

Promotion and protection of freedom of religion or belief

European Parliament recommendation to the Council of 13 June 2013 on the draft EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief (2013/2082(INI))

The European Parliament,

- having regard to the proposal for a recommendation to the Council by Laima Liucija Andrikienė, on behalf of the PPE Group, on the draft EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief (B7-0164/2013),
- having regard to the Universal Declaration of Human Rights and the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,
- having regard to the International Covenant on Civil and Political Rights and General Comment 22 by the United Nations Human Rights Committee¹,
- having regard to the Charter of Fundamental Rights of the European Union,
- having regard to the Council Conclusions on intolerance, discrimination and violence on the basis of religion or belief from 2009 and 2011,²
- having regard to the EU Strategic Framework and Action Plan on Human Rights and Democracy, adopted by the Council on 25 June 2012,³
- having regard to the Commission Joint Communication to the European Parliament and the Council of 12 December 2011 entitled ‘Human Rights and Democracy at the Heart of EU External Action – Towards a More Effective Approach’ (COM(2011)0886),
- having regard to its recommendation to the Council of 13 June 2012 on the EU Special Representative for Human Rights⁴ and to Council Decision 2012/440/CFSP of 25 July 2012 appointing the European Union Special Representative for Human Rights⁵,
- having regard to its resolution of 13 December 2012 on the review of the EU’s human rights strategy⁶,
- having regard to its resolutions on the annual reports on Human Rights and Democracy in

¹ General Comment adopted by the UN Human Rights Committee under Article 40, paragraph 4 of the International Covenant on civil and political rights CCPR/C/21/Rev.1/Add.4, 27 September 1993

² Council of the European Union 24.11.2009, 21.2.2011

³ Council of the European Union 11855/12

⁴ Texts adopted, P7_TA(2012)0250.

⁵ OJ L 200, 27.7.2012, p. 21.

⁶ Texts adopted, P7_TA(2012)0504.

the World and the European Union's policy on the matter¹,

- having regard to Article 36 of the Treaty on the European Union,
 - having regard to the draft EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief ('the Guidelines'),
 - having regard to Rule 121(3) of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs (A7-0203/2013)
- A. whereas, according to Article 21 of the Treaty on the European Union, democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law are the guiding principles for all EU external actions;
- B. whereas the right to freedom of religion or belief, including theistic, non-theistic and atheistic beliefs, the right not to believe and the right to change one's religion or belief, is a universal human right and a fundamental freedom of each human being, interrelated with other human rights and fundamental freedoms as enshrined in Article 18 of the Universal Declaration of Human Rights;
- C. whereas the European Parliament has repeatedly called for an ambitious toolkit to advance the right to freedom of religion or belief as part of EU external policy;
- D. whereas the European Parliament has welcomed, in this context, the EU's commitment to developing guidelines on freedom of religion or belief in accordance with the EU Action Plan on Human Rights and Democracy, and has stressed the need for Parliament and civil society organisations to be involved in the preparation of these guidelines;
- E. whereas according to the standards of international law, all states have the duty to provide effective protection to all their citizens and all other persons under their respective jurisdictions; whereas persecutions against persons and their families, communities, places of worship and institutions, based on their particular religious affiliation, their convictions or any legitimate public expression of their religion or belief, are widely reported in some regions of the world; whereas discrimination based on religion or belief still exists in all regions of the world including Europe and its neighbourhood, and whereas persons belonging to particular religious communities, including religious minorities and non-believers, continue to be denied their human rights and are regularly discriminated against, arrested, convicted and in many countries sometimes even executed because of their religion or belief;
1. Addresses the following recommendations to the Council:

Reason for action

- (a) Promoting the right to freedom of religion or belief and preventing it from being violated has to be a priority in the EU's external policies;

¹ Texts adopted, P7_TA(2010)0489, P7_TA(2012)0126, P7_TA(2012)0503.

- (b) Violence, persecution and discrimination against people belonging to religious communities and minorities, or against people who hold non-religious beliefs, persist in many parts of the world; the lack of religious tolerance and openness to dialogue and the lack of ecumenical coexistence often lead to political unrest, violence and open armed conflicts, endangering lives and undermining regional stability; clear and prompt condemnation by the European Union of all forms of violence and discrimination should be a basic element of EU policy in the area of freedom of religion or belief; particular attention should be paid to the situation of those who change their religion or belief, as in practice they are subject in a number of countries to social pressure, intimidation or outright violence;

Purpose and scope

- (c) The purpose and scope of the EU Guidelines should be to promote and protect freedom of religion or belief in third countries, to mainstream freedom of religion or belief in all the EU's external actions and human rights policies and to develop clear benchmarks, criteria, standards and a practical orientation in order to enhance the promotion of freedom of religion or belief in the work of officials from the EU institutions and Member States, and thus contribute to more coherence, effectiveness and visibility on the part of the EU in its external relations;

Definitions

- (d) As their successful implementation will depend on this, the Guidelines should offer clarity in the definitions used and the appropriate and full protection of the right to freedom of religion or belief, in accordance with international law, in its private and public expressions, as well as in its individual, collective and institutional dimensions, including the right to believe or not to believe, the right to change one's religion or belief, the freedom of expression, assembly and association, as well as the right of parents to educate their children according to their moral convictions – i.e. religious or non-religious; clear definitions and full protection are also required as regards the recognition of the legal personality of religious and belief-based institutions and respect for their autonomy, the right to conscientious objection, the right to asylum, the right to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief, and the fundamental right to protection of one's property;

Operational Guidelines

- (e) The Guidelines should be based on international law and treaties recognised and ratified by the international community;

Proportionality

- (f) As the draft Guidelines state, in accordance with the principles accepted by the international community, the freedom from coercion to have or to adopt a religion or belief and the liberty of parents and guardians to ensure religious and moral education cannot be restricted. Any other manifestation of the right to freedom of religion or belief may be subject 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'¹; at the

¹ UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Art. 1, par. 3, A/RES/36/55

same time, the limitations must be strictly interpreted, directly related and proportionate with regard to the protected rights of others and the right balance must be achieved; the proportionality criterion should therefore be stressed in the Guidelines;

Freedom of expression

- (g) While freedom of religion or belief and freedom of expression are mutually reinforcing rights, in cases where these two rights are invoked against each other, the EU should also bear in mind that modern media tools allow for a greater degree of interconnectedness between cultures and faiths; therefore steps need to be taken to avoid intercultural violence as a reaction to acts of freedom of expression related to criticism and especially ridicule or mockery; in this context, the EU should help in reducing such tensions, for example by promoting mutual understanding and dialogue, and condemn unequivocally any act of violence committed in reaction to such speech, and it should firmly oppose any attempt to criminalise freedom of speech in relation to religious issues, such as blasphemy laws;

Collective dimension of freedom of religion or belief

- (h) It should be stressed in the Guidelines that an indispensable part of freedom of religion or belief is the right of each individual to manifest the freedom of religion or belief alone or in community with others; this includes:
- the freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places and religious sites for these purposes;
 - the freedom not to participate in any given religious activity or event,
 - the freedom to establish and maintain appropriate religious, media, educational, health, social, charitable or humanitarian institutions;
 - the freedom to solicit and receive voluntary financial and other contributions from individuals and institutions;
 - the freedom to train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
 - the freedom to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels; equally, it should be noted in the Guidelines that the right to exercise religion in community with others (in the context of which 'individual freedoms must always be respected) should not unnecessarily be limited to officially recognised places of worship, and that all undue limitations to the freedom of assembly should be condemned by the EU; the Guidelines should underline that States have a duty to remain neutral and impartial towards religious groups, including as regards symbolic or financial support;
- (i) considers that secularism, defined as the strict separation between religious and political authorities, implies the rejection of any religious interference in the functioning of government and of any public interference in religious affairs except for the purpose of upholding rules of safety and public order (including respect for the freedom of others), and that it guarantees equal liberty of conscience for all, be they believers, agnostics or atheists;

Registration requirements

- (j) The EU should take action when registration requirements for religious or belief-related organisations unduly limit the freedom of religion or belief. Registration should not be understood as a prerequisite for the enjoyment of one's human right to freedom of religion or belief, as that right cannot be conditional upon administrative or legal requirements; the EU should call for the abolishment of any legislation, such as the mandatory registration of one's religion in civil status documents, if this legislation leads to discrimination against persons holding non-religious beliefs or persons who have changed their religion or belief;

Education

- (k) As recognised by internationally accepted standards, the parents or legal guardians of a child have the liberty to ensure that their children receive a religious and moral education in conformity with their own convictions, and the child shall not be compelled to receive teaching on religion or belief against the wishes of his or her parents or legal guardians, the best interests of the child being the guiding principle; the right of parents to educate their children according to their religious or non-religious convictions includes their right to deny any undue interference by state or non-state actors in their education opposed to their religious or non-religious convictions; the Guidelines should stress these aspects of the right to freedom of religion or belief, and should also guarantee secularisation in public education, and EU delegations should take appropriate action if this principle is violated;

Family and social laws

- (l) The EU should pay particular attention to discrimination based on religion or belief in the family and social laws of third countries, especially but not exclusively within the context of the right to marriage and the right to child custody;

The right to conscientious objection

- (m) The Guidelines should include the right to conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion; the EU should call on states with a system of compulsory military service to allow for an alternative service of a non-combatant or civilian character, in the public interest and not of a punitive nature, and to refrain from punishing, including through prison sentences, conscientious objectors for failure to perform military service;

Asylum

- (n) The EU should encourage third countries to accept refugees persecuted on the basis of their religion or belief, and to provide them with asylum protection, especially in cases where refugees are threatened by death or violence. EU Member States should step up their efforts to accept refugees persecuted on the basis of their religion or belief;

Support for – and engagement with – civil society

- (o) Support for and engagement with a broad range of civil society organisations, including human rights organisations and religious and belief-based groups, while developing and implementing the Guidelines, will be of crucial importance for the promotion and protection of freedom of religion or belief, and therefore the human rights focal points in the EU

delegations should maintain regular contacts with these organisations in order to be able to identify as soon as possible problems arising in the area of freedom of religion or belief in their respective countries;

Monitoring and assessment

- (p) Proper and ongoing monitoring and assessment of the situation in the area of freedom of religion or belief in the world has to be ensured by the European External Action Service, under the responsibility of the High Representative of the Union for Foreign Affairs and Security Policy, and a section should continue to be dedicated to this issue in the EU's Annual report on Human Rights in the World, including recommendations for improvement; monitoring of the situation in the area of freedom of religion or belief should be one of the key issues among other human rights and fundamental freedoms in EU relations with third countries, especially in the context of the European Neighbourhood Policy; this should be reflected in all agreements and in reviewing and reporting documents; the EU Special Representative for Human Rights should pay particular attention to questions relating to the promotion and protection of freedom of religion or belief in the course of all his or her activities and should have a visible role in promoting this freedom through the external relations of the EU; he or she should also liaise with the European Parliament and its relevant committees on areas of concern and progress achieved and engage with relevant non-governmental organisations;
- (q) A set of instruments for the monitoring, assessment and support of the EU Guidelines should be adopted. It should focus on operational tools in order to better reflect the priority areas of action spelled out in the Guidelines and should, inter alia:
- provide a detailed situation analysis checklist to track and monitor the situation as regards the right to freedom of religion or belief in the respective country in order to identify progress/setbacks;
 - require EU Heads of Mission to report regularly on freedom of religion or belief issues, with a detailed assessment of the situation, as well as of the existence of violations of the right to freedom of religion or belief and repression against its defenders or other individuals, identifying particular cases of apparent violations of the right to freedom of religion or belief; these reports by the EU Heads of Mission should be standardised to the greatest extent possible so that they can be compared;
 - emphasise concrete action in international fora, or in development cooperation activities which have been instrumental in protecting and promoting the right to freedom of religion or belief, including the successful handling of particular cases (individuals, groups, minorities, institutions) of discrimination or persecution 'on the grounds of religion or convictions';
 - recall that the support given to victims of discrimination or persecution based on their religion or convictions can be manifold, including inviting those victims to the EU institutions to give testimony on their situation;

This set of instruments (circular) should be prepared in consultation with stakeholders and be ready before the end of 2013;

Use of external financial instruments

- (r) The EU's external financial instruments should be used both as incentives and deterrents (for example, freezing funds) with regard to freedom of religion or belief in a particular country, as this forms an integral part of the assessment of the overall human rights situation in the country; in the event of a serious deterioration of the human rights situation, including that as regards freedom of religion or belief, the EU should apply the existing human rights clauses in EU external agreements with the country concerned; the use of human rights clauses in EU external agreements has to be binding and systematically integrated into all agreements of the EU with third countries;

EU action in multilateral fora

- (s) The EU should continue its initiatives in various multilateral fora in order to promote and protect the freedom of religion or belief; when appropriate, and upon request, the EU should assist third countries in drawing up legislation promoting and protecting freedom of religion or belief;

Evaluation

- (t) In accordance with Article 36 of the Treaty on the European Union, the European Parliament should be involved in the evaluation of the implementation of the Guidelines, which should be carried out no later than three years after the Guidelines have come into force; the evaluation should be based on an analysis of the EU response to concrete situations related to the violation of freedom of religion or belief in third countries; the European Parliament should be regularly informed of areas or developments of concern, as reported by the EU delegations; its relevant committees should receive detailed information;
2. Instructs its President to forward this recommendation to the Council, the High Representative of the Union for Foreign Affairs and Security Policy and, for information, to the Commission.