ist...(.) Die Kirchen äußern sich zu diesen Fragen und Herausforderungen nicht, um selbst Politik zu machen oder für einzelne politische Aufgaben Lösungen anzubieten. Ihren Auftrag und ihre Kompetenz sehen sie vor allem darin, für eine Wertorientierung in der Politik einzutreten, in deren Zentrum die Würde jedes Menschen, die Achtung der Menschenrechte und die Ausrichtung am Gemeinwohl stehen.

EUROPE IN CRISIS: REFUGEES AND RELIGIOUS FREEDOM

*Lena Kumlin, Legal Advisor on European Affairs,
Evangelical Lutheran Church of Finland*

Speaking here in the Halki Seminary certainly adds a special dimension, enhancing the significance of ensuring and respecting religious freedom.

This are indeed challenging times. Europe is still struggling with the economic and financial crisis, which has led to a social, political and even moral crisis. And we are also faced with the threat of climate change.

But, the all-overshadowing issue right now is the exploding, escalating migration crisis, with 60 million refugees on a global level. The migration crisis is also putting the core European values and the whole European project at risk.

Each and every day, we are confronted with news about tens of thousands of people fleeing the violence and horrors of war and terror. People dreaming about a better life for themselves and their beloved ones in Europe. And almost every day we are also confronted with tragic news about people—men, women and children—drowning, dying while making terrifying journeys in search of safety and better lives in Europe. We have all seen the pictures of the 3 year old Syrian boy, Alan Kurdi, who drowned on the way from Turkey to Greece last week—an image

that has become a tragic symbol for the brutality of the crisis and for all those drowning dreaming of Europe.

That picture also reminds us that behind all these numbers, which we hear daily, but that are so difficult to understand and take in—340,000 refugees and migrants having come to the EU so far this year, 2,500 people having drowned this summer while attempting to cross the Mediterranean to reach Europe, 60 million people being refugees—there are real people, real human beings, real persons. Men, women, and children. To cite Bishop Munib Younan, Evangelical Lutheran Church in Jordan and the Holy Land:

“We must remember that these are not “waves” or “masses” or “hordes”—these are human beings who deserve dignity and respect.”

How are we then in Europe responding to this massive, acute migration crisis—which could also be described as a human rights and humanitarian crisis? This is indeed a test for our common European values—including solidarity and respect for human rights and human dignity.

The new Common European Asylum System, CEAS, is obviously not functioning, and the burden-sharing between the EU Member States is disproportionate. We should also bear in mind the situation in non-EU countries. Turkey, for instance, has so far accepted 1.9 million refugees from Syria, which is more than any other country.

For the moment being, mandatory EU quotas for redistributing refugees and asylum seekers are being discussed. Many Member States are, however, quite reluctant in this respect. Some Member States are even considering individual solutions in order to keep migrants out, such as Hungary, having recently adopted new anti-migration laws. And the Hungarian razor-wire fence at the border to Serbia has indeed become a symbol for the tendencies in many countries of shutting refugees and migrants out. Some countries have also announced that they only want to accept Christian asylum-seekers.

In this respect, I think it is quite easy to second EU President Donald Tusk, who in a response to the Hungarian PM Viktor Orbán said:

“I want to underline that for me, Christianity in public and social life carries a duty to our brothers in need. Referring to Christianity in a public debate on migration must mean in the first place the readiness to show solidarity and sacrifice. For a Christian it shouldn't matter what race, religion and nationality the person in need represents.”

This current development is indeed very far from the European core values of solidarity, respect for human dignity and sharing responsibility. What then can be done at European level—or is this the end of the European idealistic, value-based project? And what is the role and responsibility for us as Churches in this respect?

The situation is indeed challenging, calling for strong leadership and sustainable solutions on European level. The EU will probably agree on a system of mandatory quotas, leading to a more proportionate burden-sharing among the Member States.

But what is also needed, in addition to discussing the very roots of the crisis, is creating legal paths into Europe, humanitarian visas and more ways to reunite families. In short, less Fortress Europe and more solidarity and responsibility.

The crisis has also shown that the core European values—including human rights, democracy and rule of law—are today perhaps more important than ever.

There are two other current European trends that I would like to mention which—especially together—do form a threat to our common European values. These are growing nationalism and growing individualism—a sort of “what's in it for me” way of thinking—which truly clashes with the European core value of solidarity and promoting the common European good.

The European project is based on solidarity and collaboration between EU Member States. It is not based on individual nationalistic or populist interests. Churches are, on the other hand, by definition not national but truly international and global; and should therefore be open, welcoming and inclusive communities, promoting solidarity, diversity and understanding.

As in many other European countries, nationalistic, populist parties are winning terrain also in the Nordic countries. Many of these parties tend to stress the importance of cultural national identity and the role of national Churches. However, as Churches we do need to be cautious not to be ‘hijacked’ for political purposes by any political parties. Churches definitely need to be active and proactive, participating in the public debate and bringing our key message forward to politicians and decision-makers—but only concerning the *aims*. The *tools* (i.e., how to reach these aims) is, as I see it, something we need to leave for the politicians to decide.

But to come back to the question—is there any future for the European project?

From a Church perspective, I think we definitely need to say: Yes, there is—there simply has to be.

And we, as Churches, need to commit to the European project and contribute to developing a European union which stands for and acts according to its common value base. Let me mention three points that I consider important in this respect.

First of all: we need, of course, to care for our neighbors, welcome the stranger and act for the common good also on the practical grassroots level. In this respect, I am personally truly impressed about the swift actions taken in the recent weeks by so many Churches in so many countries in trying to make a difference and welcoming refugees and asylum seekers

Secondly, we also need to speak up and—constantly and coherently—emphasize the importance of our common European value base, such as respect for human rights and dignity, solidarity and non-discrimination in our respective constituencies; both in the public debate and in our discussions with authorities and political decision-makers, from informal meetings and discussions to meetings and dialogue on a more formal and official level.

And thirdly, we do need to collaborate and coordinate our efforts. In this respect, the role of the Conference of European Churches is vital, especially when discussing the challenges on European level. On the EU level we do have a number of applicable tools, such as the EU Guidelines on the promotion and protection of freedom of religion or belief, which now need to be implemented. In this respect, developing religious literacy, training and education are also of utmost importance.

To conclude: we, as Churches, need to promote and defend our common European values, including human rights and freedom of religion or belief for all. Silence is simply not an option in this respect. As Churches, we do have the responsibility to act—consistently and coherently—in order to develop the European project and contribute to forming a better Europe and a EU that builds on and acts in accordance with its common value base and promotes the common good—for both present and future generations.

POLITICS AND PRINCIPLES: ISSUES IN REPORTING RELIGIOUS FREEDOM

Pasquale Ferrara, Diplomat, Senior Fellow at the Robert Schuman Centre for Advanced Studies – EUI

I would start by highlighting the distinction between religious freedom as a principle and the politics of religious freedom. By politics of religious freedom I refer to the fact that more and more Governments are being made accountable vis-à-vis the respect of religious minorities, whereas also international organizations are more reactive to the obstacles and restrictions limiting the enjoyment of this fundamental freedom. And this could become tricky. Positions start to diverge when there is the need to articulate religious freedom in concrete political terms.

In terms of international practices, more than on a theoretical ground, there is little doubt that religious freedom is becoming increasingly relevant. Governments are being held more and more accountable, especially with regard to the treatment of religious minorities, and international organizations are more reactive today than in the recent past to the obstacles and restrictions that limit the enjoyment of this fundamental freedom. If religious freedom clearly constitutes a new defining field for the advancement of human rights in relation to state behavior, it is also becoming, with increasing saliency, an issue that challenges the traditional diplomatic manner of implementing interstate

diplomacy.⁴ In particular, a plethora of “reports” on religious freedom are released regularly by governments, international institutions, special rapporteurs and religious bodies. In several cases, such reporting activity is realized via documents specifically and exclusively addressing religious freedom; more often, religious freedom is included in the monitoring of human rights regulations and practices at the international level.

In general, there are four major issues related to reporting on religious freedom: the definition of standards, the nature of the actors involved (both as observers and observed), legitimacy, and the policy consequences (changes in bilateral and multilateral relations, “reciprocity”, sanctions, negative travel advice).

Legitimacy is the crucial test that most reporting activities on religious freedom fail to pass. In particular, “national” or “confessional” reports are strongly contested, whereas reporting initiatives performed by international organizations receive broader acceptance. Governmental reports are often rejected by the states considered non-compliant on the grounds that the monitoring activity at the source of the criticism is unilateral, incomplete, or somewhat biased. Moreover, governmental reports on religious freedom feed a more fundamental questioning of the credibility of the observers, especially in cases where there are records of intolerance in the territory of the country responsible for the “international” reporting activity.

In general, it can be said that legitimacy is far more accepted as a natural attribute when it comes to the monitoring activities performed by international organizations. At the international level, a UN Special Rapporteur on freedom of religion or belief has been appointed by the UN Human Rights Council. His/her mandate is to identify existing or emerging obstacles to the enjoyment of the right of freedom of religion

⁴ Cf. P.Ferrara, *Global Religions and International Relations. A Diplomatic Perspective*, Palgrave-MacMillan, New York 2014

or belief and present recommendations on ways and means to overcome such obstacles.

In terms of policy consequences, it seems that reports originating from governmental monitoring activities are more effective. However, such a result comes at the expenses of legitimacy; one may argue that there is a clear trade-off between the wide acceptance of a report on religious freedom and the policy implications built on its conclusions. This is due, however, more to the limited supra-national powers of the international institution concerned than to the “credibility” of the report itself. In a way, “national” or inter-governmental reports are “documents with teeth”, whereas international reports are “documents with trust”.

A restrictive attitude is the idea that the protection of religious freedom should reflect, in one way or another, the internal political structure and dynamics of a given country, as this can be equated with “foreign policy” of a Church or a religious community. In this case, one defends just the religion to which he/she belongs, but toward other religions (considered “others” religions) there is indifference or, worse, a latent hostility. This attitude has nothing to do with religion, being the result of a political calculation and being substantially cynical. Basically, freedom of religion conceived as contingent and functional to other (political) purposes is neither freedom nor right; ironically, this indefensible position is often taken by the self-proclaimed followers of freedom as civil religion.

The Second Vatican Ecumenical Council in its declaration on Religious Freedom states that:

“the human person has a right to religious freedom. this freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits. The council further

declares that the right to religious freedom has its foundation in the very dignity of the human person as this dignity is known through the revealed word of God and by reason itself. This right of the human person to religious freedom is to be recognized in the constitutional law whereby society is governed and thus it is to become a civil right.”⁵

Therefore, at least in the Catholic perspective, it doesn’t seem possible to conceptualize religious freedom as a “conditional” right.

More in general, discrimination and prosecution on the basis of religion represent a matter of grave and growing concern particularly in the Middle East. However, a nostalgic attitude towards past authoritarian regimes, as well as the support to present illiberal polities in the region, do not constitute a far-sighted solution, since freedom of religion cannot be ensured, in the long run, through authoritarianism and repression.

The former French Minister of Foreign affairs, Alain Juppé, wrote that:

“the best protection for Eastern Christians and the true guarantee of their survival in the region is the establishment of democracy and the rule of law in Arab countries. That’s why we urge the Christians of the Middle East not to be taken in by the manipulative measures implemented by authoritarian regimes alienated from their own people”.

Across the Middle East, Eastern Christians will protect their future “by resolutely engaging in building a new region.”⁶ More in general, the narrative on religious freedom based upon the concept of “protecting” Christian minorities is problematic, although officially the rationale is the advancement of religious freedom as a universal value. The issue of

⁵ *Dignitatis Humanae*, 2

⁶ Alain Juppé, *France Will Remain by the Side of the Arab World’s Embattled Minority*, “Foreign Policy”, 28 February 2012.

protection was also viewed with some concern by reflexive actors in the Vatican, since it seemed to give some foundation to the accusation that the Christians in the Middle East were acting as “foreigners”, despite the fact that they had been living on the land for centuries and well before the birth of Islam. Samir Khalil Samir, a Lebanese Jesuit, stresses the circumstance that Christians in the Middle East cannot be considered an “ethnic minority”. “That will be absurd”—protests Samir—“we were here before Islam, we did not come from abroad. Therefore we do not ask for any ‘protection’ whatsoever: we are first class citizens in the countries where we live and we demand to be recognized as such. On the other hand, we are a dynamic minority, since thanks to our specificity we bring something different inside our own countries. It has been exactly our bridging role that paved the way for affirming also in the Middle East the notion of human rights, gender equality, and freedom of belief. All that implies for has to be aware of our role; a mission most needed especially in these times.”⁷

In political terms, the emphasis on religious freedom, (if seen mainly through the lens of “reciprocity”) runs the risk of being counterproductive and self-defeating, since such an argument, by linking the freedom of religion for the Christians in the Middle East in exchange of freedom of religion for the Muslim minorities in Europe and in the West, undermines the universality of the claim in favor of freedom of religion as a fundamental right (and, as such, not subject, by definition, to conditionality and preconditions).

Adopting a broader approach, I personally believe that religious freedom, in its practical implications, should be framed as religious pluralism.⁸ This is much more than just multiplicity of religious beliefs

⁷ Samir Khalil Samir, *Interview*, “Avvenire”, 3 October 2010 (orig. in Italian, translated by the author).

⁸ Cf. P. Ferrara, *Religious Freedom: The Case for International Consensus*, “Cornerstone”, 14 October 2015 (<http://berkleycenter.georgetown.edu/responses/religious-freedom-the-case-for-international-consensus>)

(more or less accepted in a given society) and much more than just encouraging “twin tolerations” between religious people and communities and the secular state. In my view, pluralism is an inherently political concept. In fact, there are essential steps to take before transforming that multiplicity into pluralism. The conditions for pluralism are not respected just because the practice of a religion is not forbidden by relevant regulations at ordinary or constitutional level, and not even when—as it happens symbolically in some countries—representatives of religions are elected as “minorities” in national or regional parliaments. It goes much deeper than that, and has to do with the political culture of a country. It is not by chance that severe restrictions on religious freedom occur in despotic, semi-despotic and hybrid regimes (mixing authoritarian and democratic elements) or in condition of “sultanism”—with the hallmark of “a ruler’s near-complete personal discretion” (A.Stepan and J.J.Linz).

UNITY IN DIVERSITY: CREATING AN INCLUSIVE EUROPE

Katharina von Schnurbein, Coordinator on the dialogue with churches, religions and non-confessional organisations at the European Commission

Creating an inclusive society and the role of the churches Societies across Europe are getting increasingly divers. For some time the European credo “Unity in diversity” has been challenged if not under attack.

The increasing number of migrants and recently the arrival of refugees are putting the European Union to the test. Reactions to this influx are testing the solidarity among Member States, but more so they raise questions about the future of our living together. Europe’s biggest challenge currently is not the economic crisis, it is not fiscal policy, it is not even mastering the refugee crisis.

The biggest challenge across Europe will be creating a society in which everybody can feel at home.

A society where each and every individual can feel equally at ease in public as they do at home provided they adhere to our common values of human dignity, freedom, equality and solidarity, democracy and the rule of law.

A society in which freedom of thought, conscience and religion, just like freedom of expression, constitute an essential foundation and a precondition for its progress and for the development of every individual.

In this spirit, the European Commission since the early 1960s, and more intensively since the fall of the Iron Curtain, has engaged in a dialogue with religions and communities of convictions in order to factor their views into the European policy making process. This “open, transparent and regular” dialogue was given legal force by the Lisbon Treaty in 2009. (Article 17 TFEU). Over the years, we have discussed issues such as “Overcoming the economic crisis”, “Solidarity between generations”, “Creating a sustainable environment” and in 2015 we reflected on “Living together and disagreeing well”—the big challenge of our times.

Freedom of speech, to use the words of the European Court of Human Rights, may include ideas and information “that offend, shock or disturb the State or any sector of the population.” And with its fundamental rights policy, the EU is a big defender of freedom of expression.

But, at the 2015 annual high-level meeting of religious leaders at the European Commission, several of the former suggested that what might be legally allowed, may not contribute to building a society in which everybody can feel at home, a society respectful and mindful of others.

With rights come responsibilities. We sometimes forget that.

When we look at public discourse, the internet, the treatment of other communities, of newcomers, of refugees or even of our next door neighbour, it boils down to the age-old golden rule and biblical truth that “We must treat others as we wish others to treat us.”

The central question is therefore how do we reach consensus when we agree on common values, but our points of departure, our interests and possibly even our goals differ? In short: when for one person, expression of his or her faith includes the public space and for another, the public space is secular, often understood as free from religion. What if the presence of one community evokes fear in others?

Dialogue—the Only Way Forward

Across Europe a solid body of legislation is in place, legislation against racism and xenophobia, criminalizing hate speech inciting to violence, legislation establishing citizenship rights and non-discrimination.

But respect and tolerance cannot be imposed by law. Yes, we need legislation and apply it properly to bring offenders to trial and protect victims, but the only way to change opinions, deeply rooted prejudices and fears is dialogue. The aim of dialogue is not to reach unanimity, but to create a framework, in which there is enough room for mutual respect and “disagreeing well.”

Dialogue is very challenging, when dialogue partners do not share one's opinion. This is true for dialogue between institutions such as the European Commission and religions as much as for politics and dialogue between all faiths and none.

Yet, having led this dialogue on behalf of the Commission for several years now, I recognize how rewarding it is when we realise that common ground might exceed division, when we see stereotypes melting and trust growing.

This became evident last October, when the European Commission held its first Fundamental Rights Colloquium—bringing together politicians from local to European level, representatives of civil society and religious leaders. The theme of the event was “Tolerance and Respect: Preventing and combatting Antisemitism and anti-Muslim hatred.” Clearly, the history, origin, impact and manifestations of these two phenomena are different. But hatred remains hatred. And extremism, whether from the extreme right, the extreme left or indeed Muslim extremists, has become a threat to society as a whole.

As we have seen for some time, it often starts with the Jews but it never stops there. There is a direct line from the attacks on the Hyper Kasher to Bataclan and from the Jewish Museum in Brussels to the

Metro Station Maelbeek. The fight against Antisemitism must not be left to the Jews, it is a responsibility for society at large. This needs to be understood by the wider society.

And the Christian Church in its understanding of “love your neighbour as yourself” has a significant role to play in fostering community building and trust between communities and individuals.

I am convinced that when we stand up *against* Antisemitism, *against* anti-Muslim hatred, *against* any other form of intolerance we stand up *for* our society and our values. I am always very impressed when religious groups stand up for each other. It is an open secret that local crises are best resolved when the rabbi, imam and chaplain have exchanged mobile numbers long before. As the Chief Rabbi of Brussels often says: ‘It is not only about living together, but about building together.’

And despite the challenges and the anxiety that comes with an ever divers and pluralistic society, there is some truth in Karl Popper’s statement, the distinguished philosopher and great defender of the “open society” that, “The value of dialogue depends to a great extent on the diversity of competing opinions. Had the Tower of Babel not existed, we would have to invent it.”

SESSION II

Part One: European Perspectives
on the Implementation of International Legal
Standards of Freedom of Religion or Belief

REFLECTIONS ON THE ECUMENICAL CHARACTER AND THE LEGAL STATUS OF THE PATRIARCHATE OF CONSTANTINOPLE

Yiannis Ktistaki, Legal Adviser of the Ecumenical Patriarchate of Constantinople, Assistant Professor, Democritus University of Thrace (Greece) and Bosphorus University (Turkey)

7.1 Reflections on the Ecumenical Character and the Legal Status of the Patriarchate of Constantinople

The refusal of recognition by the Turkish authorities of the legal status of the Ecumenical Patriarchate of Constantinople on the one hand, and also of the very term “ecumenical”⁹ have been highlighted in various reports of international organizations, as a worrying situation.¹⁰

⁹ A ruling by the Turkish Court of Cassation in June 2007 concluded in particular that the Ecumenical Patriarchate is a religious institution without legal personality and does not have the ecumenical title. 2007/5603 decision of the Turkish Court of Cassation (English translation), http://www.archons.org/pdf/CoC_decision_on_Patriarchate.pdf.

¹⁰ Report of the Committee on Legal Affairs and Human Rights, Parliamentary Assembly of the Council of Europe, “Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (Eastern Greece)”, doc. 11860, 21 April 2009, §§ 60-65; Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to Turkey from 11 to 12 June 2003, CommDH (2003) 15 (19.12.2003), § 94; Monitoring Report on Turkey, European Union, 2007, p. 19; Report by Thomas

Nevertheless, the historical, religious and legal arguments have been advanced in the doctrine for the ecumenical character of the Patriarchate and its legal personality¹¹.

7.2 The Patriarchate, an Ecumenical Actor

The term “ecumenical” is used since the sixth century and referred to the time “to all of the known world.”¹² The exact title of “Ecumenical Patriarch” was officially given to the Archbishop of Constantinople during a synod convened in Constantinople in 587. The role of the Archbishop of Constantinople as “Ecumenical Patriarch” has been defined at an earlier date by the canons of the 2nd and 4th Ecumenical Council of the Undivided Church, which were held respectively in 381 in Constantinople and Chalcedon in 451. During these two Ecumenical Councils, the Throne of Constantinople was recognized as Patriarchate and the first Seat of the Christian East.¹³

The historical argument in favor of the ecumenical status of the Patriarchate and of a legal personality to the extent of this status is that the center of Orthodoxy was in Istanbul for over sixteen centuries. The

Hammarberg, Commissioner for Human Rights, on his visit to Turkey from 28 June to 3 July 2009, CommDH (2009) 30 (1.10.2009), §§ 86-87.

¹¹ This article in its original form was written in French. The translation from French into English was done by Archimandrite Aimilianos (Bogiannou), Director of the Liaison Office of the Orthodox Church to the European Union.

¹² Ecumenism in question under the Patriarchate is a vague concept, difficult to explain without mentioning religious considerations. Etymologically the term means in Greek *οικουμενή* the world, the universe, and the ecumenical adjective can be translated into French as “universal.” As such, always etymologically, “ecumenical” and “Catholic” means the very nature of that concern all of humanity. Religiously speaking, it's actually all territories inhabited by Christians on earth. The adjective appears for the first time concerning the Patriarchate in the sixth century, used by Patriarch Ioannis IV, Samim Akgönül, the Greek Orthodox Patriarchate, isolation internationalization 1923 to the present, 2005, pp. 16-17. For the history of the concept, see Peter Neuner, *Ecumenical Theology, the quest for the unity of Christian churches and ecumenical history of the concept motivation*, p. 15s.

¹³ <http://www.patriarchate.org/patriarch/quickfacts/fr?lang=fr>.

argument refers to the privileges and religious and administrative obligations that successive Ottoman Administrations granted to the Patriarch, head/‘ethnarch’ (Millet Basi) of the ‘nation’ of the Orthodox (Rum Milleti). Although the negotiations at Lausanne in 1923 limited the role of the Patriarchate to purely religious matters, the Patriarchate plays, as the *primus inter pares*, a key role in the Orthodox Church. Its role is growing on the international scene insofar as it develops relations with States and international organizations.

7.3 The Role of the Patriarchate in the Orthodox Church

We must first clarify that the Ecumenical Patriarchate plays a dual role as head of two communities: the local community of Orthodox Christians in Istanbul and the world community of Orthodox Christians worldwide. It is on this second role that the ecumenical discussions on the title and the legal personality of the Patriarchate are held.

a) With respect to the orthodox structure, the Patriarchate is the spiritual center of Orthodoxy for more than 300,000,000 Orthodox worldwide. Its spiritual and administrative jurisdiction covers indeed all continents.

Several institutions outside Turkey depend directly or indirectly on the Patriarchate: besides the Metropolises and the Archdioceses that depend on the Patriarchate outside Turkey (in America¹⁴, Australia¹⁵, Asia¹⁶, etc.), there is also the Mount Athos in Greece, the Exarchate and the Monastery of St. John on Patmos (Greece) as well as many theological institutes of training and research:¹⁷

¹⁴ <http://www.goarch.org/>

¹⁵ <http://www.orthodoxchristian.info/pages/main.htm>.

¹⁶ http://orthodox.or.kr/english/e_main.htm.

¹⁷ Archim. Grigorios D. Papathomas, *Le Patriarcat œcuménique de Constantinople (y compris la Politeia monastique du Mont Athos) dans l'Europe unie (Approche nomocanonique)*, Epektasis, 1998, p.148, note 187.

- 1) The Inter Orthodox Patriarchal Centre (Chambésy-Geneva)¹⁸
- 2) Orthodox Theological Institute Saint Serge (Paris)¹⁹
- 3) Patriarchal Institute of Patristic Studies (Thessaloniki)²⁰
- 4) Orthodox Theological Academy of Crete (Crete-Kolybari)²¹
- 5) Theological Seminary of the Athonite School (Karyes-Mont Athos)²²

b) On the religious level, the Ecumenical Patriarchate has its ecumenical mission from the Ecumenical Councils of 381 and 451 AD. As “*primus inter pares*—first among equals” of all the Orthodox Churches, the Ecumenical Patriarchate is the guarantor of the unity of the Orthodox faith; it establishes the agenda and coordinates Ecumenical Synods, the Pan-Orthodox conferences²³ and the Holy and Great Council of June 2016 at the Orthodox Academy of Crete.²⁴

It intervenes in finding solutions to problems of sister Churches: examples of the Churches of Jerusalem²⁵, Cyprus²⁶, Bulgaria²⁷ and Albania²⁸.

¹⁸ <http://www.centreorthodoxe.org/index.php>.

¹⁹ L’Institut dépend canoniquement de l’Exarchat. Statuts de l’Archevêché des Eglises orthodoxes russes en Europe occidentale, Exarchat du Patriarcat œcuménique <http://www.exarchat.eu/spip.php?rubrique30>.

²⁰ <http://www.pipm.gr/index.htm>.

²¹ http://www.oac.gr/htm/main_en.html.

²² <http://lyk-ekkl-athon.chal.sch.gr/Istoselides/index.htm>.

²³ Prodromos Yannas, *The soft power of the Ecumenical Patriarchate*, Mediterranean Quarterly, Duke University Press, 2009, p.77-93.

²⁴ Communiqué of the Synaxis of the Primates of the Orthodox Autocephalous Orthodox Churches in the Centre of the Ecumenical Patriarchate in Chambésy-Geneva from 21 to 28 January 2016: <http://www.ec-patr.org/docdisplay.php?lang=gr&id=2118&tla=fr>.

²⁵ The Ecumenical Patriarch convened a special synod of the Primates of the Orthodox Churches on May 24, 2005 to discuss the situation of the Patriarchate of Jerusalem (Synod of the 14 Orthodox Churches, called to consider the matter of the removal of Patriarch Irenaeus). See <http://www.mitropolia-paris.ro/content/fsjc/218.fr.pdf>, p.8. et *Le monde*, *Les orthodoxes destituent le patriarche de Jérusalem*, paru dans l’édition du 26.05.05.

²⁶ On May 17, 2006, an expanded Holy Synod of the Church of Cyprus was held under the auspices of the Ecumenical Patriarch Bartholomew I. The Synod has decided to remove the Archbishop Chrysostom of the Church of Cyprus from

7.4 Activities on the International Stage

- a) The Ecumenical Patriarchate remains the official and competent interlocutor of the Orthodox Church worldwide and therefore in Europe, as being the first, expresses through its “executive” and “preventive” diaconia, the conscience and the will of the Orthodox autocephalous Churches for the common affairs. This historical fact is already customary and legally accepted by some States which have concluded international agreements with the Ecumenical Patriarchate in matters relating to the Universal Orthodox Church (Belgium²⁹, Hungary³⁰, Greece³¹, Austria³², and so on).

the Throne of the Church of Cyprus because of his chronic health problems. This decision was the culmination of several years of debate within the hierarchy of the Church of Cyprus on when, how and under what circumstances the Throne had to be vacated. According to the Constitution of the Church of Cyprus, once the throne is vacant, they must proceed to the election of a new Archbishop. See [http://www.eurel.info/FR/index.php? Pais = 55 = Archive & intrubrique% 20des% 20dibats & category = 562 # 855](http://www.eurel.info/FR/index.php?Pais=55=Archive&intrubrique%20des%20dibats&category=562#855).

²⁷ A Pan-Orthodox Council was held in early October 1998 in Sofia, under the auspices of the Ecumenical Patriarch Bartholomew I, at the request of the Bulgarian Church, to lift the schism that had occurred in the Bulgarian Patriarchate.

²⁸ The Orthodox Archbishop of Albania Anastasios, was appointed in 1991 by the Ecumenical Patriarch Bartholomew I to reorganize the Orthodox community in the country, representing 18% of the population.

²⁹ In 1985, the Orthodox Church has been recognized by the Belgian State as an official religion, just as the Catholic, Protestant, Anglican, Jewish and Islamic religions. See the Act of 17 April 1985 on the recognition of administrations managing the time of Orthodox worship, *Moniteur Belge*, 11 mai 1985, 115^e année, n^o91. This legal recognition was completed by (1) l'Arrêté royal du 15 mars 1988 portant organisation des conseils de fabrique d'église du culte orthodoxe, *Moniteur Belge*, 31 mars 1988, 158^e année, n^o63 et (2) l'Arrêté royal du 31 août 1988 portant reconnaissance des paroisses du culte orthodoxe, *Moniteur Belge*, 31 août 1988. The first article of the Royal Decree of 15 March 1988 provides that “The Archbishop Metropolitan of the Ecumenical Patriarchate of Constantinople or his replacement is recognized by Us as a representative body of the Orthodox Church.”

³⁰ The founding charter of the Exarchate of the Ecumenical Patriarchate in Hungary was adopted on 15 June 1995. The decision RK 61190 7/9 / 51-19.9.1995 of the Bucharest court recognized the Exarchate the Ecumenical

- b) The Liaison Office of the Orthodox Church to the European Union was launched by the Ecumenical Patriarchate in 1994.³³
- c) The Ecumenical Patriarchate is a founding member of the World Council of Churches, which forms a worldwide fellowship of 349 Churches.³⁴
- d) The Ecumenical Patriarchate is also a founding member of the Conference of European Churches (CEC), which is a fellowship of 126 Orthodox, Protestant and Old Catholic Churches, plus 43 associated organizations from all countries of the European continent.³⁵
- e) In 2007 the Ecumenical Patriarch Bartholomew I addressed the Parliamentary Assembly of the Council of Europe.³⁶
- f) In 1994 the Ecumenical Patriarch is received in the European Parliament and he delivered the opening speech of the Parliamentary session.³⁷ In 2008 the Patriarch is, again, received in the European Parliament.³⁸

Patriarchate in Hungary, as an official ecclesiastical organization with the title “Ecumenical Patriarchate of Constantinople to - Orthodox Exarchate of Hungary.”. See Joanna Balaskas, *The International Legal Personality Of The Eastern Orthodox Ecumenical Patriarchate Of Constantinople*, Hofstra Law & Policy Symposium, 1997, p. 167.

³¹ The Patriarchal Synodal Act of 1928 is an international agreement between the Ecumenical Patriarch and the Greek government, agreement expressly recognized by the Greek Constitution (Article 3§1).

³² Federal Law 229/23-6-1967 (JO, n°54/14-7-1967).

³³ http://www.terraqueous.gr/enoria/fr/nofr/fr-graf_orth_ekklhsias.htm.

³⁴ <http://www.oikoumene.org/fr/eglises-membres/regions/europe/turquie/patriarc-at-oecumenique.html> and http://www.ecupatria.org/who_descr.htm.

³⁵ http://www.cec-kek.org/french_site/content/churches.shtml.

³⁶ Assemblée Parlementaire, Session ordinaire de 2007, Première Partie (22.1.2007),

<http://assembly.coe.int/mainf.asp?Link=/documents/records/2007/f/0701221130f.htm>

and <http://www.ec-patr.org/docdisplay.php?lang=en&id=755&tla=en>.

³⁷ European Parliament, Strasbourg, 19.4.1994

³⁸ At a solemn session (24.9.2008), as part of the European Year of Intercultural Dialogue of the E.U. the Ecumenical Patriarch has addressed the European Parliament Assembly <http://www.europarl.europa.eu/sides/getDoc.do? type=IM->

- g) The Ecumenical Patriarch Bartholomew I is received in all countries with the honors of a head of state.³⁹
- h) The Ecumenical Patriarch has launched several global environmental initiatives (“Green Patriarch”).⁴⁰ It should be noted that in June 2002, the Ecumenical Patriarch Bartholomew I and Pope John Paul II signed together a document known as the Venice Declaration. This common Declaration shows the ethical goals of the environmental protection and the use of the common heritage of all mankind.⁴¹

7.5 Legal Status

The lack of legal personality affects all non-Muslim communities in Turkey (Ecumenical Patriarchate of Constantinople, Armenian Patriarchate of Istanbul, Armenian Catholic Archbishopric of Istanbul, Bulgarian Orthodox Exarchate and the Chief Rabbinate) and has direct consequences in terms of law property and asset management.⁴² Nevertheless, because of its ecumenical character, which is not the case for the other communities, the Ecumenical Patriarchate is a *sui generis* international law subject, recognized at the past and present.

1. A Subject of International Law since the Nineteenth Century

PRESS&reference=20080923IPR37894 &format =XML&language=FR &
<http://www.ec-patr.org/docdisplay.php?lang=en&id=990&tla=en>

³⁹ See for example his recent visit to the United States and its formal interview (3.11.2009) with US President Barack Obama (<http://www.patriarchate.org/news/releases/Patriarch-White-House>).

⁴⁰ <http://www.patriarchate.org/patriarch/the-green-patriarch>.

⁴¹ <http://www.patriarchate.org/environment/declarations>.

⁴² Report of the Committee on Legal Affairs and Human Rights, Parliamentary Assembly of the Council of Europe, “Freedom of religion and other human rights for non-Muslim minorities in Turkey and for the Muslim minority in Thrace (Eastern Greece)”, doc. 11860, 21 avril 2009, §65.

In the early twentieth century, the Ecumenical Patriarchate was unquestionably a subject of international law. At that time, Lord Phillimore taught at the courses at The Hague that

*The states are individuals under international law; but one could say that they are not the only persons of concern to the international law. There are indeed institutions, powers of another kind; great leaders of churches and organized religions such as His Holiness the Pope, and His Beatitude Patriarch of Constantinople.*⁴³

This conclusion was based on the international agreements concluded at the time between the Ottoman Empire and the European States.

a) The Article 7 of the Treaty of Kuchuk-Kainardji (1774)⁴⁴ stipulated that

The Sublime Porte promises to protect the Christian religion and churches and allow the Ministers of Russia at Constantinople to make representation on Their Behalf.

b) The Article IX of the Treaty of Paris (1856)⁴⁵ stated that

His Imperial Majesty the Sultan, in his constant solicitude for the welfare of his subjects, having granted a firman, which, by improving their fate, regardless of religion or race, devotes his generous intentions towards the Christian population of his Empire, and wanting to give a new proof of his sentiments in this regard, has resolved to communicate to the Contracting Powers

⁴³ Lord Phillimore, « Droits et devoirs fondamentaux des États », *Cours La Haye*, 1923, page 32.

⁴⁴ Treaty ending the war between Russia and the Ottoman Empire (1771-1774).

⁴⁵ Treaty ending the Crimean War (1854-1856), following the victory of France, Great Britain, the Ottoman Empire and Piedmont against Russia.

the aforementioned firman, emanating spontaneously from his sovereign will.

The Contracting Powers find the high value of this communication. It is understood that it cannot, under any circumstances, give the right to the said Powers to interfere either collectively or separately, in the relations of His Majesty the Sultan with his subjects, nor in the internal administration of his Empire.

The aforementioned *firman*, which was communicated to the Contracting Powers of the Treaty of Paris, provided that

All spiritual privileges and immunities, accorded ab antiquo from my ancestors and at subsequent dates, to all Christian communities or other non-Muslim rites, established in my Empire under my protective umbrella will be confirmed and maintained.

The powers granted to the Patriarchs and bishops of the Christian rites by Sultan Mohamed II and his successors will be in harmony with the new position that my generous and benevolent intentions ensure to these Communities.

The principle of the lifelong appointment of the Patriarchs, after the revision of the election laws now in force, will be applied exactly in accordance with the content of their firmans regarding their investiture. There will be no harm done to any movable or immovable properties of the various Christian clergy; however, the temporal administration of the Christian Communities or other non-Muslim rites, will be placed under the protection of an assembly, chosen within each of the said Communities, among the members of the clergy and laity.⁴⁶

⁴⁶ George Young, *Corps de Droit Ottoman*, vol. III, Texte XXI: Privilèges des Communautés non-musulmanes, Hatti-Humayoun, 18 février 1956.

⁴⁷ By the Treaty of San Stefano of March 3, 1878, Russia imposed on the Ottoman Empire significant disposals of territories including the creation of an

c) Article 62 of the Treaty of Berlin (1878)⁴⁷ stated that

The Sublime Porte having expressed the desire to maintain the principle of religious freedom, giving it the widest extension, the Contracting Parties take note of this spontaneous declaration.

In no part of the Ottoman Empire, the difference of religion will not be used against a person as a ground for exclusion or incapacity as regards the use of civil and political rights, admission to public employment, functions and honors, or the exercise of professions and industries.

All will be welcome, regardless of religion, to testify in court. The freedom and outward practice of all religions are ensured to all and no hindrance shall be offered either to the hierarchical organization of the different communions, or to their relations with their spiritual leaders.

Clergymen, pilgrims and monks of all nationalities traveling in the European part of Turkey or in the Asian part of Turkey shall enjoy the same rights, benefits and privileges.

The official protection law is recognized to diplomatic and consular agents of the Powers in Turkey, both with respect to such persons as well as to their religious, charitable and other establishments in the Holy Places and elsewhere.

The rights acquired in France are expressly reserved, and it is well understood that no harm can be done to the status quo in the Holy Places.

The monks of Mount Athos, whatever their country of origin, will be maintained in their previous possessions and benefits and

independent Great Bulgaria. This regulation faces the hostility of Great Britain and Austria-Hungary. To avoid a conflict, Bismarck invited to Berlin the seven major European powers (13 June-13 July 1878) and they concluded the Treaty of Berlin.

shall enjoy, without any exception, the full equality of rights and prerogatives.

2. A Subject of the Sui Generis Right

In its recent judgment on the violation of the right of the Ecumenical Patriarchate in respect of his property by the Turkish authorities, the European Court of Human Rights stressed that the Patriarchate

...is an Orthodox Church, established in Istanbul, which has a primacy of honor and a role of initiative and coordination throughout the Orthodox world.⁴⁸

Furthermore,

...the autonomy of religious communities is indispensable for the pluralism in a democratic society and is therefore at the heart of the protection afforded by Article 9 of the ECHR (freedom of religion). It is of direct relevance not only for the organization of the community as such, but also for the effective enjoyment by all its active members of the right to freedom of religion. If the organization of community life was not protected by Article 9 of the Convention, all other aspects of religious freedom of the individual would become vulnerable.⁴⁹

Now, according to the European Court, the organization of the Patriarchate in a form of legal personality concerns mainly the Orthodox and the enjoyment of their right to freedom of religion: without the legal personality of the Patriarchate, the faithful cannot enjoy the right guaranteed by Article 9 of the European Convention on human rights.

⁴⁸ *Fener Rum Patrikligi (Patriarcat œcuménique) c. Turquie*, requête n°14340/05, 8 juillet 2008, §6.

⁴⁹ *Hasan and Chaush c. Bulgarie*, requête n° 30985/96, 26 octobre 2000, §62; *Eglise Métropolitaine de Bessarabie et Autres c. Moldova*, requête no. 45701/99, 13 décembre 2001, §118 et §123; *Branche de Moscou de l'Armée du salut c. Russie*, requête n° 72881/01, 5 octobre 2006, §58.

The following question relates to the faithful, to the Orthodox. If we accept that the Patriarchate is a national institution (Turkish) that reunites only the Orthodox minority in Turkey, the question of its legal status should be set by national law.

Nevertheless, the European Court accepted that the Patriarchate is a supranational ecclesiastical institution. In addition, in the first part of the text has been described its undeniably ecumenical character, referring to the 300 million Orthodox worldwide.

In its 2010 opinion, the European Commission for Democracy through Law (Venice Commission), the organ of the Council of Europe, composed of independent legal experts, stressed that the fundamental right to freedom of religion guaranteed by Article 9, in conjunction with Article 11 of the ECHR provides *inter alia*, the possibility for religious communities as such to obtain legal personality.⁵⁰ Regarding the right of the Orthodox Patriarchate to use the title “ecumenical”, the Commission considered that any interference with this right would constitute a violation of the autonomy of the Orthodox Church under Article 9 of the ECHR.

In conclusion, the Ecumenical Patriarchate is a subject of international law *sui generis* (limited). This is a supranational ecclesiastical institution that can act on behalf of the Orthodox to make effective the enjoyment of their rights to freedom of religion. If, for example, an Orthodox community in any European State meets the restrictions of his right to manifest his religion, the Ecumenical Patriarchate of Constantinople, which brings together the Orthodox world may apply to the European Court of Human Rights as a victim of the right to freedom of religion.

⁵⁰ Opinion on the legal status of religious communities in Turkey and the right of the Orthodox Patriarchate of Istanbul to use the title “ecumenical” adopted by the Venice Commission at its 82nd plenary session (Venice, 12-13 mars 2010), CDL-AD(2010)005-f, [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2010\)005-f](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2010)005-f).

AN OVERVIEW OF THE EUROPEAN COMMISSION'S PROGRESS REPORTS ON TURKEY 1998 TO 2015 REGARDING THE FREEDOM OF RELIGION AND BELIEF

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8.1 European Union Commission Progress Reports for Candidate Countries—Turkey

As the Progress Report of 2015 once again underlines; *Turkey has been linked to the EU by an Association Agreement since 1964 and a customs union was established in 1995. The European Council granted the status of candidate country to Turkey in December 1999 and accession negotiations were opened in October 2005.*

The EU Commission Progress Reports for Turkey first started being published in 1998. This paper attempts to look into these Reports from 1998 to 2014 and later on added 2015 report to analyse the EU's views on freedom of religion, belief and conscience. Although they are

⁵¹ I would like to express my gratitude to Professor Baskın Oran for his invaluable comments during the preparation of this article. Also thanks to all my friends; lawyer and community representatives who have always been extremely helpful.

separate titles in the reports, minority rights are also discussed in this paper under freedom of religion and belief whenever appropriate.

In an attempt to overview *positive changes* or *stalemate areas*, we see that since 1998 the progress reports go into more and more details every year on all issues; mainly, due to the developments in the accession status of the candidate country and also in parallel to this the accumulation of some positive changes in the country on areas of fundamental rights and freedoms.

8.2 The Sources of EU Perspectives on Freedom of Religion, Belief and Conscience

Freedom of religion, belief and conscience is an important part of the Copenhagen Political Criteria. EU Guidelines on freedom of religion or belief⁵² were adopted by the Foreign Affairs Council in June 2013 following broad consultations with specialised civil society organisations, as well as churches, religious associations or communities, and philosophical and non-confessional organisations. The EU's commitment to address freedom of thought, conscience, religion or belief (referred to as FoRB) was again highlighted in the new Action Plan for Human Rights and Democracy adopted in July 2015.⁵³

The FoRB rights targeted by EU Guidelines include:

- The right to have a religion, to hold a belief, or not to believe; the right to adopt, change or abandon one's religion or belief, of one's

⁵² Visit: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/oraff/137585.pdf

⁵³ Council Conclusions on the Action Plan on Human Rights and Democracy 2015 - 2019: July 2015 Action Plan Article 12 on Promoting and Protecting Freedom of Religion or Belief can be found here: http://eeas.europa.eu/human_rights/docs/action-plan-on-human-rights-and-democracy-2015-2019_en.pdf

own free will. This is an absolute right and may not be limited under any circumstances.

- The freedom to manifest one's religion or belief, individually or in community with others, in public or private, through worship, observance, practice and teaching without fear of intimidation, discrimination, violence or attack, that may be subject to limitations, but only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

In addition, the EU follows with attention the reports and recommendations of international human rights bodies, Council of Europe, UN, the rulings of the European Court of Human Rights (hereafter ECtHR), and discusses these issues regularly with the authorities in Turkey.

The EU also follows closely the reports and opinions by religious and belief communities themselves, expert civil society organisations and academics regarding problems and achievements in the area of the freedom of religion or belief.

At multilateral front, the EU addresses “freedom of religion or belief” both at the UN General Assembly (UNGA) and at the Human Rights Council (HRC). As discussed regularly and in dialogue with UNGA and HRC, the EU tries to effectively address acts of intolerance, discrimination and incitement to hatred in an attempt to “improve the human rights language from one year to another, while reflecting current trends.”⁵⁴

In EU Member States there is no single model of governance or administration for freedom of religion and belief, there are different modalities at work which are in line with EU Standards covered in

⁵⁴ http://eeas.europa.eu/delegations/un_geneva/press_corner/focus/events/2015/20150310_forb_en.htm

reference to the above mentioned international conventions, guidelines and jurisprudence. Hence, the EU always looks at concrete developments and Turkey's commitments on these issues.

In areas of lack of concrete *acquis*, the Commission Progress Reports refer to the OSCE, Council of Europe, Venice Commission, UN Bodies and UN Convention, the ECHR and the ECtHR's jurisprudence. For example, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) - Venice Commission Guidelines on Legal Personality of Religious or Belief Communities would be another recent source for the EU's perspective as well as the EU's own guidelines.

8.3 Framework for an Overall Assessment

In a standard, but continuously evolving format for all candidate countries, the EU Progress Reports look at legislative developments, administrative capacity and implementation/enforcement trends as well as the ability of the negotiating country to take on the obligations of membership.

Revisiting the developments or no-progress areas underlined in the EU reports, the issues referred to can be gathered under several headings. These can be listed as below:

- Legal changes (including secondary legislation such as regulations, circulars)
- Judicial decisions (National high courts and international i.e., ECtHR)
- Administrative decisions with concrete results
- Gestures and dialogues leading to legal or administrative changes
- Gestures, dialogues and positive moves made by the authorities that may have an impact on general mindset
- Implementation trends (assessment of adequacy and implementation of adopted legislation; domestic judicial

decisions, international judicial decisions, CoE, UN, OSCE recommendations, and so on).

The divisions of these groups are not clear-cut at all times, they are interlinked and at times interact with other developments. Freedom of religion or belief is a far reaching freedom and includes a wide range of rights; such as, in particular, the freedom of thought and expression, the freedom of assembly and association, cultural rights, property rights and the right to non-discrimination.

Furthermore, it is not possible to isolate the state of freedom of thought, religion and belief from general environment in which all rights and freedoms are exercised and level of democracy achieved in the reported country. For example; under freedom of association, by a change in Associations Law in Turkey in 2004 it has become possible for the Protestant Churches, Jehovah's Witnesses and other religious/faith groups to establish associations for the first time. Despite the legislative changes at times the establishment of such entities had been carried to the judiciary.

In the following section we will look at examples selected/quoted from the progress reports to reflect on the EU perspective. Since it is not possible to reflect on all examples of issues reported since 1998 the present paper is limited to main groups of FoRB issues.

8.4 General References to Minorities in the Progress Reports and Existing Idiosyncrasies

Progress reports of 1999 noted that: "As far as freedom of religion is concerned, there still exists a difference of treatment between those religious minorities recognised by the Lausanne Treaty and other religious minorities." This identification in itself represents the main challenge in Turkey, as indeed Lausanne Treaty in its text does not identify three minority groups, but insists in its wording on "all non-

Muslims.” In 2009, in a similar reference, the Council of Europe Commissioner⁵⁵ for Human Rights has noted that even though the Lausanne Peace Treaty did not provide for a definition of the term “non-Moslem minorities” in Turkey, this term has been interpreted and applied in a restrictive manner covering exclusively three specific minority groups, the “Armenian, Greek and Jewish.”

In subsequent progress reports, as the Lausanne Treaty definitions prevailed, there is additional references to the Framework Convention on Protection of National Minorities and the European Charter for Regional or Minority Languages, two of the major Council of Europe treaties of particular significance for the effective protection of minority rights in member states. Other Recommendations of international human rights mechanisms available to address issues concerning FoRB and minority rights are often used as reference point in the EU progress reports.

Despite all-time official perception and definition of religious minorities in Turkey, there are existing ambiguities which have become more visible and discussed upon due to more open public debate and progressing framework of rights and freedoms. Interpretation regarding “minority communities” differs from one state institution to another. While there are 167 foundations registered under the Directorate General of Foundations (DGF) as “non-Muslim minority foundations,” apart from the three communities “described to be Lausanne Treaty minorities” none of them (despite Lausanne Article 40)⁵⁶ have their own “community minority” schools and consequently face difficulties in teaching their religion and languages. The only religious minorities that have their own schools are Greeks, Armenians and Jews; with recently a

⁵⁵ <https://wcd.coe.int/ViewDoc.jsp?id=1511197>

⁵⁶ According to article 40 of the Lausanne Treaty, the non-Muslim minorities are free to execute their religious services and establish any schools and similar educational and training institutions. This freedom clearly covers establishment of schools which aim at educating clergy.

new re-opening for Syriacs. The DGF counts the following 167 foundations as non-Muslim minority foundations: 77 Greek (Rum) foundations, 54 Armenian foundations, 19 Jewish foundations, 10 Syriac foundations, 3 Chaldean foundations, 2 Bulgarian foundations, one Georgian and one Maronite foundation.

For example, despite the fact that Syriac/Süryani Church foundations are listed among minority foundations by the DGF, they had not been recognised as a religious minority group from the perspective of minority education system. Whereas before the Republican era there were several functioning Syriac schools in provinces of Adıyaman, Diyarbakır, Elazığ, Antakya and Mardin; the last functioning school teaching in Syriac language in Mardin province was closed down in 1928 depending on the legal pretext of Law No. 430 of Unity of Education dated March 1924.

On a positive note there had been some judicial progress and with the changing administrative rhetoric, public debate and demands by the Syriac community, as well as by other communities in areas of minorities there has been development in this area. For example, upon demands of Syriac community in Istanbul, further to a Court decision that became final in August 2013, Syriacs opened their own nursery school for the first time in 2014. In a similar fashion in other areas such as property rights, Syriac community foundations are treated as equals to the other “recognised Lausanne Treaty minorities” in the sense that they can apply for restitution of their properties as they are listed by the DGF according to 1936 Declaration.

As is also noted in 2014 Progress Report as an important development as regards cultural rights, the Mardin Artuklu University provided post-graduate education and established Syriac language and culture department as well as post-graduate courses in Kurdish and Arabic languages. The Syriac community demands for secondary schools and undergraduate studies in their language are increasing.

However, these developments no matter good in themselves, they still do not address the issue of right to religious and right to clergy training by the Syriac Christian community. Plus, there are other religious groups such as Arab Orthodox Christians, Ezidis who also had no schools of their own like the groups outside of Jewish, Armenian and Greek/Rum minority communities.

8.5 Clergy Training

One of the problematic areas highlighted in the progress reports concerns the clergy training. The Halki Holy Trinity Monastery School in Heybeliada which has been closed since 1971 has been among the frequently underlined issues for the right to clergy training. The Greek Orthodox community has repeatedly requested the re-opening of the Halki seminary and despite administrative statements issued and an official committee had been established to solve this issue there had been no progress.

Several other references in the reports explain that not only Greek community's clergy school, but none of the other non-Muslim religious communities' clergy training have been made possible. In this context several progress reports underline separately the problems of Syriac, Armenian and other communities. It was reported that the Armenian Patriarchate's proposal to open a special university department for the Armenian language and Armenian clergy has been pending for several years now. It was noted that the Syriac Orthodox community was only able to provide informal training outside official schools. Similar demands have been made vocal over the years by the Protestant and other Christian church communities who expressed wishes to benefit from freedom to train clergy in Turkey.

In addition to impediments to clergy training, EU progress reports noted existing differences in the treatment of non-Muslim communities

as recognised under the Lausanne Treaty and all other groups as regards access to work and residence permits for foreign clergy.

8.6 Education - Minority Schools - Compulsory Religion Courses

The legislative framework in Turkey does not allow public education system to provide for higher religious education for individual religious communities (also see under “clergy training”). As the *Law on Private Educational Institutions* and Article 24 of the Turkish Constitution stipulates that “Education and instruction in religion and ethics shall be conducted under state supervision and control.” Turkish Legislation states that all religious education should be provided by the state. All Muslim religious education is carried out by state institutions (Diyanet and the Ministry of National Education). This is the reasoning behind the closure of all the non-Muslim Clergy schools in 1971 (including the Halki Seminary, which was closed after tensions on the Cyprus issue).⁵⁷

⁵⁷ Upon the abolition on 12 January 1971 of certain articles of Law No 625 of 8 June 1965 on Private Educational Institutions, the Theology Department of the Halki School was closed by the “confidential” marked letter No 101787 of 12 August 1971 of İstanbul Directorate for National Education, valid as of 9 July 1971.

However, the Halki School was established in 1844 as a minority school, and not in accordance with Law No 625. When the school was closed, it was functioning not as a high school but as a minority school as stipulated in still-in-force article 25 of Law No 625 that made reference to articles 40 and 41 of the Lausanne Treaty.

According to article 40 of the Lausanne Treaty, the non-Muslim minorities are free to execute their religious services and establish any schools and similar educational and training institutions. This freedom clearly covers establishment of schools which aim at educating clergy.

Article 24 of the Constitution, which provides for military and religious education to be carried out by the State, and article 3 of the Higher Education Law are indicated as obstacles to re-opening the school. However, Turkish Law adopts the principle of supremacy of International Law over National Law, and affirms that provisions of international agreements shall apply if there is a contradiction with the implementation of national laws.

There have been some liberalisation regarding teacher recruitment of minority schools. Other issues such as dual headship of these schools remain pending. Despite continuing procedural difficulties and sustainability problems, in 2015 minority schools had budgetary state contributions through a circular issued in this area. The restriction on registration to a minority school with condition that they must be from the same minority seems to be alleviated partially through an administrative directive.

On a positive note, the Council of State (CoS) 8th Chamber ruled in June 2015 (there are similar other judgements issued by the CoS) that while the formal name of a controversial mandatory class in schools is “religious culture and moral knowledge,” the content of the class is actually general “religious education,” hence it is not lawful to make it compulsory for everyone regardless of the fact of whether the plaintiff was a member of any religion or an atheist. The ruling came in a case regarding the class who said the course did not comply with their religious and philosophical beliefs. The CoS decision is in line with the two ECtHR judgements (as mentioned also above) pending implementation regarding compulsory religious culture and ethics classes (i.e., the 2007 *Zengin v. TR* and February 2015 *Mansur et al* case judgements by the ECtHR).

8.7 Property Rights - Legislation and Implementation

Property rights entered into the progress reports only in 2001, and in the context of non-Muslim minority communities. The property security and rights of minorities have universally recognised political, economic, social and cultural dimensions; furthermore, property rights are directly related to sustenance of minority communities in terms of freedom of worship, freedom of religion or belief and clergy training.

With the positive changes over several years since 2002 of Foundations Law with regards the minority communities’ property

rights, the state policy which led to confiscations of immovable properties of minorities on various grounds and excuses based on an ominous decision given by the Court of Cassation in 1974⁵⁸ has been changed in the right direction. The renewed 2008 Law on Foundations as revised in 2011, is being implemented, and the Foundations Council approves the return of properties and payment of compensations.

As brought up in 2003 progress report and not repeated in every other report; the situation of all religious communities which are not able to establish foundations, including the Catholic communities was raised as a concern as they were not able to register properties. For example the Latin Catholic churches have still no legal personality nor a minority foundation status, making it impossible for them to register property and seek the return of, or compensation for, property confiscated in the past.

The Council of Europe Resolution 1625 (2008) on Gökçeada (Imbros) and Bozcaada (Tenedos) still needs to be fully implemented regarding property rights. Meanwhile, there have been positive developments on education front in Imbros over the past two years; a primary school (in 2013) and a secondary school (in 2015 after a break of education for 51 years) started functioning.

As a result of constructive approach and political commitment, important part of the ongoing dispute against the Mor Gabriel Syriac Orthodox monastery was translated into practice and the bulk of property of the Monastery was returned to the Monastery Foundation in October 2013. There are still some on-going court cases of the Monastery and the Syriac community both before the ECtHR and national courts. The Monastery which is over 1600 years old is among

⁵⁸ In the case of non-Muslim religious communities, only properties declared under the previous Law No 2762 of 1936 had been legally recognised, and all properties not listed in "the 1936 declaration" had been taken over by the Turkish State with a Court of Cassation General Civil Chambers decision of 1974.

the most holy places for the Syriac Orthodox community, hence the court cases threatening its landscape was equally threatening its spiritual integrity.

As is repeated in almost all the progress reports until now; the scope of the current legal framework needs to be broadened to cover foundations currently managed by the state (i.e., seized/mazbut foundations) and properties of foundations transferred/sold to third persons as well as further liberalisation of other community property issues related to legislation outside the foundations law. Another issue raised concerned for the difficulties confronted in the restitution procedures at the offices of title deeds and local registry offices (despite several positive implementation circulars issued by the government). As is repeated in almost all progress reports: the relevant 2010 recommendations of the Venice Commission on protecting property rights still stand in need of implementation.

8.8 Conscientious Objectors

Several ECtHR judgments regarding conscientious objectors refusing to serve in the military on religious or other grounds have yet to be implemented. No progress has been made on tackling the issue of repeated prosecution and conviction or towards introducing a civilian alternative to military service. Members of the Jehovah's Witness community in particular faced court cases for conscientious objection. On several occasions in previous years public statements on the right to object led to judicial investigations and proceedings on the grounds of discouraging the public from fulfilling military service. Legislative amendment is required to remedy this situation.

The situation of conscientious objectors and the ECtHR judgement implementation have not been included in the government's Human Rights Action Plan published in March 2014. Turkey is the only

member of the Council of Europe that does not recognise the right to conscientious objection for conscripts.

8.9 Worship Places, Legislation, Judicial Decisions and Implementation

The Law on Public Works was amended in 2003 so as to extend the freedoms of individuals with different faiths and beliefs regarding their places of worship. The 2003 progress report underlines that as permission for construction of places of worship is concerned, the legislative change followed by the issue of a circular, replacing the word “mosque” with the phrase “places of worship,” extends the meaning and scope of worship places other than mosques which will now be covered.

The procedure for construction or approval of a worship place is as follows: first step is the allocation of land/building by local municipality in line with zoning, and then authorisation is required by highest local authority (governorate or sub-province governorate). Despite the positive legislative change, in implementation, no municipality—with the two exceptions of Diyarbakır and Van municipalities—has officially authorized the places of worship of Protestants and Jehovah’s Witnesses. In other words, so far, municipalities “have not been able” to find a land approved for these groups within their provincial and/or district borders. Therefore these worship places continue their *de facto* existence, with at times on-going court cases against their churches. For example, cases against Kingdom Halls of Jehovah’s Witnesses are pending before the ECtHR.⁵⁹

As 2010 Progress Report notes, since their establishments the Protestant and other Churches (e.g., the Kurtuluş and Batıkent churches

⁵⁹ Jehovah’s witnesses had similar problems, as the courts found that their place of worship in Mersin and İzmir violated the zoning law. These cases have been taken to the ECtHR in 2010 and 2012.

in Ankara) have not been able to obtain permission for places of worship within the boundaries of their provinces (a few exceptions have been specified above). All in all, outside the Lausanne minorities “recognised in practice” by Turkey, only one Protestant Church Foundation in İstanbul has received full authorisation by all authorities including the governorate; all other churches permission procedures have been pending for years now.

In the 2001 EU Progress Report, it was stated that the government gave permission for the opening of another Syrian Orthodox community church in İstanbul. The high level government officials spoke publicly in favour of this second church. However from 2010 to the end of 2015 the Syriac Orthodox community has been waiting for completion of bureaucratic permissions for the second church in İstanbul which is a necessity with regards the size of the community there. The present procedures to be completed are with the original owner of the allocated land for the Syriac Church who is the Italian Catholic community in Turkey.

As for other religious or belief groups that *lay outside the administration’s minority religions regime*, Alevis are one of the most widespread faiths in Turkey. There is no public official data or censuses⁶⁰ based on religions/beliefs in Turkey, but the estimates of Alevis and other sources range from 15 to 25 million. Alevis entered into the EU progress reports only in 2000 and even then debates about Alevis were highly sensitive. But as a result in changing to the Associations Law and judicial decisions, Alevi organisations started flourishing as associations and foundations. Within the framework of the AK Party government’s “Alevi opening”, seven workshops were carried out between 2009 and 2010; albeit without any concrete outcomes for Alevis.

⁶⁰ Adherents of religious groups in Turkey can only be roughly estimated, including by religious leaders, as the last relevant census was conducted in 1965.

In recent years, both the ECtHR's and national high courts' judgements favourable to freedom of religion, belief and conscience of Alevis have neither been put into practice nor reflected in legislation yet.

During the writing of this paper the government pledged in its action plan⁶¹ that Alevi worship places would be given a legal status by February 2016. Furthermore the government submitted two action plans to the CoE Committee of Ministers Secretariat General in January 2016 regarding the implementation of three unimplemented ECtHR judgements; one on Alevi worship places (Cem Houses) the other two on compulsory religion courses named "Religion Culture and Ethics."

The May 2015 Court of Cassation of Turkey (CoC) 3rd Chamber judgement follows and endorses the ECtHR decision on a similar case which had been finalised in April 2015 regarding exemption from electricity costs granted to worship places. The ECtHR judgement concerned the dismissal of applicant's request at national level to enjoy such an exemption to be in breach of the prohibition of discrimination and freedom of religion (Articles 9 & 14 of the ECHR). The government high level officials have argued publicly in the past that the only worship place in Islam is the mosque.

The CoC decision clearly is a *breakthrough* on a reserved recognition of Cem houses as worship places from the part of the judiciary in Turkey, despite the mainstream religious authority (Religious Affairs Presidency = Diyanet) and the government's reticent & cautious stance on this issue so far. The *significance* of the judgement is that in a similar case the CoC had given a negative opinion previously in March 2009 which ended up at the ECtHR. Therefore this positive

⁶¹ On 10/12/2015, PM Davutoğlu outlined the government's action plan for 2016 and noted that the government would fulfil pre-election promises to Alevis—as also noted in the government programme after elections. Among the presented reforms was a pledge to grant legal status to traditional Alevi cultural centres and houses of worship by end February 2016.

change of the CoC interpretation is in line with the April 2015 ECtHR judgement in a parallel case in favour of Alevi demands.

In another case regarding the closure of the Çankaya Cem House Construction Association, the Court of Cassation Assembly of Civil Chambers decided on December 2014 that the request for construction of Cem House by the NGO is within the scope of freedom of association. This positive decision is expected to set jurisprudence.

8.10 Hate Speech, Hate Crimes, Threats

In general all progress reports in recent years have noted that anti-Semitism, hate speech, hate crimes and threats against Christian churches, synagogues, Jewish citizens, Alevi community and atheists continued. Investigations continuing on such attacks are often not effective.

The court case concerning the killing of three Protestants, Tilman Ekkehart Geske, Necati Aydın and Uğur Yüksel, in Malatya in April 2007 continues before the Malatya Heavy Penal Court No 1. Similarly the court case on the murder of Armenian journalist Hrant Dink in January 2007 is continuing. The dragging on of these and similar cases where Christian religious leaders and churches and synagogues have been attacked sends a message of impunity to perpetrators of such crimes.

8.11 Administrative Decisions Leading to Concrete Positive Consequences

The most important example that can be given in this evaluation category is the following: in 2012 the Izmir Jewish community, the Greek primary girls' school in Istanbul and the Armenian Tibrevank Lycée in Istanbul were granted foundation status by administrative decisions of the Foundations Council.

8.12 Gestures, Dialogues Leading to Legal or Administrative Changes or Carry a Spiritual Significance for Religious Minority Communities

The 2011 Progress report noted that as a result of such an administrative decision/gesture, the Ecumenical Patriarch Bartholomew celebrated in August, for the second time after almost nine decades, the Divine Liturgy of the Dormition of Theotokos at the Sumela monastery in the Black Sea province of Trabzon. In September 2011 it is noted that the second religious service since 1915 was held at the Armenian Holy Cross church on the Akhtamar island in lake Van. Even though the relevant community leaders have to take permission every year for such a religious service (*as these sites are now museums*), still these developments have had significant religious and spiritual repercussions.

The restoration of the Grand Synagogue of Edirne was completed and re-opened with a ceremony with participation of the Chief Rabbi, members of the Jewish community, other religious leaders, and high level officials on 26 March 2015. The Synagogue Foundation—a *mazbut* foundation administered by the DG Foundations—was restored by the DGF. The Grand Synagogue of Edirne is among the biggest synagogues in the world, and its restoration had a very positive impact at spiritual level.

On the other hand as the 2012 and 2013 Progress Reports underlined, non-Muslim religious communities reported frequent discrimination, administrative uncertainty and numerous obstacles to establishing or continuing to use their places of worship. Implementation of zoning legislation by local authorities was inconsistent, resulting in arbitrary refusals to issue construction and renovation permits for places of worship.

The DG for Foundations declared the Hagia Sophia Museum in Iznik in 2012, and in 2013, the Hagia Sophia Museum in Trabzon a mosque. These have had negative impacts not only on the Greek Orthodox

community but on the Christian communities in general as these churches functioning as museums had liturgical, spiritual and historical weights.

8.13 Legal Personality

Another major issue is the recognition of the legal personality of the religious minority Communities' institutions established in Turkey. This is a prerequisite for their effective protection of human rights, property rights, and for their preservation, sustenance and development.

Non-Muslim communities—as organised structures of religious groups—still face problems due to lack of legal personality. The Patriarchates and the Chief Rabbinate do not have legal personalities per se. The minority community churches and synagogues have charters dating back to Ottoman times or the 1936 Declaration instead of having contemporary foundation statutes which would allow them to function in line with the requirements of their present day demands and activities. As reported and repeated in many of the Progress Reports, in March 2010, the Venice Commission of the Council of Europe concluded that the fundamental right to freedom of religion, as protected by Article 9 read in conjunction with Article 11 of the ECHR, includes the possibility for religious communities to obtain legal personality. The Venice Commission also concluded that any interference with the right of the Ecumenical Patriarch to use the ecclesiastical title would constitute a violation of the autonomy of the Orthodox Church under Article 9 of the ECHR.

8.14 Conclusions

The examples given here are not exhaustive both with regards to the positive developments or no progress areas. They merely represent areas of concern and reflect some structural problems in the current legal and

administrative *non-system* regarding freedom of religion, belief and conscience.

As for the frequently asked public questions why the EU Progress Reports have not addressed the issue of headscarf or the general system of Diyanet (apart from discriminatory elements that are mentioned), this is solely due to the fact that the EU Member States do not have a single model or system regarding these areas.

As stated in all the European Commission Progress Reports for Turkey so far, even though the reforms adopted until now have led to some positive changes, they remain insufficient. The civil society organisations, foundation, associations, academics/researchers and minority groups have made tremendous contributions to this process by filing court cases when necessary, reporting and following up their rights and freedom of religion and belief. Sometimes the ECtHR judgments have been an important source of change in administration, judiciary and policies; other times mindset change and administration's role led to positive results. At times, the dialogue between the government, state institutions and representatives of minorities yielded results after a better understanding of issues.

At present there are major shortcomings in the area of FoRB in Turkey. The enforcement of rights stemming from the ECHR and the case law of the ECtHR would resolve many grievances. And this is already in an environment where the nature of religious rights under international law is debated with their achievements and failures.

There is an urgent need for the elimination of hate speech and crimes which still exist and need for a more conducive environment for freedom of religion, belief and conscience in Turkey.

The collage like system of administration of minorities, insufficient legislative framework and diversification of implementation trends on the ground are among impediments to the full exercise of freedom of religion and belief. This piecemeal approach in legislation, judiciary and

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administration and general mindset with room for improvement should be replaced with a comprehensive legal framework (including the Constitution) to resolve problem areas for all citizens of Turkey. By this way instead of “letting the inadequate legislation and their implementation drift,” an all covering legal framework and implementation on the basis of principles of non-discrimination, equality and cooperation in line with EU standards can be attained.

FREEDOM OF RELIGION OR BELIEF IN TURKEY—NEED FOR A PRINCIPLED APPROACH

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Freedom of religion or belief is a multi-faceted right that has implications for many areas of the lives of individuals and groups of believers. It's a human right that cannot be exercised in isolation, indeed, it crosses categories of human rights with aspects that are individual and aspects that can be realized effectively only in an organized community and aspects that intersect with the field of economic, social and cultural rights such as those related to religious or moral education. In the case of religious education there are many stakeholders, the state, the parents, the teachers, and often forgotten, the child. The normative demands created by the collective dimension of freedom of religion or belief (FoRB) often challenge the historically formed state-religion relations. Such complexities also contribute to the ineffective protection of this fundamental right at domestic settings.

The Norwegian Helsinki Committee Freedom of Belief Initiative in Turkey is a human rights project that aims to advance the protection of FoRB in Turkey for all. Our core activity is to systematically monitor the protection of this right and publish annual reports. We monitor legislative changes, court judgments and practice and make recommendations. I have some copies of our report with me and maybe

I can put them on the desk outside. All our work and reports, policy briefs are also available online.

Turkey's case involves many opportunities and challenges. Turkey has undertaken significant human rights obligations under international law and its constitution which protects freedom to worship.

In the recent years there have been important improvements in legislation and practice. For example the ban on the headscarf has been lifted (with the exception women working in the judiciary, police and military), important changes to the foundations and associations laws have been enacted that relaxed controls over associative rights of religious or belief communities, important steps have been taken for the return of property to the non-Muslim community foundations.

However still, drastic steps need to be taken and they should be implemented decisively in order for everybody's freedom of thought, religion or belief, to be protected in a way compatible with at least the minimum standards of international human rights law and the Turkish state can remove the barriers that prevent individuals and groups from practicing their freedom of belief fully and effectively.

I would like to ask five questions today? I think considering the answers to these questions can help us gain an idea of the overall opportunities and challenges in relation to FoRB in Turkey.

9.1 Does Turkey Protect the Right to Freedom of Religion or Belief with all of its Components?

Freedom of religion or belief includes the right to manifest one's religion or belief in worship, teaching, practice and observance. These practices might involve diverse acts depending on the doctrines of the beliefs. In accordance with its obligations derived from international law Turkey needs to guarantee all elements of the right to freedom of religion or belief. However some aspects of FoRB are not protected at

all and other aspects are not protected in a consistent and principled manner.

The Turkish Constitution protects the right to worship under Article 24. Its scope is rather limited mostly focusing on freedom to worship, not being compelled to worship in a particular way and it regulates the teaching of religion saying Religious Culture and Ethics courses will be compulsory in schools and religion will be taught under state supervision.

Article 10 of the Constitution guarantees that everyone is equal before the law without distinction of any kind, such as language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such consideration, and that all citizens shall be treated equally by the state organs and administrative bodies in all their proceedings.

According to Article 90 of the Constitution, international treaties, to which Turkey is a party, are superior to national law. If there is a “conflict between international agreements, duly put into effect, concerning fundamental rights and freedoms and the laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail.” This means that actually the provisions of the ECHR are automatically in force in Turkey. However Article 90 is rarely applied by the judiciary.

Despite these commitments, there is much room for improvements.

The right to conscientious objection to military service is not protected at all—not even in law. This is in spite of the the fact that there are numerous decisions of the European Court of Human Rights (ECtHR) against Turkey.

The right to manifest religion or belief in teaching is the most restricted right protected under the collective dimension of freedom of religion or belief. There is a continuing state monopoly in this sphere. Religious or belief groups are still not allowed to establish religious educational institutions. Halki has become the symbol of this problem

and we will hear about this from other contributors in more detail at this conference.

Even though there are legal protection mechanisms for a number of components of the right to freedom of belief, it is not possible to say that the protection is effectively implemented. In this regard, many rights such as the right not to believe, the right to change one's religion or belief, the right to establish places of worship and freely appoint religious leaders are not sufficiently protected in law or practice.

Many who do not believe in any religious faith and members of certain religious groups, for example non-Muslims as well as the Alevi, feel obliged to hide their beliefs and think that they will be targeted or that they would be discriminated against if they do not hide their religious or philosophical views or identity.

9.2 To what Extent is the Principle of Neutrality Observed?

Often the protection of freedom of religion or belief is discussed in the context of secularism that is one of the unchangeable features of the Republic. We know that there are various forms of secularisms and I find that the notions of neutrality and impartiality as well as principles of equality and non-discrimination offer us somewhat less controversial criteria developed by international human rights jurisprudence.

States are required to be neutral in all their transactions and practices regarding religion or belief. Decisions pertaining to the legitimacy of any form of belief or act of worship by the state are incompatible with the principle of neutrality. Determining which actions should be regarded as manifestation of belief in worship or practice, and which beliefs should be recognized as belief or religions are not within the competency of states. With respect to such issues, the reference point should be the believer's own individual doctrines and interpretations.

Decisions by the state, following the views of a certain religious authority, as to which beliefs or manifestations of them are religiously legitimate, are also incompatible with the principle of neutrality.

Despite this, public authorities have held that cem houses where Alevi worship are not considered as places of worship, the Baha'i faith and Jehovah's Witnesses are not religions, and conscientious objection to military service is not accepted as a manifestation of a religion or a philosophical belief. The fact that the point of view of the Directorate of Religious Affairs is decisive in all these decisions casts serious doubts on Turkey's compliance with the obligation to observe the principle of neutrality.

9.4 Thirdly, to what Extent is Religious Pluralism Ensured?

Pluralism is practiced by the state in a selective manner.

Freedom of thought, religion or belief protects deist, non-deist and atheist beliefs and the right not to profess any religion or belief. In addition, the notions of "belief" and "religion" need to be interpreted broadly.

Freedom of religion or belief is not limited to the so-called traditional religions the ones whose institutional structures are similar to the former. It is difficult to say that the transactions and practices of public officials reflect the pluralistic reality of Turkey.

When one considers the society, we see Sunni Muslims, Alevi, Shafi, followers of various tarikats, Christians—followers of various denominations, Jews, atheists, agnostics, and really those who don't yet know what they believe in. If we are to be realistic and principled our understanding of religious plurality must be informed from the field.

When we think about pluralism it is indispensable that we also consider autonomous existence of religious or belief communities. For singular existence is a prerequisite for plurality. This implies that

religious or belief communities should be able to have legal personality and be able to engage in actions to maintain and develop their identity. The impossibility of acquiring legal personality for religious or belief communities and impossibility to establish and maintain schools to raise teachers, leaders certainly cuts the life line of communities.

9.5 What about International Protection of FoRB?

Do the Judgments of the ECtHR and the opinions of the UN Human Rights Committee make a difference?

As a natural consequence of the aforementioned problems, the decisions of international human rights mechanisms on the right to freedom of religion or belief in Turkey are not implemented to any significant extent.

The ECtHR has judged on important FoRB matters such as the removal of the religion section from national identity cards, recognition of the right to conscientious objection (7 cases have been decided), introduction of changes to the mandatory Religious Culture and Knowledge of Ethics course in order for the course to reflect objectivity and pluralism or removal of its obligatory status are some of the necessary general measures that need to be taken in order to prevent similar violations.

More recently, the ECtHR has decided in two complaints brought by the members of the Alevi community. One, *Mansur Yalçın and Others v. Turkey*, again, relates to the compulsory Religious Culture and Ethics course where the Court found that there is a systematic problem in the Turkish education system to respect the rights of parents to raise their children in line with their religious or philosophical views.

The other one relates to the status of cem houses; In the case of *Cumhuriyetçi Eğitim ve Kültür Merkezi VAKfı v. Turkey*, the Court has found that Turkey violated Article 14 (prohibition of discrimination) together with Article 9 protecting the right to FoRB.

Our project monitors the enforcement of individual and general measures of these judgments and it is with regret that we find that Turkey has not taken necessary steps regarding decisions.

9.6 What is the Impact of Public Religious Services on FoRB?

The fifth question concerns the facilitating role of the state with respect to religion. As you might be familiar the Turkish arrangement of state-religion relations includes the provision of religious services as public services. These are provided through the Presidency of Religious Affairs to which I will refer as the “Diyanet”. The Diyanet is funded through the general state budget and provides Islamic services, including but not limited to the management of religious personnel and administration of places of worship, mosques and mesjids. The salaries of the religious personnel is paid from the budget of the Diyanet.

Religious education is another area; optional religion lessons have been introduced in all schools apart from the schools that operate under the Lausanne. These lessons include Basic Religious Knowledge Islam, the Life of the Prophet Mohammed and the Quran all addressing the needs of demands of an important segment of the Muslim population.

However, such resources or facilitation have not been made available to other religious or belief communities. Those who do not benefit from these services contribute to their realization through their taxes and at the same time must raise funds for the provision of similar services to their communities.

Here is a problem concerning equality and neutrality of the state. A case brought by the Alevi community is pending before the Grand Chamber. The case of Doğan and Others v. Turkey the rejection of the request made by a number of Turkish nationals belonging to the Alevi faith for provision of a religious public service which, they maintain, has been granted to date exclusively to the majority of citizens, who

subscribe to the Sunni understanding of Islam. The judgment will have implications for all religious communities in Turkey.

Discussions and governmental initiatives regarding the new constitution also indicate that the special constitutional status of the Directorate of Religious Affairs will remain in place.

However, as the state continues to claim responsibility for religious services as a service provider and facilitator, due to the existing problems in the implementation of the principle of neutrality and the obligation to ensure pluralism, this is likely to lead to the deepening of discrimination.

In conclusion, it is of great importance for Turkey to formulate a policy to efficiently protect all aspects of the right to freedom of belief, as guaranteed under international human rights standards, in a way that ensures neutrality and pluralism.

A law on freedom of religion or belief, prepared with this approach and with the collaboration of all the stakeholders, would be an important start in protecting and advancing the rights of all individuals and groups in Turkey, regardless of their beliefs.

SESSION III

Part Two: European Perspectives
on the Implementation of International Legal
Standards of Freedom of Religion or Belief:
Religious Responses

RELIGIOUS MINORITIES AND RELIGIOUS FREEDOM IN TURKEY—AN OVERVIEW

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The ruling Justice and Development Party (AKP), a social conservative Islamic political party, has been shaping Turkish domestic politics since its remarkable success in the 2002 parliamentary election. In light of the traditional political cleavages between secularism and the influence of religion in state affairs, it would behoove us to consider the significant relations between a political party and religion in the Turkish Republic. Against this backdrop, the AKP is of particular importance due to its party manifesto markedly highlighting religious freedom as a crucial dimension of its human rights and democratic approach. Consequently, the following statement is found in the AKP manifesto: ‘Our party considers religion as one of the most important institutions of humanity [...]’. Secular critics have raised a number of concerns over the AKP’s religious orientation. Most notably, AKP leadership has been accused of undermining the principle of Turkish secularism by politically strengthening Islamic religious convictions in politics and society. Since the party’s ideological framework emphasizes religious belief as a societal value, the question thus arises as to the ways and extent through which religious minorities are affected by this approach.

10.1 Background

The enforcement of minorities' rights to religion in Turkey is problematic for a number of reasons. The relationship between the Sunni Turkish majority and ethno-religious minorities is highly complex and fraught with conflicts due to their histories within the country. While the Jewish and Christian communities had enjoyed protection and certain rights during the Ottoman era, their status changed with the collapse of Ottoman Empire, the many years of war that followed and the subsequent genesis of Turkish nationalism. The transitional years altered the social cohesion of Turkish society, which had hitherto coexisted peacefully. The Greek and Armenian national awakening in the wake of the collapse of the Ottoman Empire has been interpreted by some scholars to be a historical betrayal of the Christian communities against their Ottoman brothers, also known as Sèvres Syndrome. Thus, the term minority has a negative connotation in Turkey, especially among ultra-nationalist circles.

Although some religious minorities like the Jewish, Greek Orthodox and Armenian communities continue to enjoy some degree of legal protection that was previously available to them in the Ottoman era, these and other minorities are still facing discrimination in modern-day Turkey. Small communities like Syrian Orthodox Christians, Protestants, Catholics or heterodox Muslims like the Alevi community do not have legal recognition. The legal status of minorities is a crucial issue in ensuring religious freedom and its political enforcement in Turkey.

Thus, the European Union (EU) is closely monitoring recent developments in Turkey. Religious as well as other minority rights are reflected in the Commission's progress report because these factors are part of the EU's *acquis communautaire* and must be met before Turkey's accession to the EU.

There are about 100,000 Christians currently in Turkey and they represent approximately 0.2% of the Turkish population. The vast majority of Christians are Armenians living in Istanbul. In addition, there are 25,000 Jews in Turkey. The Alevis are the largest religious minority, making up almost 15% of the population.

10.2 Problems faced by Religious Minorities

Religious minorities in Turkey face complex problems. Substantive legal claims contrary to the principle of secularism enshrined in the Turkish Constitution have been repeatedly made. For example, Turkish politicians declared that the right to freedom of association is restricted to Islamic communities, thereby justifying their limitations on religious minorities' establishment of theological seminaries. As an upshot, Christians are unable to train any priests in Turkey. In contrast, the training of imams is guaranteed by the state under the Presidency of Religious Affairs or *Diyanet İşleri Başkanlığı* (*Diyanet*). As the *Diyanet* portrays itself as the representative of all Turkish Muslims, it has drawn harsh criticisms from the Alevi community that is demanding religious legal equality as well as recognition of the *Cemevi* as a ritual place of assembly.

Discriminatory practices against Turkey's religious minorities in recent decades have resulted in various difficulties for these groups. On the national level, there is no substantive law encouraging toleration of religious minorities. Furthermore, these religious minorities face additional problems at different administrative levels. The Greek Orthodox community has been stymied by administrative chicanes so much so that they lack the wherewithal to combat confiscations of properties without compensation, restrictions in the movement of capital (which is owned by Greek Orthodox foundations) and face administrative hurdles in attempts to reclaim their immobile assets.

Christians, Jews and Alevis were also exposed to animosity and prejudices to the point where they were negatively depicted by the media, school books and public statements of politicians. While these groups suffer from violence and hate crimes from time to time, these are isolated incidents rather than the norm.

10.3 Progress under the Ruling AK Party Government

In 2004, the Turkish government reorganised the committee on minorities in response to several criticisms on the strict restriction of minority communities vis-à-vis issues related to state security. The abolishment of the old committee led to the establishment of the Minority Issues Assessment Board. This new institutional framework now focuses on the daily problems faced by non-Muslim groups in Turkey, and discusses solutions and coping strategies.

The AKP's willingness to enhance the direct dialogue between the minority communities and the government is another important stepping stone in acknowledging minority rights. President Recep Tayyip Erdoğan personally indicated his readiness for further dialogue. Openness towards Christians has been expressed through symbolic acts as well. The joint visit of the Greek Orthodox Ecumenical Patriarch of Constantinople Bartholomew I and representatives of smaller Christian communities to Prince Islands is a positive step forward within a rapprochement process.

The increasing dialogue between the state and the minority groups have resulted in the adoption of a platform for mutual understanding, which later led to some relevant practical outcomes. One such positive development is the revision of Turkish school books. Additionally, the European Commission welcomed the involvement of minority non-Muslim representatives within Turkey's Constitutional Reconciliation Commission. There are presently four Christian parliamentarians in the AKP government, the most notable of whom is the Armenian Christian

Markar Esayan. Even though the number of Christians in Turkey is small, this minority group holds a disproportionately large share of seats in the Grand National Assembly of Turkey.

The property restitution of patrimonial possessions—based on foundation law and adopted in 2008—is still being carried out by the Turkish government. Since 2008, a total of 116 stakeholders (or eligible claimants) from the different minorities have applied for the return of 1,560 properties. By April 2014, a total of 318 assets were returned to stakeholders and compensation was offered for another 21 properties. Of all the applications for restitution submitted to the Turkish authorities, 30% have had successful outcomes and 70% have yet to be granted.

The EU is closely following the dispute over the landed properties of the Syriac Orthodox monastery, Dayro d-Mor Gabriel. While implementing measures of the “democratisation package” in 2014, the government returned twelve parcels of immovable property to the Foundation of the Monastery of Mor Gabriel. Further reclaims are still in the legal examination process.

In 2015 the government granted permission for the construction of a new church for the first time in many years, albeit on formerly confiscated land.

In 2016, the government announced further measures addressing minority concerns, particularly in the compensation of expropriation. As part of these measures, regular church services in the Armenian Cathedral of the Holy Cross on Akdamar Island in Lake Van will be resumed. Numerous ceremonies were also held after the successful restoration of minority properties in 2010. Additionally, the government announced further reforms in favour of the Alevi community.

10.4 Criticisms and Remaining Problems

Although some rights of the religious minorities have been acknowledged, other crucial demands are still unrecognised. The

outstanding approval for the reopening of the Greek Orthodox Halki seminary on the island of Halki is one such demand remaining in limbo. Despite the Turkish government's compromise of returning some hectares of the island's forests to the Ecumenical Patriarchate in 2013, Turkish authorities continue to use "reciprocal measurements" as part of strategic negotiations to enforce religious rights for Muslims in Greece. In so doing, Turkey is consequently bargaining against the rights of her own citizens.

Up to now, the central claims of the Alevi community remain unresolved. In spite of AKP promises to improve the "Alevi question" through the Alevi Açılım (Alevi opening) in an official government directive, no concrete achievements for legal equality has been implemented so far.

Alevi concerns are also insufficiently addressed in the reforms undertaken. For instance, the government's offer to rename Nevşehir University to Hacı Bektaş Veli University as part of the "democratisation package" is disappointing at best. This inadequate response to Alevi concerns coupled with Turkey's tradition of secularism and Alevi anxiety over the strong Sunni Muslim identity within the AKP have exacerbated the uneasy relations between the government and the Alevi minority. The government was also criticised by Alevis and other minorities for naming the Yavuz Sultan Selim Bridge in honour of Ottoman Sultan Selim I. It is an unfortunate choice of name because Sultan Selim I "the Grim" is infamous for his severe persecution of Alevis in the Ottoman Empire. The loss of many Turkish Alevi lives in police violence during anti-government protests in recent years has put a further strain on this minority group's relations with the government.

Contrary to EU demands, a national specialised body to combat racism, xenophobia, intolerance and anti-Semitism in Turkey has yet to be fully implemented. Sustainable concepts and strategies against hate

crimes as well as discriminatory discourses in the public, political and media spheres are lacking in effectiveness, despite tightening criminal law and sanctions.

Public statements with discriminatory undercurrents uttered by different politicians can likewise fuel the resentment of the religious minorities. The use of conspiracy theories alongside anti-minority narratives can still be observed in debates, especially those touching on foreign policy issues. Such language is capable of provoking ethno-religious hatred and hate crimes.

10.5 Appraisal / Assessment

Unlike previous governments' nationalist stance, the AKP government's dialogues and adoption of different measures demonstrate its more conciliatory approach towards religious minorities. Present-day Turkish society is more openly accepting of religious minorities than previous decades. However, the political reality for religious minorities in the country remains uncertain. Minority groups continue to be subjected to ups and downs, depending on changing political conditions. In the event that the AKP becomes dominated by a greater nationalist tendency, minority groups in Turkey will be negatively impacted.

Administrative and legal reforms have been undertaken mainly, but not exclusively, in accordance with EU legislation. Nevertheless, the current legal framework in Turkey is ill-equipped to guarantee legal equality in religious rights. The inadequacy of the legal framework is additionally compounded by the ambivalent efforts in streamlining legal matters vis-à-vis ethno-religious affairs. Although more has to be done to ensure the legal equality of ethno-religious minorities in Turkey, the EU recognises and appreciates the progress made thus far. Some representatives of minority groups, on the other hand, are more reluctant to praise the AKP's initiatives. They criticise the Turkish government's reforms as inconsistent and irrelevant to the daily lives of minorities in

the country. Turkish authorities should address these criticisms by actively evaluating the discrepancies between the minority groups' daily experiences, legal requirements and reforms undertaken, before improving the legal reforms for ethno-religious minority rights. Once these legal reforms are refined and ready for implementation, the government should ensure that they are effectively enforced.

**ACADEMIC SOLUTIONS
TO THE CHURCHES AND RELIGIOUS
COMMUNITIES: WHAT THEY SHOULD DO
IN TERMS OF EXERCISING FREEDOM OF
RELIGION OR BELIEF?**

Prof. Emre Öktem, Galatasaray, University Law School

In 2011, a project of comprehensive constitutional amendment project was launched in order to be debated not only in the Parliament, but also by various actors of the civil society. A group of non-Muslim lawyers prepared some draft articles on religious minorities' rights, which was supposed to be submitted to the Parliamentary Commission in charge of orchestrating all the efforts and initiatives. I was invited, as a Muslim, to join the non-Muslim lawyers' group during the preparatory work.⁶² The Draft Articles were finalized on February 2012 and it was decided that they would be submitted by the senior non-Muslim religious leader, the Ecumenical Patriarch His All-Holiness Bartholomeos. A few days before the meeting, that would take place on 20 February at the Parliament, I received a call from the patriarchal deacon Joachim who asked me whether I would agree to accompany His All Holiness to Ankara as a legal adviser before the Parliamentary

⁶² The second Muslim lawyer being Mehmet Karlı, my colleague in the international law department of Galatasaray University.

Commission. I asked him whether I deserved such an honor. He asked me the necessary information for booking the flight ticket.

The delegation was composed of His All Holiness, Father Joachim, Laki Vingas and myself. We were warmly welcomed in the Parliament, at the center of the capital, entirely covered by a thick snow, with a temperature below minus 10 degrees Celsius.

I have been working on religious minorities since over 20 years, published a number of articles and read a good deal. But I believe that, in terms of understanding the religious minorities' problematic in Turkey, this meeting that took nearly one hour, was more instructive than all the sources I consulted. The exchange of opinions and comments that took place between the MP's, who represented all the parties present at the Parliament, and His All Holiness, shed a lot of light over the deep causes of the problems faced by the religious communities.

The draft articles entitled "Views and Suggestions by Religious Community Representatives for a New Constitution" started with declarations on the issues of equality, pluralism favoring of freedoms, fundamental rights such as the freedom of religion and conscience, and the right to education. They included concrete article proposals for the preamble of the constitution, on the fundamental objectives and duties of the state, on the principle of equality, with specific provisions on right to enter into public services and the distribution of public funds as well as specific legislative measures on the crimes of hatred. The document provided details provisions on the freedom of religion and conscience, emphasizing the right to benefit equally from public funds allocated to religious services, the right to the recognition of the legal personality of the religious communities, the right to religious education with a specific reference to the training of clergy. In the light of the legal experience since decades, a specific provision was proposed on the right to property by religious communities and institutions. The draft articles

invited the parliament to modify the educational system in order to advocate religious pluralism and respect in all stages of the education. A religiously neutral definition of citizenship was proposed. In order to provide a better protection for religious rights by international law, the draft articles included a provision providing for the supremacy of the international law of human rights over the domestic law and a specific constitutional reference to the treaty of Lausanne as the founding act of the Republic, which includes a specific chapter on religious minorities, whose provisions have supra-legal status.

The reactions given by the MPs, after a brief reading of the document, betrayed a perfect unawareness of religious minorities' problems but showed also a certain empathy and a sincere desire of understanding. I remember that even a representative of the extreme right wing party kindly asked constructive questions for a better comprehension of the document.

A few MPs were familiar with the property problems of the minority foundations, since the new law on foundations had been adopted in 2008 and a recent decree-law dated of august 2011 included some provisions about the compensation mechanism of the property that had been confiscated. The MPs asked questions about our insistence for the penalization of hate crimes, and they were shocked when they knew that hate speeches against religious minorities had become an alarming problem. I tried to explain that the recognition of the legal personality of the religious communities could no more be considered an act of courtesy—as it was commonly perceived—but was a legal duty imposed by the European Court of Human Rights.

But the most significant debate took place on the right to education, especially the training of the clergy. It was inevitable that the crucial point would be the reopening of the Halki Seminary. An MP stated that it was inconceivable that the Seminary should have a kind of extraterritorial status, completely disconnected from the Turkish

educational system, as it was claimed by the Ecumenical Patriarchate. His All Holiness declared that he never claimed any extraterritoriality or isolation with regard to the Turkish educational system. When he studied at the Seminary in the 1950's, there were a Turkish vice-principal, lectures on Turkish literature and the school was depending on the Turkish Ministry of Education. He did not want a more advantageous status when the Seminary would be open. All the Patriarchate claims, is simply full independence on academic, theological and doctrinal matters, and the possibility to invite students and teaching staff from abroad. There was again a shock wave among the MP's: Many had believed that the Patriarchate had militated for a hermetically closed seminary, hostile to any contact with the Turkish authorities. They suggested that they were not, in principle, opposed to a solution as proposed by his All Holiness. It was clear that they previous misunderstanding was due not only to the lack of information, but to deliberate misinformation, widespread in political circles as well as the overall society.

The meeting ended up in an extremely optimistic climate and the MPs saluted His All Holiness with all the respect due to his dignity. Several MPs insisted on taking us to lunch. The head of the Commission promised that our proposals would be duly taken into consideration in the drafting process of the constitutional amendment. When we left the Parliament, I was in such a state of euphoria that I expected, not only, that most our proposals would be reflected in the new constitution, but also, that the Halki Seminary would open for the next academic year.

We are in 2015: There are no specific articles in the constitution regarding the religious minoritied and the Seminary is still closed. Religious communities are still facing considerable legal problems and there is still much to be done in order to help them to better exercise their freedom of religion or belief.

The fact that our Draft Articles did not produce any concrete result is simply due to the fact that the amendment project ended up with a failure. The Halki Seminary is being maintained closed as a trump card for the opening of a mosque in Athenes and the settlement of problems faced by the Turkish Minority in Western Thrace, in blatant violation of the international law of human rights, which rejects any kind of reciprocity. However, would there be some lessons to be drawn from the Ankara meeting?

The first observation points out to the overwhelming necessity to engage in a genuine and permanent dialogue with the public authorities in order to provide accurate and reliable information, and to avoid informational “pollution”. In fact, it is relatively difficult to have access to the real fact and to study the legal background, whereas it is extremely easy to invent false information and to circulate it. To give a striking example: Nowadays, the treaty of Lausanne is accessible in various languages through internet. In previous times, the text of the treaty could be found in the Official Gazette (in Ottoman script!) as well as in some publications in 1930s. Until the publication of the whole treaty and its proceedings in 1973, studying the Lausanne Treaty was a matter of hardship, which gave rise to incredible urban legend on its provisions. According to those legends, this treaty would enumerate three religious minorities (Greek, Armenian and Jewish) and exclude the Syriacs, it would prohibit all minority members to acquire real estate, it would specify which religious leaders could wear their official dresses in the street, the treaty would expire in 2023 and Turkey’s boundaries would be reestablished by international powers and so on.

The emergence of Internet has certainly facilitated the access to the original documents, but it also increased the amount of informational pollution. Whereas many people believe that non-Muslim minorities constitute the wealthiest portion of the society and exploit the Turkish economy, some others would not be aware that there are religious

minorities in Turkey. In fact, some non-Muslim communities are reduced to residual numbers and live in particular areas of the downtown in Istanbul; a city that has become an urban monster with nearly 18 million inhabitants. Since the sociological surveys have established that many Istanbulis have never seen the sea, there is no surprise that they have never met any non-Muslim, and even if they did so, they did not know it.

The second lesson is that public authorities are not necessarily hostile to religious minorities. They are certainly not immune to disinformation, as has been shown at the Ankara meeting and may have prejudices do be dealt with, but prejudices against them should be avoided too. Many of them are eager to understand and solve the problems if properly explained. They should be convinced that the solution of the minority problems is not a matter of lofty intellectual fantasy, but a necessity imposed by law, especially the international law of human rights. If the problems are not solved in Istanbul and/or Ankara, they will be settled at Strasbourg, to the detriment of Turkey's prestige. It should also be emphasized that improving religious minorities' rights is extremely beneficial for Turkey in terms of "realpolitik". Any positive step taken in that sense has immensely contributed to Turkey's credit and reputation. In the era of the so-called "neo-ottomanism" in Turkish foreign policy⁶³, public authorities should remember that the Ottoman "grandeur" is not merely a matter of military power, but also a skillful orchestration of pluralism and diversity, in justice and harmony.

In fact, foreign policy has always played a crucial role in the fate of the religious minorities in Turkey since the Ottoman period and in the last decades, the prospective accession to the EU was the main reason

⁶³ See E. Öktem "Turkey: Successor or Continuing State of the Ottoman Empire?" *Leiden Journal of International Law*, 24, 2011, p. 562.

behind the improvement of religious minorities' rights.⁶⁴ Nowadays, it would be realistic to recognize that the accession process is going through a difficult period, to use a euphemism. However, concrete measures, such as the Decree-Law of August 2011, have been taken in the same line as the golden age of the EU-Turkey flirting in the early 2000's. Despite the persistence of the perennial problems such as the closure of the Halki Seminary, there is, no substantial deviation in Turkish policy vis-à-vis the religious minorities. How to explain this continuity despite the stagnation in the relations with the EU? The latent reason seems to be the neo-ottoman vision. In fact, many non-Muslim communities that live in former ottoman territories have close connections and denominational ties with those living in current Turkey and their religious centers. Maintaining religious minorities and honoring their respective leaderships give a subtle message to the Middle-East.

A continuous dialogue is necessary not only on political level with the public authorities but also with the common people in the daily life. A very helpful measure would be to insert into the textbooks of high-schools some information, which would include not only basic knowledge about various denominations of Christianity and Judaism but also some simple instruction on how to behave with non-Muslims: Greeting the Easter, the Christmas, respecting particular religious sensibilities, avoiding a certain discourse etc. Mutual visits between the students of minority schools and those of "majority" schools would also be very inspiring. The idea is to create an awareness in Turkish society that, first of all, about the existence of non-Muslim communities, and to convince them that those people are facing serious problems and their claims are well-founded.

⁶⁴ See F. Türkmen & E. Öktem, "Foreign Policy as a Determinant in The Fate of Turkey's Non-Muslim Minorities: A Dialectical Analysis" *Turkish Studies*, 2013,, pp. 1-16.

As for the academic studies, I do not believe that there has been sufficient work about our common history. What I mean by “common history” is the coexistence and the mutual influence of different Christian denominations, of Judaism and of Turkish Islam in the territory of current Turkey since the Middle Ages. Much has been said about how similar we are, but I am afraid that that most of this discourse is superficial and does not go beyond culinary and musical traditions. Some excellent pioneer studies have been performed about the interaction of different communities. They promise not only other fascinating topics and areas to study, but also much challenge with regard to official historiographies. In the light of what has been and will be discovered, are we ready to question our historical knowledge, that has been shaped by our respective nationalistic ideologies? The more we shall try to understand the other, the more we will have to face our own identity.

Abusing my position, I took to opportunity to urge all authorities (the Orthodox Church, the Municipality of Istanbul, universities and art academies...) to take drastic measures in order to protect the innumerable tombstones that pave the court of the Balikli Church. They are covered with epigraphies in Karamanlidika, a Turkish dialect written in Greek script, witnessing the richness and complexity of our common history. If these tombstones are not immediately removed or covered by a protective transparent layer, they will disappear in a few years, corroded by the shoes of the visitors of this enchanting place.

As a lawyer, I cannot fail to devote the last part of my presentation to legal remedies. Resorting to the courts remains the most effective means to protect religious communities’ freedom of religion or belief. If the Turkish jurisdictions are reluctant to protect such freedoms, the reason may be twofold, as in the case of political/administrative authorities: They may be biased and influenced by common prejudices, or simply unfamiliar with problems peculiar to religious communities. Those

communities and their lawyers should not be discouraged by the scarcity of the existing case-law on minority issues. And, if we cannot wash our dirty clothes on the shores of the Golden Horn, we can always go to the Rhine. Lodging an individual application before European Court of Human Rights at Strasbourg was considered, once upon a time, as an act of high treason, a kind of complicity with occult forces plotting against Turkey. Today, it's daily practice for many law firms. In most cases involving religious minorities' rights, the ECHR has ruled in their favor, except for a few cases lost for technicalities. Besides, Turkey has recently recognized the right to present an individual request before the Constitutional Court, as a prerequisite before the ECHR. This new procedure was expected to be a time-consuming and useless formality which would delay Strasbourg's ruling. It proved to be curiously efficient and helpful, which is much promising for the settlement of religious communities' problems.

PREVENTING THE REINTERPRETATION OF THE RIGHT TO FREEDOM OF RELIGION

*José Luis Bazán, Legal Adviser at COMECE Secretariat*⁶⁵

12.1 Diluting the Law of Human Rights

Human rights language is dramatically abandoning precise international law references and adopting more vague and imprecise parameters which are then considered as “standards.” Expressions like “European standards of human rights” or “international standards of freedom of religion” have become overused and even, abused. The nature of such “standards” and the impact of that substitution deserve attention and analysis. We argue that this change is misleading, paves the way for an arbitrary use of human rights, including the right to religious freedom, and may have a negative impact on the consistency of human rights.

Any standard refers to a particular level or parameter which draws a clear line between acceptable and unacceptable or undesirable behaviours. While authority creates law, anyone (public or private; individual or institution) can create a “standard” based on his

⁶⁴ The author is Legal Adviser at COMECE Secretariat. His views in this contribution are only personal opinions and do not necessary represent the position of COMECE Secretariat.

understanding of a particular issue. For example, a meeting of scholars can set up a “standard” concerning the limits of free speech in accordance to *sharia law* that might eventually be considered by others to the extent that such experts represent an authoritative source of knowledge for some, but it cannot be “imposed” as a legal criterion in any instance. Such a group of experts do not have the power to impose its decision, which corresponds in Politics to State authorities (in its own field of jurisdiction) and eventually to supranational or international institutions in so far as they are empowered with legally attributed competences.⁶⁶

European and international institutions use “standards” language as a sort of box mixing legally binding norms and political texts, international treaties and non-binding resolutions of bodies with no legal competence, statements and laws approved by parliaments. Law, by its very nature, creates legally binding rights and duties, and has a vocation of being technically precise. But this vocation is being blurred by the lack of rigor of groups and institutions reinterpreting Human Rights Law. Interpretive route has been chosen for such a Law’s mutation beyond State competences, democratic legitimacy and mandates of international organisations. In this regard, ideological activism is a privileged instrument to amend human rights’ language that mutates man’s self-understanding of his nature and position in his relation with others and with the political authority.

The “standards approach” to human rights is clear in the *EU Guidelines on the promotion and protection of freedom of religion or belief*,⁶⁷ where legal and political texts are invoked and presented at the same level in a text of mixed nature. While this tool could be a valid

⁶⁵ For example, the United Nations Security Council, under Chapter VII of the Charter of the United Nations or the European Union when it comes to competences attributed by the Treaties

⁶⁶ Council of the European Union, Foreign Affairs Council meeting, Luxembourg, 24 June 2013: bit.ly/1mG4gnz

instrument for the External Action Service of the EU in order to more effectively manage the situations in third countries where this right and freedom is not respected, it should not be automatically identified with the international legal obligations that bind third countries. Moreover, certain legal obligations are not clearly identified in these *EU Guidelines*, such as the full right of parents to educate their children according to their religious beliefs, or the collective and institutional dimensions of the right to religious freedom, which is systematically labelled as an “individual right”.⁶⁸ On the other hand, the EU has taken an unbalanced approach privileging a “despotic” interpretation of the equality principle over a fair relation between the right to religious freedom and the principle of non-discrimination. In fact, the *EU Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons* express in its first paragraph that “...religious values cannot be invoked to justify any form of discrimination, including discrimination against LGBTI persons.”⁶⁹ While there is no general dispute about the need to avoid discrimination against any person, the understanding on what is discriminatory or not is the real debate and a matter of interpretation. In this respect, the re-interpretation of International Law of Human Rights is particularly intense through judicial activism in international courts as the European Court of Human Rights⁷⁰ and the Court of Justice of the EU.⁷¹

⁶⁷ *II a 2. Freedom of religion or belief is an individual right which can be exercised in community with others.*

⁶⁸ Council of the European Union, Foreign Affairs Council meeting, Luxembourg, 24 June 2013: bit.ly/1L3PYZh

⁶⁹ Dragoljub Popovic, “Prevailing of judicial activism over self-restraint in the jurisprudence of the European Court of Human Rights”, *Creighton Law Review* vol. 42, pp. 361-396.

⁷⁰ Henri de Waele and Anna van der Vleuten, “Judicial Activism in the European Court of Justice – The Case of LGBT Rights”, *Michigan State Journal of International Law* vol. 19:3, pp. 640-666.

12.2 Judicial Activism and “Soft-Law”

Judicial activism seeks an outcome beyond the law in force, normally through abstracts considerations about justice, not supported by binding law. As formulated by Mahoney, it exists “*when judges [modify] the law from what it previously was or was stated to be in the existing legal sources, often thereby substituting their decision for that of elected, representative bodies.*”⁷² This area is fertile to play with “soft-law” and argumentations that are not supported by a reasonable interpretation of legislative texts. International Law is largely conventional, born from the consent of the States, without which no obligation is generated. Courts have mandates and limits in their areas of competence, and are obliged to give a reasonable interpretation based on the law in force, and not on political resolutions or invoking pretended social evolutions. Former Spanish judge at the European Court of Human Rights, Javier Borrego, has been outspoken in denouncing the figure of the “judge-professor”, where scholars who become international judges use their judicial position to arbitrary impose academic views through judgments with no legal base.⁷³ His expression was coined in an article commenting the arbitrary decision adopted by the European Court of Human Rights (Second Section) in the Lautsi case,⁷⁴ which was based on an incorrect interpretation of the relevant provisions of the European Convention of Human Rights. Fortunately, the Grand Chamber of the Court re-established the credibility of the Court by applying the law in force,⁷⁵ giving Article 2 of Protocol I (right

⁷¹ Mahoney, Paul, “Judicial Activism and Judicial Self-Restraint in the European Court of Human Rights: Two Sides of the Same Coin”, *Human Rights Law Journal*, vol. 11, 1990, p. 58.

⁷² Javier Borrego, “Estrasburgo y el crucifijo en las escuelas”, *Diario El Mundo*, 17.12.2009. See: bit.ly/1UeeNnt

⁷³ Lautsi and Others v. Italy, judgment of 3 November 2009.

⁷⁴ Judgment of 18 March 2011.

to education), Article 9 (right to freedom of thought, conscience and religion), and Article 14 (non-discrimination) an harmonious balance.

The so-called ‘soft-law’ is frequently invoked by courts and public authorities in human rights issues as a source of legitimation to hold these views with no legal ground. The very term ‘soft-law’ is confusing and mostly misleading, because in any case we don’t speak here of ‘law’ but of politics or even ideology, promoted by small groups whose representation is more than doubtful and lacks democratic legitimacy. Soft-law uses normative legal language (rights, obligations, requirements, and so on) without being a normative legal instrument.

Law has a distinctive essential dimension of obligatory behaviour, not present in any “soft-law” text. Abuse of “soft-law” creates the impression that there is a kind of “soft legal obligation”, which is simply non-existent. When “soft-law” is used to unduly modify the so-called “hard-law” (which is the only form of binding law), it easily becomes an instrument of arbitrary decisions, whose legitimacy should be put into question. Proliferation of “soft-law” texts that contradict basic International Human Rights treaties isn’t an acceptable practice, as a matter of principle. When that practice seeks mutating the understanding of Human Rights Law based on the nature of human being, through a new kind of “opinion juris” expressed in political texts, it is simply to be rejected.⁷⁶

As Berelli suggests, “soft-law” “*normally allows for the more active participation of non-State actors*”⁷⁷ and, therefore, introduces potential changes to the State protagonist role in assuming legal obligations in international sphere. The importance of a large number of activist NGOs in the process of re-shaping human rights language is crucial. Even

⁷⁵ Tadeusz Gruchalla-Wesierski, “A Framework for Understanding ‘Soft Law’”, *McGill Law Journal/Revue de droit de McGill* vol. 30, 1984, pp. 38- 88.

⁷⁶ Mauro Barelli, “The Role of Soft Law in the International Legal System: The Case of the United Nations Declaration on the Rights of Indigenous Peoples,” *International and Comparative Law Quarterly*, Vol. 58, October 2009, p. 965.

though some NGOs have large social support, their social representativeness is disputable. Representation can be expressed in terms of membership or direct support to a particular organisation. While classical organisations such as political parties, associations or trade unions respect the principle of representation, NGOs represent in many cases more positions or ideas than persons or groups. In this respect, their legitimacy to speak on behalf of society as a whole or a large part of a particular society should be addressed case by case. This is particularly clear in democratic societies where elections represent the major source of political and social legitimacy, or where free membership to any organisation reveals the real support it holds.⁷⁸

12.3 Re-wording the Rights

One of the most important developments in the human rights language is the worrying tendency to reframe the scope of certain human rights throughout their re-wording. Words refer to realities, and their interconnection is bi-univocal: words have impact on reality and vice versa. We have seen how expressions such as: “sexual orientation”, “gender”, “gender identity” or “reproductive health and rights” are multiplied in international texts with no legal basis in major international human rights treaties. But they are changing the legal landscape. The “new global language” as highlighted by Peeters, “*tends to exclude words specifically belonging to the Judeo-Christian*

⁷⁷ In this regard, it is questionable, for example, the weight and protagonist role given to the so-called “humanist” groups and movements in the EU, that pretend to represent a quarter and a half of the population in Europe with no religious belief (European Humanist Federation: bit.ly/1WyqfZH). Beyond the accuracy of statistics, self-granted representativeness by this movement is not based in declared membership of non-believers but on a disputable presumption that ideas they hold represent persons that never had any link or contact with that movement.

tradition,”⁷⁹ also in human rights issues, and to re-shape the social fabric in accordance to a new postmodern deconstructive paradigm.

Major international and European human rights law texts name the “right of thought, conscience and religion”, such as Article 18 UDHR, Article 18.1 ICCPR, Article 14.1 of the 1989 UN Convention on the Rights of the Child, Article 12.1 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Article 9 ECHR and Article 10 of the European Charter of Fundamental Rights (ECFR). This right includes the freedom to have, adopt or change one’s religion or belief and to manifest his religion or belief. In all these provisions the word “belief” appears as part of the description of the content of the “right of thought, conscience and religion”, but not in the name of the right itself. Other international human rights texts use the same label to name the “right of thought, conscience and religion”, or use the single term “religion” (and not “belief”), such as: the 1966 International Convention on the Elimination of All Forms of Racial Discrimination, the 1962 Convention against Discrimination in Education or the 1954 Convention relating to the Status of Refugees.⁸⁰ In few cases we found other pattern: e.g., in the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, but the title is, again, descriptive, and the right is not named in it.

Something similar can be said about provisions of international texts prohibiting any discrimination based on “religion” or others in which only the term “religion” (or “religious”) appears such as: prohibition of advocacy of religious hatred (Article 20.2 ICCPR); non-discrimination of children on the ground of religion in his protection by family, society and State (Article 24.2 ICCPR); non-discrimination and guarantee to all

⁷⁸ Marguerite A. Peeters, “The new global ethic: challenges for the Church,” *Dialogue Dynamics*, 2006, online: bit.ly/1LAR8Xa

⁷⁹ Article 4 on freedom of refugees to practise their religion and freedom as regards the religious education of their children.

persons an equal and effective protection against discrimination on any ground such as . . . religion (see: Articles 2, 4.1 and 26 ICCPR; Article 22 International Covenant on Economic, Social and Cultural Rights, ICESCR; Article 2 UDHR; Article 14 ECHR; Article 1.1 Protocol XII to the ECHR); protection of religious minorities (Article 27 ICCPR); religious and moral education of children (Article 13.3 ICESCR); right to marry without limitation by religion (Article 16.1 UDHR).

The reason to explain this fact is that the right to freedom of religion includes the right to have or not a religion, and the right to change one's religion. Therefore, atheists, agnostic, freethinkers, non-believers, etc., are also protected under the right to freedom of religion. Article 18 ICCPR "*protects theistic, non-theistic and atheistic beliefs,*" stated the Human Rights Committee in its General Comment nr 22:⁸¹ all of them, "*and those who do not profess any religion or belief are equally protected.*"⁸² The 1948 UN Convention on the prevention and punishment of the crime of genocide never uses the word "belief", identifying potential victims as "national, ethnical, racial or religious groups" (Article II). But this does not mean that "non-religious" groups can't be qualified as potential victims of genocide under the "religious groups" chapter, because, "religion" in human rights context also refers and protects non-religious groups and their members.

Nevertheless, a tendency to rename the right has grown up, using the expression "right to freedom of religion *or belief*" in European and international texts. It was already used in the Declaration on Principles Guiding Relations between Participating States (Final Act of Helsinki, 1975) whose chapter VII is entitled "*Respect for human rights and fundamental freedoms, including the freedom of thought, conscience,*

⁸⁰ Human Rights Committee, General Comment 22, Article 18 (Forty-eighth session, 1993), paragraph 2.

⁸¹ *Rapporteur's Digest on Freedom of Religion or Belief, Excerpts of the Reports from 1986 to 2011 by the Special Rapporteur on Freedom of Religion or Belief Arranged by Topics of the Framework for Communications*, paragraph 47.

religion or belief". The UN Human Rights Committee, in its General Comment 22 on Article 18 (1993 session) was actively "complementing" the word "religion" with "belief" in each single part of its text, since its very beginning till the end of it. The work "belief" appears the same exact number of times as "religion": 39. Article 21.1 ECFR prohibits any discrimination based on, among other grounds, "religion or belief". The UN Special Rapporteur is named "on freedom of religion or belief", after its change in 2000 by the Commission on Human Rights.⁸³ The EU is actively promoting this new terminology not only in its EU Guidelines on freedom of religion or belief (2013) but in all legal political texts, in particular concerning non-discrimination grounded on religion or belief.⁸⁴

The expression "religion or belief" is unnecessary and creates confusion for lack of linguistic consistency in the robust human rights language in international law. This new wording seems to be ideologically oriented to reinforce the position of non-believers and give them more visibility. This affects the terms of the religious freedom debate, and creates a new autonomous category, which did not legally

⁸² *UN Office of the High Commissioner, Special Rapporteur on freedom of religion or belief: <http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx>*

⁸³ Article 9.1.c) ii) of Directive 2010/13/EU of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive): "*audiovisual commercial communications shall not include or promote any discrimination based on ... religion or belief*"; Article 2.1 b) iv) of Regulation (EU) No 235/2014 of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide: "*Union assistance shall focus on...the fight against ... discrimination based on any ground, including ...religion or belief*"; Article 39.3 of Regulation (EC) No 810/2009 of 13 July 2009 establishing a Community Code on Visas (Visa Code): "*consular staff shall not discriminate against persons on grounds of ... religion or belief*"; Article 6.2 of Regulation (EC) No 562/2006 of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code): "*While carrying out border checks, border guards shall not discriminate against persons on grounds of ...religion or belief*".

exist as such before. The “right to freedom of thought, conscience and religion” is not an ideological formulation and aims at protecting anyone, believer or not. The new wording tends to displace “religion” from its natural position and relocate it as a subtype or subcategory of “belief”: as there are “non-religious beliefs”, there are also “religious beliefs”. But religion is more than just “beliefs” as an individual acceptance of a statement, supposition, or opinion as true, or the conviction of the truth or existence of something or someone.⁸⁵ Religion embraces communities and institutions; rituals and actions. Religion is not only about “us”, human beings, but also about the transcendent reality, and in particular, about God. On the other hand, religious landscape in Europe is exceptional in a world context: the world is predominantly religious and the trends show that religiosity will grow up in next decades. We should refrain from imposing a European understanding on “religion or *belief*” to third countries and societies where religion is mainstreaming.

In the debate on the right to freedom of religion there is also a trend to speak about “freedom of religion” or “religious freedom”. These two expressions may be useful when arguing or explaining that human right, but the “freedom” dimension has to go hand in hand with the “right” dimension. The one to religious freedom is a fundamental right: it implies legal (and not only moral or political) obligations—that is why the expression “right to freedom of religion” is more appropriate and precise. The word “right” implies not only an obligation to abstain from certain behaviours by state and non-state actors that could unduly interfere in the exercise of that cornerstone right, but it could entail also positive obligations, a duty to do something: an omission might entail a violation of the right to freedom of religion.⁸⁶ As Murdoch underlines

⁸⁴ Dictionary Collins, “belief”, on line: <http://www.collinsdictionary.com>

⁸⁵ Jean-François Akandji-Kombe, *Positive obligations under the European Convention on Human Rights. A guide to the implementation of the European*

when referring to the European Court of Human Rights' case-law on the right to freedom of religion: "*The fundamental principle driving the case-law on positive obligations is the duty on the part of state authorities to ensure that religious liberty exists within a spirit of pluralism and mutual tolerance.*"⁸⁷ Positive obligations may arise in certain instances when persons and communities find undue obstacles to manifest their religion, for example, though teaching.

12.4 Dimensions of the Right to Freedom of Religion

The Grand Chamber of the European Court of Justice in its judgment of 5 September 2012, in a case about Pakistani Muslim Ahmadiyya asylum seekers in Germany,⁸⁸ interpreting the term "religion" in Article 10.1. b) of the Qualification Directive⁸⁹ expressed that it "*encompasses all its constituent components, be they public or private, collective or individual.*"⁹⁰ In that particular context (religious persecution as ground for granting asylum), the Court even included the subjective dimension of religion ("religious identity") as a relevant factor: "*The subjective circumstance that the observance of a certain religious practice in public, which is subject to the restrictions at issue, is of particular importance to the person concerned in order to preserve his religious identity is a relevant factor to be taken into account in determining the level of risk to which the applicant will be exposed in his country of*

Convention on Human Rights, Human Rights Handbooks n. 7, Council of Europe, Strasbourg, 2007. See: bit.ly/1Oo2NZc

⁸⁶ Jim Murdoch, *Protecting the right to freedom of thought, conscience and religion under the European Convention on Human Rights*, Council of Europe, Strasbourg, 2012, p. 28.

⁸⁷ Bundesrepublik Deutschland v. Y (C-71/11), Z (C-99/11), judgment of 5 September 2012.

⁸⁸ Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

⁸⁹ Paragraph 63.

origin on account of his religion, even if the observance of such a religious practice does not constitute a core element of faith for the religious community concerned."⁹¹

Concerning the public dimension of religion, the Parliamentary Assembly of the Council of Europe (PACE) has recognized that "*the principle of secularity does not require the elimination of religion from social space; quite the contrary, this principle, properly interpreted and implemented, protects the possibility for different beliefs, religious and non-religious, to coexist peacefully while all parties respect shared principles and values.*"⁹² Distinction between State and religion does not mean state monopoly of public space. Public space is primarily societal, belongs to the society and its individuals, families and associations within the appropriate legal framework, and democracy is denied when state expels religion from public sphere.

The case-law of the European Court of Human Rights is rich in its analysis of all these dimensions (individual/collective; private/public) of the right to freedom of religion. We will also mention a particular dimension (institutional), which is not always explicitly recognized. The legal recognition of personality of Churches and religious communities is a specific case and a matter of concern in some countries where law does not entitles Churches as such to act legally (for example, hiring people, or being purchaser or seller in a contract; to have a bank account), but through individual persons or other recognised entities. The European Court of Human Rights noted "*that in the absence of recognition the applicant Church may neither organise itself nor operate. Lacking legal personality, it cannot bring legal proceedings to protect its assets, which are indispensable for worship, while its members cannot meet to carry on religious activities without*

⁹⁰ Paragraph 70.

⁹¹ PACE Resolution 2076 (2015) Freedom of religion and living together in a democratic society, 30 September 2015, paragraph 6.

contravening the legislation on religious denominations.”⁹³ This was the case of the Catholic Church in Greece until recent times, and she still suffers such discrimination in Turkey and other countries.

The argument that “freedom of religion” protects individuals and not religions in order to avoid proper recognition of the collective and institutional dimensions of that right is weak and not rooted in international law. Protecting collective and institutional dimensions of Churches and religious communities is not the same than protecting “religions.” This is not related to the position of the individual in the religious community and the rights of individuals inside Churches, but to the necessary protection of the social and collective dimension of free individuals’ actions, as it happens in other non-religious fields, such as charities, foundations or associations. The creation of legal entities (profit or non-profit) is considered part of individuals’ freedom, and that understanding must not be denied when the motivation to create them (or looking for its recognition) is religious.

12.5 Rights, Language and Social Environment

Freedom of religion is not merely a “minorities’ right.” When defending the right to freedom of religion (thought and conscience), the right and the freedom belong to anyone, individually or in community. It is a freedom for all, not only for those who, under the minority approach, could be in danger because of its minority position towards the mainstreaming society. This reflection is particularly applicable to Western countries, in particular to certain European societies, which are either culturally, or socially Christians. The presumption that in historically (or even, culturally) Christian societies there is no risk of violation of religious freedom for Christians is unfounded and not based

⁹² Metropolitan Church of Bessarabia and Others v. Moldova, judgement of 13 December 2001, paragraph 129.

on experience. On the contrary, radical laicism and cultural relativism in historically Christian societies create hostile environments to religion, but in particular to Christian values. Christian symbols are challenged and even expelled from public space; Christian traditions and celebrations are denied; free worship in Churches disrupted, sometimes with violence; the image of Christians and Christianity in mass media is negative and stereotypical; defamation and insult to Christians is encouraged beyond legitimate critics; Christian workers suffer discrimination and harassment in their jobs, and sometimes are fired when not performing tasks against their beliefs; Christian welfare institutions (hospitals, homes for elderly, etc.), schools and universities are subject of pressure to introduce practices and teachings which are clearly against their *ethos*; Christian monuments, cemeteries and shrines are vandalised.

The Parliamentary Assembly of the Council of Europe draw its attention to the issue intolerance and discrimination in Europe with a special focus on Christians in its resolution 2036 (2015) of 29 January 2015. Its paragraph 1 is very eloquent: *“Intolerance and discrimination on grounds of religion or belief affect minority religious groups in Europe, but also people belonging to majority religious groups. Numerous acts of hostility, violence and vandalism have been recorded in recent years against Christians and their places of worship, but these acts are often overlooked by the national authorities.”* Not less explicit is its paragraph 6.7 that encourages *“the media to avoid negative stereotyping and communicating prejudices against Christians, in the same way as for any other.”*

Other international organisations such as OSCE/ODIHR have made explicit this phenomenon of intolerance, violence and discrimination against Christians.⁹⁴ The OSCE Parliamentary Assembly Resolution on

⁹³ OSCE Ministerial Meeting, Decision No. 3/13 Freedom of thought, conscience, religion or belief, 6 December 2013. See: <http://www.osce.org/mc/109339?download=true>

Combating Intolerance and Discrimination against Christians in the OSCE area (Belgrade, July 2011): emphasizes the “*right of Christians to participate fully in public life be ensured*” (paragraph 12); “*recommends, in view of discrimination and intolerance against Christians, that legislation in the participating States*” (paragraph 13); “*urges the Government of Turkey to allow the reopening of the Ecumenical Patriarchate’s Theological School of Halki*” (paragraph 14); and “*encourages the media not to spread prejudices against Christians and to combat negative stereotyping.*”

Many of these acts of discrimination, hostility, intolerance, negative stereotyping and even violence against Christians take place in some EU Member States. The Observatory on Intolerance and Discrimination against Christians, an NGO based in Vienna, publish annual reports compiling these incidents.⁹⁵ Surprisingly, the European Union Agency for Fundamental Rights (FRA), in spite of its dedicated efforts to counter and tackle Anti-Semitism and hatred against Muslims, has up until now kept silent on hatred against Christians and anti-Christian actions and speech. No single comment or publication by FRA reveals this factual problem, and when representatives are questioned publicly about this omission, answers are not convincing (e.g., lack of complaints before FRA). It is urgent and fair that FRA changes its position and also addresses discrimination and intolerance faced by Christians in many corners of the EU. As stated in COMECE Secretariat contribution to the consultation on “Tolerance and respect: preventing and combating anti-Semitic and anti-Muslim hatred in Europe”: “*FRA can play a useful role, by upholding its responsibility to facilitate evidence-based EU*

⁹⁴ Its 2014 Report deals with two issues: a) Europe: The problem of intolerant equality law; and b) 2014 Cases of intolerance and discrimination against Christians. See: bit.ly/1WBD7hO. Its 2013 Report contains 241 individually documented cases of intolerance against Christians in Europe, as well as what individuals and institutions say about it. See: bit.ly/1RVH69B. Its 2012 Report focused on legal restrictions affecting Christians and cases of intolerance and discrimination against Christians. See: bit.ly/1Tuar17

*policies, while providing reliable data to the EU institutions. A broader and more comprehensive approach by the Agency in tackling topics connected with religion would also be advisable (e.g., all forms of intolerance and discrimination on grounds of religion and of incitement to hatred based on religious grounds should receive attention)."*⁹⁶

"Hate speech" (and even "hate crime")⁹⁷ against Christians is a fact, and should not be minimised. Article 20.2 ICCPR obliges States Parties to prohibit by law "*any advocacy of (...) religious hatred that constitutes incitement to discrimination, hostility or violence.*"⁹⁸ Council Framework Decision 2008/913/JHA requires Member States to ensure criminal law protection against the most severe forms of hate speech and hate crime.⁹⁹ While freedom of expression admits expressions that "*shock, offend or disturb the state or any sector of population within the limits of Article 10 of the ECHR,*"¹⁰⁰ both Churches and religious communities and associations (as institutions) and their individual members should enjoy the same protection as any non-religious entity and its members (e.g., a cultural, political or social association or foundation). Special treatment is not claimed by religious organisations,

⁹⁵ A contribution by the Secretariat of COMECE to the consultation on "*Tolerance and respect: preventing and combating anti-Semitic and anti-Muslim hatred in Europe,*" Annual Colloquium on Fundamental Rights, 1-2 October 2015. See: bit.ly/1iJCLaW

⁹⁶ These mainstreaming expressions do not have consensual definitions. Some reasonable reservations have been expressed about how "hate speech" is being used to restrict freedom of expression, in particular of religious nature. The case of Pentecostal Swedish pastor Ake Green is just an example. See: Gavan Titley, "Hate Speech Online: considerations for the proposed campaign", in: AA. VV., *Starting Points for Combating Hate Speech Online. Three studies about online hate speech and ways to address it*, Council of Europe, 2012, p. 9.

⁹⁷ See also Article 13.3.d) of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

⁹⁸ European Parliament, *The European legal framework on hate speech, blasphemy and its interaction with freedom of expression*, Directorate-General for Internal Policies, Brussels, 2015, p. 34: bit.ly/1ODPt8t

⁹⁹ See: European Court of Human Rights, case *Handyside v. The United Kingdom*, judgment of 7 December 1976, paragraph 56.

but receiving less protection than other social entities is not acceptable.¹⁰¹ As rightly said by the European Court of Human Rights, “*those who exercise the freedom of expression undertake duties and responsibilities. Amongst them—in the context of religious opinions and beliefs—may legitimately be included an obligation to ensure the peaceful enjoyment of the rights guaranteed under Article 9 to the holders of such beliefs including a duty to avoid as far as possible an expression that is, in regard to objects of veneration, gratuitously offensive to others and profane.*”¹⁰²

¹⁰⁰ For example, in the case *Klein v. Slovakia* (European Court of Human Rights, judgment of 31 October 2006), the Court held that criticism of the applicant against Catholics and their Archbishop (“*I do not understand at all why decent Catholics do not leave the organisation which is headed by such an ogre...*”) was a legitimate exercise of freedom of expression, while less generous approach is adopted in *Vejdeland and Others v. Sweden*, judgment of 9 February 2012 (critics to homosexual behaviours).

¹⁰¹ *Klein v. Slovakia*, judgment of 31 October 2006, paragraph 47.

GREECE’S NEW LAW ON THE LEGAL PERSONALITY OF CHURCHES AND RELIGIOUS COMMUNITIES IN THE LIGHT OF INTERNATIONAL AND EUROPEAN STANDARDS FOR RELIGIOUS FREEDOM

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13.1 A Minority Church View¹⁰³

The main questions of my presentation are: What are minimum legal standards for churches and religious communities, particularly minority ones, with respect to European and international legal standards of Freedom of Religion or Belief? How can religious communities be recognized by the State as religious entities with a legal personality and not merely as topical churches/gatherings, e.g., personalities under private law (on the same grounds as football clubs)—as was the case previously in Greece?

13.1.1 The Right to be Constituted as a Legal Entity/Personality

We often think of religious freedom—one of the oldest of the fundamental and human rights—as an individual right rooted in

¹⁰² Speech, given at the conference “Churches Together for Human Rights. Advancing Freedom of Religion, or: Belief for All,” Theological Seminary, Halki, Turkey, 6 to 9 September 2015.

individual conscience, but in fact, religion virtually always has a communal dimension.

Religious communities must have the right to be constituted as a legal personality. This might be either under a status created specifically for communities of faith and conviction or under a status of a more general nature, which is also available for other groups and organizations.

We may observe that international law, as it stands, fits perfectly with the American experiment: no established or recognized church, no prohibition of free exercise of religious belief, no religious institutions appearing as a partner at law.

European states deal in a variety of ways with religious institutions, according to their respective constitution and in their respective state-church laws or religious legal systems. There are established churches (e.g., the Anglican Church), legally recognized churches (as in Germany or Austria) and countries in which religion is considered as a private activity such as France and the Netherlands.¹⁰⁴

European history shows that uniformity is not a solution and that regional and national specificities in the field of church-state relationship continue to prevail.

The constitution of the German Weimar Republic for example (WRV 1919, art. 137), was first to adopt a complete set of norms on the institutional autonomy of religious associations (*Religionsgemeinschaften*). Both main churches, the Catholic and the Protestant Church, are treated equally, and together with organized religious and philosophical associations, which fulfill the conditions stipulated by the statutes in terms of number and permanence, decide freely their inner structure and social goals as long as they are religious or “weltanschaulich” and can enjoy the status of “Körperschaft des

¹⁰³ A. Filos: The Legal Personality of Religious Communities in European States, in: *Journal of Public Law*, vol. 4, 2012, (in Greek).

öffentlichen Rechts.” Church and state are separate and religious associations regulate and administer their affairs autonomously.¹⁰⁵ No public authority may interfere in the designation of religious ministers.

13.2 What are General Standards?

International human rights conventions do not say that the state parties have an active and positive duty to support the religious life of citizens, to receive for example financial support to religious activities from the state (e.g., Norway).

On the other hand, protection of the rights of religious communities and autonomy in structuring their religious affairs lies at the very core of protecting religious freedom.

It is for this reason that the key international instruments dealing with religious freedom have consistently ensured that freedom of thought, conscience and religion includes “freedom either alone or in community with others and in public or private, to manifest one’s religion or belief in teaching, practice, worship and observance.”¹⁰⁶ Different religious communities structure their affairs in very different ways.

The European Convention on Human Rights (ECHR)¹⁰⁷ constitutes an agreed basic standard in fundamental and human rights concerning freedom of religion throughout Europe. The Convention protects, in Art. 9, the right to freedom of religion, as well as, in Art. 11, the right of

¹⁰⁴ Axel von Campenhausen: Church Autonomy in Germany, in: Gerhard Robbers (ed.), *Church Autonomy*, Peter Lang Verlag, 2001, pp. 77-85, especially p.83, where he says: “State and church with their own functions are to be brought in a relationship of a careful balance maintain their independence.”

¹⁰⁵ The International Covenant on Civil and Political Rights (ICCPR), adopted by the UN in 1966, affirms this in its Art. 18, 1.

¹⁰⁶ Council of Europe Member States are contractual parties to this Convention, 4th May 1950, plus, in the meantime, a number of additional protocols.

association that concern churches and religious communities as corporations in the manifestation of their religion.

Article 9

(1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

(2) Freedom to manifest one's religion or belief shall be subject only to such limitations as are prescribed by law and necessary in a democratic society in 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.

Article 11

(1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others (...)

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety (...)

Article 17

Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

The Convention forbids religious discrimination according to Art. 14¹⁰⁸ in conjunction with Art. 9 ECHR. It sets the framework under which the interventions of states are allowed, independently of the model for church-state relations chosen by each country.

International treaty provisions, such as CCBP, Art. 27, may play a role in questions concerning religious minorities. As far as structural developments are concerned, the constitutional provisions, notably on freedom of religion and equal rights, play a pronounced role which at last equals treaty guarantees: Equal rights, equal treatment and non-discrimination. In the case of an official state church, the state must ensure that adherents of other confessions or religions can constitute themselves as religious communities with juridical personae with sufficient organizational facility to be able to implement public religious practice for and with their beliefs. It is not allowed for states to interfere in the internal affairs of churches and religious communities.

The main criterion for the recognition of religious communities as legal persons is, in general, the number of followers and the time of their existence as a church or religious community.

In cases constituted as churches or religious associations, certain criteria for free public exercise apply.¹⁰⁹ The religious community must be entitled to establish for itself, autonomously and without interference by the state, their structure, i.e., their decision-making bodies, responsibilities and procedures. In the registration procedures as well as in procedures to withdraw the status of legal entity/personality, other communities of faith and conviction (including majority communities) may not have any say, other than an involvement limited exclusively to

¹⁰⁷ “The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion (...).”

¹⁰⁸ P. Krömer: *The Fundamental Right to Freedom of Religion*, in: Elizabeta Kitanovic (ed.): *European Churches Engaging in Human Rights*, published by the Church and Society Commission of the Conference of European Churches, pp. 30-31.

the protection of their own name. These procedures are to be conducted in a fair manner. The state must act as a neutral facilitator for the practice of different religions, faiths and convictions. Communities of faith and convictions, however, may not be obliged to constitute themselves as a legal entity/personality. If a community of faith and conviction decides not to apply for a status as a legal entity, its members can claim the rights to exercise one's religion as individuals only, according to Art. 9 of the EHRC.

The status of a legal personality may be refused to a community of faith and conviction only on the basis of EHRC Art. 9 §2, in conjunction with EHRC Art. 17, and by presenting reasons restricted to those named in EHRC Art. 9, §2, and in EHRC Art. 17. Its constitution as a legal personality must be a process of registration, not a procedure of decision by the respective government authorities or national courts.

After its establishment as a legal entity/personality, its dissolution or the withdrawal of the legal status may only be possible upon a decision of the responsible state authority or court and in accordance with the reasons in Art. 9 §2 and Art. 17 EHRC.

Decisions regarding the refusal of a legal status as well as decisions to withdraw the legal status (dissolution) must always be subject to examination by independent courts, especially constitutional courts.

In general, modern legal doctrine acknowledges that fundamental rights guarantees oblige public authorities to create an atmosphere in which these rights can be freely exercised. In order to do so, public authorities have the responsibility to refrain from actions which may infringe on these rights. This applies to freedom of religion as well.

The qualifications of the legal structures and statues of religious organizations are left to national legislation, where history and specific juridical traditions play a major role.

A non-religious organization cannot be regarded as a "church". A group whose activities are of primarily economic character cannot

obtain a religious qualification and registration as church (e.g., Scientology Church in Germany).

13.2.1 The Example of Greece in the Light of European Standards and International Human Rights Conventions

Greece, as a member state of the European Union, could not any longer ignore or deny the right for legal status to its churches and religious communities.

It can be assumed that the Lisbon Treaty has played an important role in the recent developments in Greece, also regarding this issue. It makes an important distinction between churches and religious communities on the one hand and NGOs on the other. In Greece, it could not any longer be ignored that only the Orthodox Church had a legal status although many other religious communities existed, however their religious status under national law was denied.

Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, and as they result from the constitutional traditions common to the member states, constitute general principles of European Union Law.

Art. I-52 Lisbon Treaty

(1) The Union respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States.

(2) The Union equally respects the status under national law of philosophical and non-confessional organizations.

(3) Recognizing their identity and their specific contribution, the Union maintains an open, transparent and regular dialogue with these churches and organizations.

In the current Greek legislation the major framework that puts into effect the principle of equal treatment on the basis of religion or belief may be

found in constitutional, all-inclusive (universal) provisions enshrining fundamental civil and social rights, in particular:

Article 13 of the Greek Constitution acknowledges the right to religious freedom to all persons and known religions:

- (1) Freedom of religious conscience is inviolable. The enjoyment of civil rights and liberties does not depend on the individual's religious beliefs.*
- (2) All known religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law...*
- (3) The ministers of all known religions shall be subject to the same supervision by the State and to the same obligations toward it as those of the prevailing religion... ” It has been an established opinion in Greek doctrine and case law that article 13.1 of the Constitution enshrines the civil right of religious freedom, subject only to constitutional restraints. Religious freedom consists of two basic principles: freedom of religious conscience and freedom of expression of religious beliefs and practice.*

Also the right of freedom of expression is granted by Article 14:

Every person may express and propagate his thoughts orally, in writing and through the press in compliance with the laws of the State (...)

And, according to Article 5:

All persons shall have the right to develop freely their personality and to participate in the social, economic and political life of the country (...)

For churches and religious communities as legal persons are representative bodies of collective freedom of religion, identical stipulations are valid for the sphere of collective and public practice of

religion as for individuals. While all churches and religions may freely exist, as societies under Civil Law, some of them are granted a more elevated position and more possibilities to enjoy certain benefits in Greece. The status of “legal body of public law” has only been granted first to the Greek Orthodox Church.¹¹⁰ Arguably the legal meaning of “prevailing religion” in Greece has been that Eastern Christian Orthodoxy is the religion of the vast majority, approximately 90% of Greece’s population. Theorists support the view, that this special relation, until now, between the Greek State and the Orthodox Church can be attributed to historical causes and a long-established tradition. Also, the Muslim minority in Northern Greece¹¹¹ and the Central Council of Jews¹¹² possess the status of “legal body under public law.” This means that, for example, the salaries and pensions of the religious ministers of those groups are chargeable to the State and that the sums necessary for this purpose are included in the annual State budget. Several other financial advantages are granted. Other churches and religious communities were, until the new law, considered as “legal bodies of private law.”

Even though the Greek constitution provides for freedom of religion, non-orthodox religious groups—notably other Christian groups—used to face administrative obstacles and legal restrictions on religious practice and their members often experienced intolerant behavior and at times discrimination. One of the biggest churches in the world, the

¹⁰⁹ Ch. Papastathis: *Religious Self-Administration in the Hellenic Republic*, in Gerhard Robbers (ed.): *Church Autonomy*, Peter Lang, 2001, pp. 425-450.

¹¹⁰ The Muslims have been living in the North Eastern part of Greece, in Thrace, after the signing of the Lausanne Treaty in 1923, which put an end to the Greek-Turkish war. For more information about Minorities in Greece, see A. Filos: *The legal status of Minorities in Greece*, ZaöRV, *Minorities rights in European States*, vol. 2, Heidelberg, 1994. pp. 61-82 (in German).

¹¹¹ The majority of Jews settled in Greece in the 15th century, coming mostly from Spain and Portugal and were called “Sefaradim”. For more information, see V. Papagregoriou: *The Religious Liberty of Jews in Greece*, in: *The Freedom of Religion*, Eunomia, Athens 1997, p. 255f (in Greek).

Catholic Church and the Protestant Church, did not possess a legal personality, neither as churches nor as religious communities.

For example, the register for other beliefs at the Ministry of Education and Religious Affairs, so far, only contained four recognized Catholic Church parishes, three in Athens and one in Syros. When a couple from Poland got married in Athens in 2010, in a Catholic parish that had existed for more than 34 years, but did not belong to those four parishes, the administration was unable to identify it in their register and declared the marriage as illegal.¹¹³ Given this incident, the Catholic Church in Greece was keen to have every little chapel recognized under the new Law: in total 236!

Also, the Greek Evangelical Church, member of the European Conference of Churches (CEC), which now exists for more than 150 years and constitutes an important part of Greek society, until recently did not possess a legal personality as a church. Also many other religious communities existed so far only as corporations of Civil Law, like football clubs. They were unable to introduce a court case, nor could they be sued. They were not entitled to own property, nor were they in a position to buy or sell. In the past, this situation caused a real problem, especially in fields such as property or civil liability and human rights issues.

¹¹² Weekly paper “To Vima” of 17.9.2010.

13.3 The New Law 4301/7.10.2014 on the Legal Status of Religious Communities and their Societies in Greece

To a large extent, problems like these were solved by the new Law concerning religious communities¹¹⁴. This law which put in context the freedom of religion and the freedom of association, both guaranteed by the Greek constitution, was really necessary in Greece. It was voted in Parliament by an overwhelming majority and became a landmark for Greece's judicial culture, as Greece had been the last EU member state that had not regulated the relationship between the state and the religious communities.

The law contains some compulsory requirements concerning the way churches and religious communities should be structured internally, with certain principles of democracy that cannot be avoided. This requirement entails the need for religious groups to organize themselves democratically in order to be able to function as such with a juridical personality. It makes freedom of religion and of association more concrete in Greece.

First of all, in its Art. 1 the new law gives a definition of the notion of religious community: "A religious community is a significant number of individuals with a specific religious confession of a recognized religion, who permanently reside in a particular geographic area, with the purpose of exercising together their worship and performance of duties that are required by the common Confession of its members."

Such a religious community has the right to be constituted as a legal entity/personality under a status created specifically for communities of faith after the registration in the special public book of Religious Legal Persons, that it is maintained in the Court of First Instance of the region of the headquarters of this group. There need to be at least three hundred persons, from which at least one is the servant/priest or pastor of the

¹¹³ Government Bulletin No. 223/7.10.2014

religious community (Art.2). The number of three hundred persons that is necessary to establish a religious legal person could be problematic, and the courts have to decide about it. The current jurisprudence in Greece is that 20 members can establish a legal person in Civil Law. In order for a religious legal person to be registered in the Book, its founders submit an application to the responsible one-member Court of First Instance, which is tried according to the volunteer process and to which are attached the founding document (Charter), the Statement of Faith, the names of the administrative members, in which it is essential to include the religious leader of the community, a complete biographical report of the latter, from which will appear any religious studies he happens to have done, the way and the time of his appointment, election or choice for this position a list of the places of worship and its regulation, with the signatures of the members and with dates (Art.3). The court is obliged to issue an order for a hearing for the case. A copy of the application, with the order of the date in court and all the supporting documents are delivered, with the responsibility of the applicant, at least fifteen days before the date in court to the Minister of Education and Religions and to the responsible Public prosecutor of the court of First Instance.

The right of religious communities to decide upon and administer their own internal religious affairs without interference by the government institutions is one of the critical features of any regime of religious freedom. This permits also religious communities to define a specific mission and how ministry fulfills their mission and determines the nature and extent of institutional interaction with society at large. The new law grants this right through Art. 8. The religious person is managed according to its charter by its leader or by a group with several members in which he is obliged to participate. The body can neither meet legally nor operate if the religious leader is absent. In this case the administrative body sits and decides legally even up to the replacement

of the missing member, for subjects that concern the orderly operation of the legal person. The charter of the religious legal person can also fix as its higher body the general assembly of the members, which can decide for his each issue that does not depend on the responsibility of some other body. The assembly, if the charter does not determine differently, chooses its own administrative persons, approves the finances and decides for his dissolution of the legal person.

The dissolution of the religious legal person may also be possible in cases foreseen by its charter and in the event that the members remain less than one hundred (Art. 10). Also, with the decision of the one-member Court of First Instance, the religious legal person can be dissolved if this is asked by its administration for any reason and if this is asked for by the overseeing authority of the responsible Public Prosecutor and in accordance with the reasons in Art. 9, §2 and Art. 17 EHRC. For example, if in reality it is seeking goals different from what are determined by the law, or its operation has been rendered illegal or immoral or contrary to the public order. The case is tried in the volunteer process. The overseeing authority can proceed with regular or special control for the ascertaining that the operation of the legal person is legal, which controls are limited exclusively to whether or not it is fulfilling its reasons for dissolution.

The new law also foresees the establishment of Ecclesiastical Legal Persons, unions of at least three religious legal persons of the same religion, which have an episcopal or synodical or other central structure, and function on the basis of the regulations and are administered by elected or appointed organs, individually or as a group (Art. 12). Even those religious communities that do not possess such characteristics, and are not considered legal bodies, may under this law use the term “Church” in their name (Art. 12 § 2).

The new law reserves a privileged status for some churches, “... for historical reasons, relating to the long and continuous operation of

organized religions capable of expressing part of the population (domestic and worldwide) introduced smoothly in (Greek) society and of significant religious activity ...”¹¹⁵ It emphasizes a different status as well as a differentiation in the cooperation between the state and particular churches and in their possibilities to act within it. In other words, some churches are granted at least some degree of “establishment”, i.e., not only their existence and freedom to act become legally recognized, but—beyond that—they become more closely incorporated in the operations of the state and are granted some legal entitlements in the public arena.

Since other religious communities do not enjoy these possibilities, they may strive for receiving such elevated status, particularly with a growing number of adherents. The recent situation in Greece may serve as an example (also in tax-law cases).

So, *ex lege*, and without any other formulation, or the observation of processes that are determined by the law (Articles 3 and 12), even if they do not have the minimum number of believers or religious legal persons that are foreseen by the law, the churches and religious legal persons of civil law and legal person that operate temples, houses of worship, abbeys and places of meditation that depend on them administratively and spiritually (Art. 13) as Ecclesiastical Legal Persons of Civil Law, *sui generis*, are as follows:

1. The Catholic Church in Greece, with residence in Athens. Also some 220 Catholic religious communities that operate temples, abbeys and houses of worship in Greece. They are settled especially in the Cyclades, Naxos, Tinos, Paros, Andros, Myconos and also in the Ionian and the Dodecanese islands.¹¹⁶

¹¹⁴ Art. 13 of the law’s Explanatory Report

¹¹⁵ Catholics are present in Greece since the 4th Crusade (1203-1204 AD) and the Venetian occupation.

2. The Anglican Church in Greece, as Religious Legal Person, with residence in Athens.
3. The Ethiopian Orthodox Church in Greece, with residence in Athens, as Religious Legal Person.
4. The Coptic Orthodox Church of Egypt and the temples/houses of worship etc., with residence in Greece, as Ecclesiastical Legal Person
5. The Church of Orthodox Armenians in Greece and temples/houses etc. also as Ecclesiastical Legal Person, with residence in Athens.
6. The Evangelical Church of German speaking people in Greece as Religious Legal Person, with residence in Athens.
7. The Greek Evangelical Church, with the name, “Evangelical Church of Greece”, with residence in Athens, as Ecclesiastical Legal Person with all existent houses of worship in Greece.
8. The Assyrian Orthodox Church, with residence in Athens, as Religious Legal Person.
9. The Armenian Evangelical Church of Greece, with residence in Piraeus, as Religious Legal Person.

Within an exclusive deadline of one year, the above-mentioned legal persons are obligated to submit the supporting documents that are foreseen in articles 3 and 12 to the Court of First Instance of their headquarters so that they get automatically registered in the Book of Religious Legal Persons. The Ministry of Education and Religions has an electronic register of all religious and ecclesiastical legal persons, also those without a legal personality according to the present law, according legal person, the judicial decision which has validated the application, the founding document, the Confession of Faith and their Charter. The Registry Book of religious ministers provides vital statistics regarding registered activities as well as information regarding

religious ministers and is accessible via the web site of the Ministry of Education and Religions.

Religious Communities are not obliged to constitute themselves as a legal entity. In Greece existing religious communities that have not acquired in any way a legal personality can nevertheless be litigants before civil and administrative courts (Art. 15).

A very important regulation is Art. 18 and concerns the transfer of property from existing legal persons. Associations, institutions or civil society of non-profit character, that have been recommended by religious communities and function at the time of the publication of the present law, are allowed to donate, without tax or other cost, their property to the religious legal persons that will administer these religious communities, even if their charter states differently, under the condition that a unanimous decision is made by all their members, in an assembly that shall take place specifically for this purpose.

These churches share almost the same rights as the Orthodox Church, which certainly continues to be the “prevailing religion in Greece” in accordance with Article 3 of the Constitution.¹¹⁷

With the new law sites of worship, “houses of prayer”—now called “temples”—are put on the same ground as the ones of the Orthodox Church. Their properties belong to the religious legal persons rather than to individual “clubs”, as was the case until the time of the enactment of the law. They are free to have their own schools or hospitals (and also hotels, commercial activities etc.), but within the general legislative framework arranged by the state for said matters. What is excluded is state competence over religious or worship matters.

¹¹⁷ Regarding the position of the Greek Orthodox Church and its relations with the State, see: Ch. Papastathis: *State and Church in Greece*, in Gerhard Robbers (ed.): *State and Church in the European Union*, Nomos Verlagsgesellschaft, Baden-Baden 1997, p. 76.

13.4 Minority Churches and Religious Minorities: The Case of the Greek Evangelical Church

Allow me finally, to briefly mention the role of the Greek Evangelical Church in the process of the new law. The Greek Evangelical Church has been a pioneer in this effort to submit to the Ministry responsible for Education and Religious Affairs since the early 2000 a proposal for a corresponding bill.

The history of the Greek Evangelicals, whose roots coincide with the nation's liberation from Ottoman rule (1821) is one of sharp contrasts and contradictions, of the occasional acceptance of individuals and wholesale rejection of their religious community.¹¹⁸ The oldest and best known of the Greek Evangelical Churches was established in Athens, 1871, by Michalis Kalapothakis (1825-1911). He was the first prominent Greek Evangelical, born in Mani. In 1835, two American philhellenes, G.W. Leyburn and S. Houston, founded a school in Areopoli, which was attended by the 10-year old Kalapothakis. They read the Bible every day in school. Upon graduation from secondary school in Athens, Kalapothakis earned his medical degree from the University of Athens. After a brief service as an army doctor he went to New York, attended Columbia University and graduated from Union Theological Seminary. He returned to Greece and decided to devote himself to evangelical work. He published, 1868, a Children's Newspaper. He also became the founder and long-time editor of "Astir tis Anatolis" (The Morning Star), a leading evangelical journal, still published today, and a valuable chronicle of the history of Greek evangelicals. His motto and that of his first fellow evangelicals was: "The nation needs spiritual reform and this reform must be based solely on Scripture." The first Evangelical Church became a regular target of stone-throwing and noisy disruptions. In 1895, when it placed on its

¹¹⁸ John O Iatrides: Evangelicals, in Richard Clogg (ed.): Minorities in Greece, Aspects of a Plural Society, Hurst and Company, London, 2002, p. 50.

church façade the sign “Greek Evangelical Church”, the Orthodox Metropolitan of Athens asked the police to remove the word “Greek” on the grounds that it constituted proselytization and possible deception of innocent passers-by. By court order it was restored weeks later.¹¹⁹

In the early nineteenth century, the birth of the Greek evangelical movement occurred independently, and virtually simultaneously, in the Greek mainland and in the Greek communities of Asia Minor and Pontos. Especially in Asia Minor it was the very modest by-product of American and British Protestant missionary societies to bring Christianity to the Muslim masses of the Ottoman Empire. Although they taught the Bible and saw their mission as one of enlightenment, not of conversion, they believed that they were helping fellow Christians rediscover and return to what they considered to be the true meaning of Christianity as defined by Christ and recorded by his apostles.

At the time of the Greek “Great Disaster” of 1922—the defeat of the Greek armies in Asia Minor—and the ensuing exchange of populations, there were approximately thirty to forty Greek evangelical churches and many more family-sized groups across Asia Minor.¹²⁰ The evangelicals of Asia Minor who crossed the Aegean in search of a new home were a numerically insignificant portion of Greek refugees. In their new locations they established self-supporting, self-governing churches where they survived to this day.

Another movement, the Free Evangelical Church, was formally established in 1948. Its roots go back to a group of young students and graduates in Athens in 1910, driven by a “thirst for the truth.” Their Bible reading meetings “without human guidance,” in private homes grew into a large movement, and was led by people like Kostas Metallinos, a mathematics teacher.

¹¹⁸ Astir tis Anatolis, 3.2.1896

¹¹⁹ Ioannis Agapidis: Greek Evangelical Communities of Pontos, Thessaloniki, 1948, p. 5 (in Greek).

The evangelicals' presence in Greece has since been continuous and uninterrupted, without ever being recognized by the State as a legal religious entity. Statistics on this religious minority are virtually, non-existent. The last to specify religious allegiance was in 1951 and the number was estimated to be approximately at 30,000 Protestants.

Today, the Greek evangelicals may constitute a religious minority in Greece, but belong to a much greater community within the Protestant/Evangelical Churches of Europe, but they are not branches of foreign Protestant Churches. The Greek Evangelical Church joined the World Council of Churches at its founding in 1948 as well as the European Conference of Churches (CEC), with constant visits of representatives of CEC in Greece.

13.5 Conclusions

All modern constitutional states regulate the organization of religious belief, but this regulation varies from state to state. Greece is today a reasonably stable, democratic society, whose constitution and legal system, in principle, accord the individual protection against religious persecution at the hands of the state authorities. With the new law, Greece has chosen its way within the European family! The quest for a system that recognizes the rights of the majority church as well as minority rights and equal treatment of the other faith communities has indeed been a huge challenge.

According to some critics, and from the point of view of freedom of religion and equal treatment, the situation in Greece after the new law, is still not ideal, but more reasonable. It remains to be seen how the Greek courts will deal with its practicalities in the future.

As a first step, the constitutional prohibition of proselytism must be annulled. Article 13.2 of the Constitution extends protection of freedom of worship to all "known" religions. The original prohibition by all constitutions until 1975, was intended to defend the dominant Orthodox

Church. It has always been more difficult in the past to be an evangelical, in particular in small towns and villages. Today, as ordinary citizens, Greek evangelicals are largely unaffected in their daily lives. On the other hand, the Constitution maintains the prohibition of “proselytism” as protection of the individual right of freedom of religious conscience against attempts at conversion by what the penal code labels “false means”. This implies that the banning of proselytism is directed at all religions, and this is fair. However, since the meaning of “false means” is not specified by law, it is left to the courts to decide what in fact constitutes proselytization.

Note that in the constitution of no other European country such or similar prohibition clause exists. It’s nothing than an anachronism that needs to be removed as a last step.

SESSION IV

Present Challenges for Religious Tolerance,
Non-discrimination and Freedom of Religion
or Belief

HUMAN RIGHTS, HUMAN DIGNITY: PROTESTANT THEOLOGICAL FOUNDATION

Dr Rev. Michael Bünker, General Secretary of CPCE

14.1 Preliminary Remark

The Community of Protestant Churches in Europe (CPCE) is based on the Leuenberg Agreement, which was signed in 1973. The Agreement emphasized that the community of churches also calls to common action and ethical reflection, saying in article 36: “The struggle for justice and peace in the world increasingly requires that the churches accept a common responsibility.” According to protestant self-understanding this requires first of all social-ethical reflection. For this reason CPCE established 2005 an expert group on ethics. The following notes give a small insight in some results of the work CPCE has done in the last years in relation to the issues of our conference¹²¹.

14.1.1 Point of Departure—Empirical Context in the CPCE

For a number of CPCE churches, especially in certain countries formerly under Communist rule, religious freedom is a very important

¹²¹ All quotations can be found either on the CPCE website: <http://www.leuenberg.eu/> or in the book “Protestant in Europe. Social-ethical contributions” (Evangelische Verlagsanstalt, Leipzig: 2013).

issue. They face a situation where the different ethnic and religious communities tend to rise up against each other, and where a re-affirmation of religious identity can lead to a reinforcement of stereotypes and an increase in internal fractures. If religious affiliation and national affiliation are understood as naturally going hand in hand, then religious diversity becomes increasingly hard to admit. This presents the Protestant minority churches with a real dilemma. On the one hand, they feel inclined to support the emergence of religious freedom, from which they clearly profit, and wish to encourage its further development. On the other hand, they may feel the need to defend their (newly gained) privileges against the demands raised by representatives of other, new religions that are emerging in their countries. The CPCE churches in the Western countries, however, are clearer in their affirmation of the secular state and the idea of human rights that should be accepted by all religious communities¹²².

14.2 Fundamental Theological Basis:

14.2.1 Human Dignity and Human Rights

The theological foundation lies in the inalienable dignity of human beings.

This is based on the theological notion that we are “created in the image of God,” but also on the Gospel/doctrine of justification, i.e., that human dignity is grounded in God’s righteousness and cannot be called into question by the sinfulness of human beings; human dignity is founded in God’s grace and his relation to the human being (person), a precondition which is simply quite beyond his or her disposal.

The Protestant understanding of universal human rights asserts that:

¹²² From: The Study Process on Protestant Perspectives on Religious Plurality in Europe, (in progress).

“... the secular character of human rights must be taken seriously. The concept makes it necessary to think of them in universal terms and to seek possible ways of linking them up with the cultural traditions of humankind. In the framework of the doctrine of the preservative function of the ‘law’, Protestant theology relates the concern of human rights to God’s will for preservation, without denying their secular character.” (*Law and Gospel*, CPCE study)

The theological background lies in the relation between freedom and responsibility. (As Luther expressed it: that a Christian is simultaneously both the “most free lord of all and subject to none” and yet also “the most dutiful servant of all and subject to everyone”). The classical declarations of human rights reflect this inter-relation between freedom and responsibility. Therefore the Protestant Churches see human rights as “foundations for peaceful and respectful coexistence in freedom in a pluralistic society.”

The specific rights contained in the classic human rights declarations—right to life, freedom of conscience, freedom of opinion, freedom of art, freedom of religion and belief, and so on—“are taken for granted in all the churches,” which means that the right of freedom of religion and belief is no more or less important than the other rights. This was also underlined in the *Charta Oecumenica*¹²³.

¹²³ In: Presidium of the CPCE: *Human Rights and Morality*, 2009.

14.2.2 Religious Tolerance and Freedom of Religion or Belief

The first approach follows the *concept of radical grace*.

The insight that God’s grace is radical—rooted in God alone—also leads to the fact that it is universal. God loved the entire world (John 3:16), and so wants all human beings to be saved (1 Timothy 2:4) and not a single one to perish (2 Peter 3:9). Christ “is the atoning sacrifice for our sins, and not only for ours, but also for the sins of the whole world” (1 John 2:2). The commitment to the universality of God’s radical grace urges to not confine God’s salvific presence to the boundaries of Christian religion. This presence was at work before religion appeared in history, and it is at work beyond the sphere of its influence. It transcends not only ethnic, social and cultural confines, but also religious ones.

A notion expressed in the conclusion of the study document is surely very important in this respect, thus I paraphrase:

Protestantism adopts—more than many other confessions—a critical attitude towards the exertion of temporal power by religious institutions. This is strengthened by the fact that it does not see religions (including Christianity) as paths to salvation. Religions also mirror human sinfulness. The spirit of God often works not in, but against, religious expressions and practices. Many religious ideas and practices—even within the Christian religion—need scrutinising. They have to be seen in the light of Jesus Christ, which also sheds a critical light on them. Christ is the criterion.

The study document rejects “a propositional or factual understanding of truth” and calls for a relational approach, in the sense that the truth of Christian faith is primarily an existential and experiential, personal and relational truth. The Hebrew word that translates into “truth” is “emet”. It means reliability, confidence in, credibility, steadiness and fidelity, and indicates a quality of relationship. Accordingly, the truth is that understanding cannot be claimed as an ideological position but needs to

be performed (John 3:21). It is not primarily theoretical, but rather practical in nature. Thus if religious assertions are understood in this sense as being personal and existential witnesses to the truth, then they will enable us to allow space alongside them for other expressions of truth; because truth about faith, love and hope cannot claim to be the absolute truth. Distinguishing between the truth of God and the truth of religious assertions is an important condition for interreligious (as well as for ecumenical) dialogue.

Further on the study document examines Biblical testimony and sums up that any fear of contact with adherents of other religions and reservations against them are not in line with the example of Jesus. Following the example of Jesus, Christians should show a willingness and interest in communicating with people of other faiths. There are no limits or restrictions to dialogue with adherents and representatives of other religions. Such dialogue and communication, in the first instance, is positive for its own sake. Because of that, and because of the current-day acknowledgement of every human's autonomy (which includes one's religion), religion and religious affiliations may, and should, also form part of the communication between people of different faiths. Because of God's radical grace, there are no limits, no boundaries and no restrictions to addressing every human being—whatever and whichever kind of religious affiliation he or she has—with the entreaty “on behalf of Christ, be reconciled to God” (2 Corinthians 5:20)¹²⁴.

This leads me to the input from the individual member churches of the CPCE, and I refer to two examples in this respect:

The Religious Freedom booklet (2012) published by the *Evangelical Church of the Rhineland* makes it clear that the issue of religious freedom also concerns the relationship towards other religions. It

¹²⁴ All references from: *The study process on Protestant Perspectives on Religious Plurality in Europe* (in progress)

recommends that Christian parishes should support the building of mosques based on their approval of positive religious freedom that needs to be actively and constructively shaped. Besides, it advocates a general predisposition to dialogue based on the belief that all human beings are images of God and on the commandment of neighbourly love.

In 2009, the *Conference of Churches on the Rhine* (a regional group of CPCE churches) issued a statement entitled “Freedom of religion as a human right in Christianity and Islam.” The declaration states that freedom of religion forms a vital foundation for the churches in the context of increasing cultural and religious diversity in Europe. This also includes a guarantee from the state of the right to change religion and ideological convictions. In conclusion, the understanding of human rights and their foundation should form a major topic in the dialogue between Christianity and Islam.

14.2.3 A Special Case: The Balance between Freedom of Religion and the Freedom of Expression

The CPCE calls for a responsible approach to the way freedom is handled in general. Freedom of expression, along with freedom of the media and the arts, is a “key element of the human community of values, as much as freedom of thought, conscience and religion.”

Of course, the churches of the Reformation “in particular have emerged from a movement for religious freedom and from a critique of existing church situations and teachings.” “The claim of religions to be able to criticise other religions or social conditions must include a readiness to let themselves be called into question by all permissible means of free expression.” Thus freedom of opinion and freedom of religion stand in direct relation to one another and call for respectful behaviour on both sides. The rule of law in modern-day states limits and restrains both these freedoms under the obligation to respect human dignity and refrain from any form of derogation or discrimination.

(Council statement in Budapest on “Charlie Hebdo”—adopted by the European Commission)

Many of the CPCE’s member churches have historically found themselves in minority situations in their own countries – and do so right now. Their religious life depends on freedom of religion and freedom of expression. Task of the state:

“In conflict situations, the safeguarding of basic human rights is the task of the state. If people feel that their fundamental rights are violated by expressions of public opinion or artistic presentations, they are given the opportunity to claim protection by the responsible public bodies. Furthermore, it is possible to draw public attention to these irregularities and to protest against them.”

But it is the task and responsibility of all groups in society to stand up for peace and respect between people of different cultures, faiths and opinions.

“As a Community of Protestant Churches in Europe, we rely on the power of the Word. We must defend truth, not with force, but with the Word alone. It is precisely for this reason that the fundamental rights to freedom of opinion and freedom of religion are to be safeguarded. From a Protestant perspective, these are very precious.”

From: CPCE Executive Committee, *Defending truth, not with force, but with the power of the Word alone*, 2006; in conjunction with the Council statement on the attacks against “Charlie Hebdo”, 2015.

BUILDING A COMMUNITY OF VALUES THROUGH DIALOGUE AND EDUCATION

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Coming from Greece, I cannot but think about the very urgent matter of refugees, which is the leading theme in all our discussions in Europe right now. This is an issue, which cannot be solved by Greece, or Italy or Cyprus or Malta or other Mediterranean countries alone. On the other hand it is impossible that whole Europe watches what is happening in this corner of the Mediterranean. Although efforts have been made, also from Turkey and Greece and the other Mediterranean countries, still refugees are leaving Turkey for Greece and Western Europe, still people are drawn in the Mediterranean and still there is no effective solution for all those human beings leaving their homes for a better future.

We cannot combine the future of humans with pre-electoral campaigns, nor with political difficulties in a country. Human aid has to come and has to come quick. Geographic situations are sometimes facilitating countries like the UK to stay away from the problem or to build ‘fences’, but countries like Greece with hundreds of islands cannot build everywhere fences. And even fences cannot be the definitive obstacle for refugees running for their live, like in Hungary.

Maybe these are the challenges for us Europeans today. It is a challenge and a calling in one. It is a challenge, since Europeans today are challenged in their own identity as a community of values and

fundamental rights and the realization of that identity. It is also a calling, since we are called to put into practice what we decide and what we vote for. Finally, the issue of the refugees is also an issue of non-discrimination and tolerance.

The region of the Balkans and Europe in general is shaking again. Old nationalisms are reborn and there is a new wave of extremisms, political and religious in the area. Often we have the feeling that the “old” system is not working any longer, that there are new mechanisms on the way to abolish the status quo, as we thought would come out after the fall of the Berlin wall.

Some days ago, from September 2-3 the Ecumenical Patriarchate of Constantinople and the Vienna based KAICIID Dialogue Center, with the support of the Hellenic Ministry of Foreign Affairs, have organized in Athens a Christian – Muslim Conference on Human Rights, with theme: “Supporting civil rights and peaceful coexistence of Christians and Muslims in the Middle East—Challenges, practice and open issues”.

His Eminence, Metropolitan Emmanuel of France addressed the participants in Athens, saying that “too often conflicts in the Middle East are associated with, or portrayed solely as, sectarian divisions with the various factions purporting to act in the name of religion. No terrorist organization represents religions, nor should religion be associated with terrorism. Any attack in the name of religion is an attack on all religions” and he added that “the mission of the Ecumenical Patriarchate is to provide platforms where religious leaders can take an important role in crisis management and conflict resolution.”¹²⁵

In His speech at the same Conference, His All Holiness, the Ecumenical Patriarch of Constantinople, Bartholomaios, stated that: “Interreligious Dialogue has the potential and power to transform our world. [...] Therefore, we call on religious leaders to establish an

¹²⁰ Cf. <http://www.kaiciid.org/athens-declaration-united-against-violence-name-religion-supporting-citizenship-rights-christians>

adequate “religion crisis management framework” in connection with the United Nations Resolutions. Otherwise, the lack of structures and mechanisms may favour terrorist organizations and support violence and religious fanaticism. When it comes to crises involving religion, the implementation of diplomacy must be handled with care and in cooperation with religious leaders. This is why we believe that interreligious and intercultural dialogue is the key to any crisis resolution. Dialogue helps common understanding and promotes solidarity.¹²⁶

In deed Christians and Muslims and also believers from other religions very often in their common history all over the centuries have proved that coexistence is possible. Especially in time of crisis, it is crucial that religious leaders seek common understanding and mutual respect and tolerance. Religious leaders cannot but be active peacemakers and not just passive observers of religious co-existence and conflict. In the case of refugees, this is affecting all religions and therefore the solution must be united in front of the common problem.

How could this be envisaged, how can religions and religious leaders speak out loud of the present crisis, the challenges coming out of it and take initiatives, so that this would become an opportunity for our world today to plead for religious tolerance, non-discrimination and freedom of religion or belief?

The actual situation has to be evaluated and the best practices have to be developed as quickly as possible. The measures must be considered

¹²¹ See more at: <http://www.kaiciid.org/news-events/news/speech-patriarch-bartholomew-ecumenical-patriarch-kaiciid-athens-conference-> See also: Athens Declaration, United Against Violence in the Name of Religion: Supporting the Citizenship Rights of Christians, Muslims, and Other Religious and Ethnic Groups in the Middle East, at: <https://www.patriarchate.org/-/athens-declaration?inheritRedirect=true> and <http://www.kaiciid.org/publications-resources/athens-declaration>

at a regional level, rather than on a national level. Task forces and implementing action groups must be established, in order to engage policy makers to look for security in the region and to map out the needs of Christians and other religious minorities and ethnic groups.

Very important is also the aspect of a better understanding of the situation and this can only be done by interreligious education, in order to foster and promote tolerance, multiculturalism and diversity. Building trust is maybe the most important aspect and the key for exercising tolerance and respect.

Allow me to give you at this point some information from the background I am working and living, the Orthodox Academy of Crete (OAC). It is an Institution of the Ecumenical Patriarchate; build in the 60s by the late Bishop of Kissamos and Selinon Eirinaios and the General Director for many years Dr. Alexandros Papaderos. Since the beginning the OAC is engaged in the dialogue of Human Right issues and promoting peace and reconciliation in an area of Crete, of Greece and Europe, which has suffered a lot during centuries and especially during the Second World War.¹²⁷ The actual Metropolitan and President of the OAC, Amfilochios and the General Director of the Institution, Dr. Konstantinos Zormpas, continue the peace building process through new programmes and initiatives, namely also in the area of renewable energies and pedagogical programmes.¹²⁸

The question is how you answer to the challenges of religious tolerance in a concrete setting, in the public sphere, especially if you are personally involved. And secondly, which is the method in order to face discrimination and violations of freedom of belief. At the OAC we use the *dialogue*, in the old platonic tradition, where through the Word-Logos we put together our pieces of truth, in order to have the whole

¹²² For more information on the Orthodox Academy of Crete, see: www.oac.gr

¹²³ See information on the Institute of Theology and Ecology of the OAC at: <http://www.oac.gr/en/activities/institute-for-theology-and-ecology/>

truth. And we take also actions or initiatives, in order to promote religious tolerance and freedom of religion or belief.

In this regard, I would like to give you two examples of the work we are doing in the area of *education*.

1. Educational programme for the academic year 2015-2016 in cooperation with Colleges and the teachers for religious education. Educational and cultural activities are planned during the whole academic year, in order to go against fanaticism and violence and accepting diversity. This programme is mainly elaborated on the basis of the travel journals of the writer Nikos Kazantzakis and has as a goal the projection of the ecumenical and human spirit of Orthodoxy towards any form of fanaticism and racism, throughout the subject of religious education.¹²⁹
2. In cooperation with the Council of Europe, the European Center Wergeland in Norway, the Pancretan Union of Theologians and the Region of Crete, the OAC has organized an event on the “Recommendation CM/REC (2008)12,” related to the publication “Signposts-Policy and practice for teaching about religious and non-religious world views in intercultural education of the Council of Europe.”¹³⁰

The recent developments in Europe and especially religious attacks (at that time “Charlie Hebdo”) impose a re-definition of religious education in primary and secondary education. The subject of Religious Education has to find new ways to be

¹²⁴ Maria Chatziapostolou, *To prosopo tou Christou sto Niko Kazantzaki* (The Face of Christ in Nikos Kazantzakis/in greek), Armos Editions, Athens 2013.

¹²⁵ Cf. *Signposts – Policy and practice or teaching about religions and non-religious world views in intercultural education*, Council of Europe Publishing, Strasbourg 2014.

taught also concerning its content and promoting the mutual understanding between citizens. Therefore we need instructions in how to read and then teach the truth religion wants to pass over to future generations.¹³¹

At this point we would like to underline the important role of the European Union to form a “profound” spirit of tolerance and mutual respect. Maybe the recent crisis in Greece has shown the borders of tolerance and mutual respect, as well as the possibilities of the European Union in order to promote these values. But on the other hand the crisis has reflected for many Europeans the lacking points in our common European policy. It is this same Article 17 of the Lisbon Treaty, so often mentioned, underlining that the Union must maintain an “open, transparent and regular dialogue” with the churches and non-confessional organizations. It is under this aspect that we met last June in order to discuss, under the organization of Mrs. Katharina von Schnurbein, at the sixth annual high-level meeting the topic “Living together and disagreeing well”, as we already heard from her. Frans Timmermans stated at the meeting the following: “The dialogue with the religious communities has never been more important. Our societies face fundamental challenges and churches and religions are among the actors that can play an important role in promoting social cohesion and bridging divides. The leaders present at the meeting are partners for the European Commission as they can share their experience in fighting against fundamentalism, discrimination and in building mutual trust and understanding.”¹³²

Maybe the time has come where political and religious communities have to stay closer to one another. Therefore we can only greet the fact

¹²⁶ Cf. John Keast (ed.), *Religious diversity and intercultural education: a reference book for schools*, Council of Europe Publishing, Strasbourg, 2007-2008

¹²⁷ Meeting of Religious Leaders at the European Commission, on June 16, 2015, see at: http://europa.eu/rapid/press-release_IP-15-5179_en.htm

that conferences like this here, hosted by the Ecumenical Patriarchate of Constantinople and organized by the Human Rights Secretariat of the Conference of European Churches, take place especially in time of crisis, in time of human needs and are taking place in institutions like Halki, suffering itself under measures of intolerance and depriving freedom of belief. It is a need today more than ever, to promote tolerance and to support human rights issues in our world, in Europe in our area, so that tomorrow there would no one asking us: “where were you when it happened?” and we would not have to give any answer.... Thinking of Matthew 25:35 “For I was a stranger and you welcomed me...”

SESSION V

The Role of Religious Communities
in Promoting and Protecting Freedom
of Religion or Belief

ADVOCATING FOR FREEDOM OF RELIGION OR BELIEF IN FINLAND

*Anna Hyvärinen, Human Rights Specialist,
Finnish Ecumenical Council*

Freedom of religion or belief has been a focal point in Finnish ecumenical advocacy since 2011. Originally the theme was covered by *Finnish Churches for Justice and Peace* (2011-2012), an annual ecumenical human rights awareness raising campaign, which became a huge success. Never before had the campaign reached around 30% of the Finnish population.

Collaboration with the Finnish Ecumenical Council (FEC) and the Finnish Ministry of Foreign Affairs (MFA) in questions of FoRB went hand in hand with the campaign. The MFA was invited to contribute to the campaign tabloid. Also, the religious leaders of three monotheistic religions in Finland drafted a statement on FoRB. That was launched by a media event and finally handed to our President of the time, Mrs. Tarja Halonen. The Finnish Ambassador for Human Rights and Democracy of the time gave an enthusiastic speech in the media event.

At this time, FoRB was not a visible part of Finnish foreign policy, although there were many related human rights goals in Finnish foreign policy documents and strategies, to which FoRB linked to naturally, for example, prevention of discrimination. Therefore, several faith-based

NGOs decided to conduct a research on how to promote FoRB as a part of Finnish foreign policy. The research became known as *Freedom of Religion and Foreign Policy – Recommendations for Finland*. Swedish Mission Council (SMC) publication *Faith, Freedom and Change* became the basis of the Finnish study. Funding was applied from the MFA successfully. The process was undertaken by consulting the MFA of their views and needs. Many international highly qualified experts were interviewed, including UN Special Rapporteur on FoRB, Mr. Heiner Bielefeldt, and specialists from the OSCE, CEC, WCC, SMC, USCIRF, Pew Research Center, Forum 18.

Finalizing the report became a gigantic and time consuming project, written and researched by Ms. Anna Hyvärinen from FEC and Ms. Katri Leino-Nzau from the Finnish Evangelical Lutheran Mission (FELM). It was publicized by Mr. Heiner Bielefeldt in two occasions, in a closed high-level seminar in the MFA and in an open seminar where more people attended that could actually fit into the seminar room. The current Finnish Ambassador for Human Rights and Democracy made a speech in the open seminar. Many media were interested in the events. Mr. Bielefeldt's speech was recorded and can be found online:¹³³

Afterwards the publication FEC faced many requests to continue on this path. Speeches on the topic were given in specialist meetings, conferences, seminars, consultations and in a meeting with Finnish Members of the European Parliament.

FEC work on FoRB and human rights is always based on international human rights standards and on Christian understanding of human worth. We speak for all humans alike, regardless of their religion or faith. But why do we advocate for FoRB in FEC? In the beginning we were looking and praying for a new campaign theme. FoRB came as a

¹³³ Cf. http://www.ekumenia.fi/etusivu/ajankohtaista_-_aktuellit/uskonnonvapaus_jaulkopoliitikka_-_suosituksia_suomelleuusi_julkaisu_ilmestynyt/video_prof_heiner_bielefeldtin_puheesta_2882013/?hitspic=1&hitspage=1

prayer answer. By taking this leap of faith, we have witnessed many miracles in advocacy work we could never have anticipated.

16.1 Preface to Religious Freedom and Foreign Policy - Recommendations for Finland

Questions concerning non-religion, the right to change religions and the multiple dimensions of freedom of speech create a rich tapestry whose overall effects can be seen in our daily lives as well as in international policy. This report seeks to illuminate why freedom of religion cannot be detached from other human rights, and what may occur if religious freedom is not actively promoted and maintained. The report identifies Finnish foreign policy priorities that support freedom of religion and offers recommendations on policy measures and instruments that are needed to safeguard its existence. The report and the recommendations based on it reflect the views of the working group and do not necessarily reflect the positions of the Ministry for Foreign Affairs.

A major goal of the report is to raise religious freedom from the margins to the mainstream and to make it a strategic target of Finland's foreign policy. Finland must take the initiative among the international community on freedom of religion. The Human Rights Strategy and Action Plan (2013) of the Finnish Foreign Service offers an opportunity for making religious freedom an integral part of Finland's foreign, security and development policy.

In 2012 the Finnish Ecumenical Council (FEC) undertook a study to determine how to coherently integrate freedom of religion into Finnish foreign policy, and it compiled a set of recommendations for further action. The research was funded by Finland's Ministry for Foreign Affairs. In addition to the FEC, the project working group comprised the Finnish Evangelical Lutheran Mission, Fida International, the Finnish Mission Council, Suomen Evankelinen Allianssi (the Evangelical

Alliance of Finland), World Vision Finland, Stefanus-Lähetys ry (Stefanus Mission) and Frikyrklig Samverkan FS rf. (the Free Church Support Organisation). In addition, the work received comments contributed by the USKOT-foorumi (the Faith Forum), whose founding communities represent Judaism, Christianity and Islam. The working group conducted a broad national and international consultation that included religious freedom experts as well as representatives of Finland's Ministry for Foreign Affairs and the Conference of European Churches. The research for the report is drawn from an interview and materials study.

Section I introduces the core concepts of freedom of religion as well as the obligations that are binding under international human rights conventions for its promotion. Section II casts light on some of the current challenges to religious freedom and the bearing these have on security, development and human rights. The breadth of the issue is illustrated with concrete examples from a variety of contexts in different parts of the world. Section III deals with Finland's foreign policy goals and the requisite conditions for actively promoting religious freedom. Section IV reviews the results of the interview study, and Section V presents conclusions and recommendations for actively taking into account and promoting religious freedom in Finland's foreign policy.

16.2 Abstract

The freedom of individuals and communities to practise their religious or non-religious beliefs is a precondition for peace and security, for social development and for the strengthening of democracy and civil society. When freedom of religion and belief is restricted, other human rights are often restricted as well, and the state or civil society may feel entitled to commit offences against the person. The international community's inconsistency in responding to blasphemy laws or to offences to religious sentiment, or in not responding at all to

violations of religious freedom has led to inconsistencies in the interpretation of religious freedom. International human rights conventions unambiguously define religious freedom as an individual freedom. Human rights does not apply to religions or communities per se, but to individuals.

According to the goals of the current government programme, Finland is committed to the promotion of sustainable development and to the prevention of inequality by means of human rights, security and development policy. However, lacking in this is a promotion of religious freedom in a way that would be coherent with Finland's broader human rights agenda. In the first Human Rights Strategy (2013) of the Ministry for Foreign Affairs, religious freedom has been given greater emphasis than in the past. However, Finland should also rethink how it responds to the interconnections between religion and policy.

Finnish political culture has traditionally distinguished the public from the private, and politics from religion. However, in the majority of the world's states, religions and beliefs do not belong solely to the private sphere, but are public matters. An overly timid response to religious freedom relegates serious human rights problems to the margins; however, to resolve them a pro-active approach is needed. Instead of simply showing respect for religions, Finland must take the initiative among the international community on the issues of religious freedom. For Finland to become activated in promoting religious freedom, concrete goals, practices and a monitoring system are needed.

A coherent approach demands that Finland possess a religious freedom strategy that is tied to security, human rights and development policy. The primary measures to be included when drafting such a strategy are:

1. Increasing knowledge and cultivating expertise;
2. Developing and utilizing collaborative partner networks;
3. Mainstreaming the goals of religious freedom;
4. Supporting the processes;
5. Development of new

functions (long-term proactive methods); 6. Responding to put religious freedom into practice (short-term reactive methods).

The development of expertise is the first step towards the promotion of religious freedom. More academic and pragmatic research is needed on the interrelationship between religious freedom and policy. Initiating a new kind of collaboration between, for example, like-minded EU countries can enhance the furtherance of religious freedom internationally.

The mainstreaming of religious freedom is important in order for religious freedom to be included as a topic that spans the many categories of foreign policy. Religious freedom may be supported by means of EU, UN and OSCE instruments, bilateral relations between states, and currently existing processes. To be pro-active, Finland needs new activities for advancing religious freedom, such as dialogue, improved crisis management and pilot country projects as well as local projects. Important ways of responding include bringing up religious freedom violations in bilateral talks, and calling for changes in the criteria used in decisions on foreign aid.

Civil society actors such as representatives of communities of religion or belief are important resources in all religious freedom work. Local religious leaders can have a great influence on the human rights climate. Religious freedom as a human right will be fulfilled only with cooperation between different levels of society, since states as well as citizens can be violators of religious freedom. Solid research data on the tensions between different groups and on the interests of religiously motivated actors in a society are essential. The positive contributions that religions and beliefs can make towards building and maintaining social peace must also be understood and taken into account. In addition,

vulnerable social groups including women, the disabled and minorities, must be assured a place in dialogue processes¹³⁴.

16.3 Ecumenical Human Rights Work in Finland

Freedom of Religion and Foreign Policy (FRaFP) became a door-opener and was recognized in the MFA and internationally as a way forward. According to MFA feedback, it provides new thinking of questions dealing with religion, human rights and world peace. The MFA has used FRaFP in international fora, where it has gained very positive feedback, especially the recommendation to include FoRB into crisis management.

Finland has been an overly secular country, deeming religion as a private matter not to be looked at in foreign policy. However, the tide of global policy understanding is changing, and the recognition for the need to understand religion related human rights and peace issues is growing. This same shift can be seen in the UN, EU, Council of Europe, etc. Because of this, the MFA has gained more insight and interest in FoRB. As recommended in the FRaFP, an official was nominated to be in charge of FoRB issues. Other MFA personnel have spoken for FoRB using FRaFP as background information. Lately, Finland appointed an Ambassador for Intercultural Dialogue Processes, whom is very much interested in FoRB and FRaFP. Still, much remains to be done, and the interest in FoRB varies from official to official.

FoRB advocacy along with other FEC human rights activities, especially church asylum questions, climate awareness, Finnish Churches for Justice and Peace, and so on. Have been well esteemed by FEC member churches, because they themselves lack human rights specialists and therefore see FEC as a natural point for common human

¹³⁴ Read the publication in PDF: http://www.ekumenia.fi/julkaisuja/uskonnonvapautta_koskevat_julkaisut/

rights advocacy and specialist help. In the FEC General Assembly, member churches and partner organizations jointly asked FEC to take charge of common human rights work in the fields of FoRB and refugees, areas vital for churches and partners. Unfortunately, at that time, FEC did not have adequate resources to fulfill the request of its members.

Therefore FEC started on project planning and looked upon means to fund ecumenical human rights work. This phase took around two years. In the end, funding was applied and received for two years from our member churches to hire a Human Rights Specialist and to run ecumenical human rights work. FEC was able to start the new Ecumenical Human Rights project in the beginning of 2016. Within the two years project cycle, new funding must be applied from an outer source.

FEC human rights work focuses on FoRB and related issues of conflict, peace, terrorism and refugees. There are three strands: 1) capacity-building, 2) networking and 3) advocacy. Capacity-building is mainly aimed at churches, but done in collaboration and in inclusion of other religions and faiths. In practice, this means trainings, providing assistance in expertise, connecting experts and faith-based and other NGOs together, organizing seminars and other similar tasks to aid churches and religious/faith communities to tackle human rights challenges related to FoRB. Training materials will be done jointly with World Council of Churches and the Lutheran World Federation. The materials will be internationally applicable and used in open webinars and other trainings. Especially church personnel working with refugees and asylum seekers face an urgent demand for easy-to-use FoRB materials. One goal in capacity-building is to organize an inter-religious seminar, where representatives of various religions and faiths can form a panel with a mission to explain how FoRB is understood from the

context of their faith and how it can be best promoted in this accordingly.

Networking is important to gain expertise and to link like-minded specialists together for synergy and momentum.

Advocacy is targeted in three ways. First of all we continue to collaborate with our MFA and officials in helping them to understand and promote FoRB in ways benefiting them (for example, trainings and consultations). Secondly, previous FoRB materials will be updated and provided for asylum centers and people working with asylum seekers: *Freedom of Religion or Belief – A statement by the religious leaders of the three monotheistic faiths in Finland* is translated into Arabic, *A Pocket Guide to Freedom of Religion or Belief* is updated and publicized again and a *Guide to Freedom of Religion or Belief in Asylum Centers* is finalized in collaboration with the Immigration Office in Finland. The third strand aims to raising the voice of churches in the society in themes interconnected with FoRB (FoRB in itself, refugees, and peace and conflict issues). Here a theological focus may take place.

In 2017 FEC is celebrating its 100 year anniversary! And not to forget, Finland celebrates its 100 years of independence and all Christians are preparing for the Reformation 500 year memorial. Such festivities are good occasions for promoting human rights and there are already plans for advocacy events placed in midst of the all the confetti. For example in May 2017 Ecumenical Church Days are taking place in the historical capital of Finland, Turku. Probably people from different faiths are invited to join for a walk-in recreational event as part of the Church Days and as an exclamation of FoRB. Part of the plan is to give a FoRB statement by church leaders when we celebrate FEC 100 years, this of course should go hand-in-hand with topical discussions and world events.

The main task in FEC human rights work is prayer. Please pray with us for the global recognition of FoRB and all human rights.

16.4 The Role of Religious Communities in Promoting and Protecting Freedom of Religion or Belief

Mgr. Tatoul Anoushian, Armenian Apostolic Church in Turkey

Everytime we think about the role of Religious Communities in promoting and protecting freedom of religion or belief in Turkey, there is too much to tell, but infact very few words are enough. Are we speaking about promoting and protecting our own identity through our churches or christianity in general? Religious communities are minorities in Turkey on the other hand and we must understand how we should explain their roles in the large community.

For Armenian Community and I believe for Oriental and Eastern Orthodox Churches the main issue is to *protect* the belief and the religion. Promotion of belief is a matter to think about as a final issue.

We all are aware, that life is full of conflicts. For instance, what comes first, the religion or belief? One may not believe and may belong to a religion. For a faithful, belief comes first, but through the way of his religion. I think, *to protect the belief* is the first step. How Paul said, “I have fought the good fight, I have finished the race, I have kept the faith” (2 Timothy 4.7). Thus, we see, that there is a continious fight to keep and to protect belief in a human life.

Religion is a social fact and how can we define it out of social life? We are aware of the fact, that belief effects social life or lifestyle. Shall we imprison the belief in the church? Where is the church then? The church is not the building itself. The church is beyond the stone. It is the living element of a human group in general and the community in a specific frame. Therefore, living in a laic (or secular) country, shall we put the religion somewhere unreachable, in the church for example, or shall we put just in the middle of the community, or find a mid way?

We, Christians have not got any restriction to practice our religion in our churches in Turkey. But is it to say that “We all are completely free”? It is a fact, that we sometimes are faced with intolerant persons in

Turkey, who see you as ‘The other’. The issue is just the same all over the world, to reject someone who does not belong to your belief, religion, nation, race and colour and so on. Thus, we all have problems in the world, which is given us to keep, to protect, to promote and prepare for the future. We are definitely aware of the fact, that we do not own the right to do anything according to our rules and our wishes. But, on the other hand, we all dismiss this theological fact and restrict the freedom of ‘The other’.

How to get the word freedom then?

Freedom is not a kind of supremacy or a right to be obtained. Freedom must be seen beyond the rules but not out of any regulation. Freedom is to have a life according to the values and not threatening the rest of humanity. Armenians in Turkey, have formed the community around the church and the church is the inseparable part of the Culture of Armenian Community. Therefore, Religious freedom means the freedom of the community in an aspect.

There was a time in Turkey, that everyone was aware the existence of the other people and communities, knew each other and lived together. Today, we can not talk about this kind of life style. Everyone lives a self-centric life out of large community. Whereas, freedom is being together.

If we try to summarize the role of Religious Communities in promoting and protecting freedom of religion or belief, we must mention two points where it finds its sources: First, Unity of Churches. We read in Psalms “How good and pleasant it is when God’s people live together in unity!”(Psalm 133.1). The Church and the communities must be in unity. People of God should act in one and the Christian Church must be in unity, which leads to cooperation. And the second, the Lord’s order of love each other. Paul says: “Now the Lord is the Spirit, and where the Spirit of the Lord is, there is freedom” (2 Corinthians 3.17). Therefore, the existence of God is the existence

freedom. The unity of Religious Communities and the love among any individual in Turkey will lead to true freedom.

How to feel free?

We are living in a country, where the authority approaches citizens and serves them equally, but some media and some people breathing the same environment are using the word “Armenian” as an expression of disgust. That leads to protect the religion, belief and community in a cage, but not to promote it.

We are living in a country, where the authority approaches all religious communities and serves them equally, but some think that they have the right to criticise the other’s values and belief and still accept Christianity and Christian Communities as a threatening existence in Turkey.

How should we get the freedom then?

Freedom is to accept the other people. Recently, all Religious Communities could found an important platform to express their needs and try to find solutions. That is the representative of Communities near the General Management of Foundations, which became very practical and helpful to establish new and powerful links on the way that leads to freedom of communities.

I had mentioned, that we were living in a secular country, where there is a department of Religious Affairs. I believe, one day Christian Minorities also shall have representatives in that institution. That will lead one more step forward to a brighter future in Turkey.

Because, we know, that dialogue leads to know, knowledge to understand, understanding to empathy and empathy to love. Love is the existence of God and where God exists freedom reigns.

* * *

I would like to have a special request today from all of esteemed participants. While we are discussing freedom here terrific and awful scenes are displayed everywhere in Turkey. I am sure you all follow those events with sorrow, that everyone in Turkey needs today a cordial prayer for the martyrs, for continuous peace and safe future. Would you, please, remember this in your prayers at least.

FINAL STATEMENT

Theological School of Halki, Heybeliada Island, Turkey

9 September 2015

The Conference of European Churches has not just a peripheral interest in Human Rights and the advance of freedom of religion and belief for everyone. For CEC a concern for human rights and freedom of religion or belief is part of our DNA. Freedom of religion and belief is at the centre of CEC's work. CEC stands for the promotion and protection of all human rights and freedom of religion and belief—for every human being, nation and people.

With the end of the old divisions in Europe it was supposed that there would be less need for vigilance with regard to Human Rights and freedom of religion. Tragically this has not been the case, whether in Europe or in the wider world.

Deep within the central doctrines of the Christian faith, and even more widely in the monotheistic faiths of the Abrahamic tradition, Judaism, Christianity and Islam, are to be found the origins of what we now call Human Rights. Abraham recognized in the face of the three strangers the very face of God.

St Athanasius the Great taught that God became human so that humans might become gods. All human rights—and duties—stem

theologically from this. As Christians, we understand that the way of forgiveness and peace is the only response that will ultimately change the conditions in the face of persecution and deprivation of the most basic human rights. Therefore CEC does not advocate only for Christians! It advocates equally for all, knowing that God loves each and every human being. If we forget that every human being is created in His own image and likeness to the fullness of His infinite mercy, then we have failed in our Christian vocation.

Here in Turkey we need to record the generous hospitality for two million refugees from neighbouring Middle-East. In paying proper tribute to this generosity we bear in mind that Turkey itself is in a period of change. This is not always easy. So we applaud the progress—sometimes against opposition—the Turkish Government is making. Our gathering here—symbolically on Halki—is one step in that direction. We express our support as this continues.

Our conference is mindful of the fact that Turkey is rightly seeking membership of the European Union. We are supportive of this. In being genuinely supportive of such EU membership we recognise that there are still obstacles. Turkey – like any other state on accession – would still need to implement some fundamental standards of the European Union. In 1971 the Theological School of Halki was closed by the authorities, but things are changing and we support further moves to widen religious freedom in Turkey. The issue of minorities, especially the Kurdish issue, will also need a good resolution. The question of Armenia is particularly sensitive but cannot be ignored if progress is to be made. But there are real signs that the two communities, Turkish and Greek, in Cyprus are close to a real reconciliation.

CEC also addressed the issues of the on-going crisis in the Middle - East and especially in Syria and Iraq where the armed group ISIS continues to commit ethnic and religious cleansings, abductions and murders of innocent people no matter their religion or belief. The

European churches call for the immediate release of all abducted people and cessation of the killings of civilians. The churches condemn the torture, mass murders and rapes, crimes which occur in many areas of conflict. As churches we are committed to Christian values and therefore we act in the spirit of mutual love and trust. We pray for all people and for the protection of their human dignity as people who are created in the image of God and His likeness.

The Conference of European Churches supports cultural and religious diversity even though such diversity can prove to be a challenge to both: churches and society. Pluralism and religious diversity are essential parts for the functioning of democratic societies. Religious freedom or belief is a matter of individual thought and conscience. The manifestation of religious beliefs may take the form of *worship, teaching, practice and observance*. As freedom of religion or belief is a fundamental human right, the treatment of religious minorities, their politicisation and instrumentalisation need to be condemned by the European Institutions, whenever and wherever they occur.

We also want the EU itself to pay fuller attention to the internal and external coherence of the application of its human rights policies. The EU has adopted the Guidelines on freedom of religion and belief. European institutions can do great service to the cause of Human Rights, including the fundamental human right to belief and the practice of religion, by such unbiased reporting such as the one we request.

Therefore we suggest that European Institutions should:

- Report on the state of fundamental religious freedoms of beliefs within the countries of the EU relating to the discrimination based on religion or belief, hate speech, discriminatory legislation, Islamophobia, anti-Semitism, and so on.
- Publish separate report on the situation on religious freedom or belief outside the EU.

- Encourage high standards and implementation of human rights in respect of the treatment of migrants and asylum seekers

But also European Churches are asked to speak out against human rights violations and should offer a helping hand to migrants and refugees arriving at their shores, a task in which Youth should be involved. In this moment in history European churches need to publicly condemn human rights violations faced by refugees and asylum seekers and should seek a dialogue with their respective governments in order to change the situation for good.

As Churches we work with political and civil society for the flourishing of this diversity supported by law and the propagation of all human rights, including those to belief and the practice of faith. Churches should approach their respective Governments on the issue related to the implementation of the EU Guidelines on Promotion and Protection of Religious Freedom. Let us face the task together. Let us hold our hands, not only in prayer but also in solidarity with one another. We owe it to our God, to each other and to the world.



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Advancing Freedom of Religion or Belief for All

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Dr Elizabeta Kitanović is Executive Secretary for Human Rights of the Conference of European Churches in Brussels. She is working as a senior human rights advocate vis-à-vis international organisations. She is editor of the Human Rights Training Manual for European Churches and is editor and founder of the first European Churches Human Rights Library and the CSC Annual Reports 2007-2014.

The Very Rev. Archimandrite, Fr Aimilianos (Triantafyllos) Bogiannou was born in Germany and studied in Germany, Greece, and in the USA. He was ordained a deacon in 2004 in the Ecumenical Patriarchate of Constantinople, and was sent to work for the Liaison Office of the Orthodox Church to the EU in Brussels as the Assistant to the Director for 10 years, and now serves as Director.