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Committee on Foreign Affairs

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DRAFT REPORT

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

Committee on Foreign Affairs

Rapporteur: Laima Liucija Andrikienė

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PROPOSAL FOR A EUROPEAN PARLIAMENT RECOMMENDATION TO THE COUNCIL

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 Andrikiienė, 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 Office of the UN High Commissioner for Human Rights,¹
- 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 European Parliament's resolutions on the annual reports on Human Rights and Democracy in the World and the European Union's policy on the matter (2010/2202(INI)⁴, 2011/2185(INI)⁵, 2012/2145(INI)⁶,
- 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 (A7-0000/2013)

A. whereas, according to Article 21 of the Treaty on the European Union, democracy, the

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, 21.02.2011

³ Council of the European Union 11855/12

⁴ Texts adopted, P7_TA(2010)0489

⁵ Texts adopted, P7_TA(2012)0126

⁶ Texts adopted, P7_TA(2012)0503

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 is a fundamental freedom of each human being, interrelated with other human rights and fundamental freedoms;
 - 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, countries have the duty to provide effective protection to all their citizens and all other inhabitants; whereas discrimination based on religion or belief still exists in all regions of the world, and persons belonging to particular religious communities, including religious minorities, or non-believers, continue to be denied their human rights in many countries;
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 should be a priority in the EU's external policies.
- (b) Violence against religious communities, with political, socio-economic or ideological roots, persists in many parts of the world; clear 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.

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 civil servants and EU officials.

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 but not limited to the right of parents to educate their children according to

their moral and religious convictions, freedom of assembly and freedom of association, freedom of expression, the right to conscientious objection, the right to asylum, 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, manifestation of 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 same time, the limitations must be 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 recall that modern media tools can afford a close interconnectedness between cultures and faiths. Therefore steps need to be taken to avoid inter-cultural violence as a reaction to acts of freedom of expression related to criticism and especially ridicule.

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 to manifest the freedom of religion or belief in community with others; this includes the freedom to establish and maintain places of worship and religious sites, to establish and maintain appropriate religious, social and charitable institutions with legal personality and organisational autonomy, including the freedom to appoint personnel and leaders of these institutions without external interference from the state, the freedom to provide religious teaching and training, the freedom to exercise one's ministry, the freedom to observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief and the freedom to carry out charitable activities. Equally, it should be noted in the Guidelines that the right to exercise religion in community with others 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.

Registration requirements

- (i) The EU should take action when registration requirements for religious or belief-

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

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.

Education

- (j) 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 parents or legal guardians, the best interests of the child being the guiding principle; the Guidelines should stress this aspect of freedom of religion or belief, and EU Delegations should take appropriate action if this principle is violated.

Family and social laws

- (k) 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

- (l) 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, and the EU should call on countries 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

- (m) 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

- (n) Support for and engagement with a broad range of civil society organisations, including religious and belief-based groups, while 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

- (o) 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 special section should continue to be devoted to this issue in the EU's Annual report on Human Rights in the World, including recommendations for improvement. The EU Special Rapporteur 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 regularly inform the European Parliament and its relevant committees of areas of concern and progress achieved.

Use of external financial instruments

- (p) 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 whole human rights situation in the country. Use of human rights clauses in EU external agreements should be encouraged.

EU action in multilateral fora

- (q) The EU should continue its initiatives in various multilateral fora in order to promote and protect the freedom of religion or belief.

Evaluation

- (r) 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 take place 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.
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.

12.4.2013

PROPOSAL FOR A RECOMMENDATION TO THE COUNCIL B7-0164/2013

pursuant to Rule 121(1) of the Rules of Procedure

on the draft EU Guidelines on the Promotion and Protection of Freedom of Religion or Belief

Laima Liucija Andrikienė
on behalf of the PPE Group

The European Parliament,

- having regard to the EU Strategic Framework and Action Plan on Human Rights and Democracy, adopted on 28 June 2012 by the Council,
 - having regard to its resolutions of 16 December 2010 on the Annual Report on Human Rights in the World 2009 and the European Union's policy on the matter¹ and of 13 December 2012 on the Annual Report on Human Rights and Democracy in the World 2011 and the European Union's policy on the matter²,
 - having regard to Rule 121(3) of its Rules of Procedure,
- A. whereas the EU's guiding principles for all its external actions include respect for human rights and fundamental freedoms, democracy and the rule of law, and whereas freedom of religion or belief constitutes an indispensable part of fundamental freedoms;
- B. whereas Parliament has repeatedly called for an ambitious toolkit to advance the right to freedom of religion or belief as part of EU external policy;
- C. whereas Parliament has welcomed, in this context, the EU's commitment to develop 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 those guidelines;
1. Addresses the following recommendations to the Council:

a) Reason for action

Freedom of religion or belief constitutes, amongst all human rights, an essential and basic right which must be respected. Discrimination based on religion or belief still exists in all regions of the world, and persons belonging to particular religious communities, including religious minorities, continue to be denied their human rights in many countries.

¹ Texts adopted, P7_TA(2010)0489.

² Texts adopted, P7_TA(2012)0503.

b) Purpose and scope

The purpose and scope of the EU Guidelines are: to promote and protect freedom of religion or belief; to mainstream freedom of religion or belief in EU human rights policies and actions; and to develop clear benchmarks, criteria and standards in order to enhance the promotion of freedom of religion or belief in the work of civil servants and EU officials.

c) Definitions

Successful implementation of the Guidelines will depend on the clarity of the definitions used, including the right to religious education of children, freedom of assembly and freedom of association, freedom of expression, the right to conscientious objection to military service, the right to asylum, and the fundamental right to protection of property.

d) Operational guidelines

The basic principles underlying EU actions on freedom of religion or belief, as well as the priority areas for those actions, are identified in Part 2 of the draft EU Guidelines. The Guidelines are supported by international law and by treaties recognised by the international community and ratified by Member States.

e) Collective dimension of freedom of religion or belief

An indispensable part of the freedom of religion or belief is the right to manifest that freedom in community with others. It includes the freedom to establish and maintain places of worship, to establish and maintain appropriate institutions with legal personality, and to appoint leaders of those institutions without external interference on the part of the state.

f) Support for – and engagement with – civil society

Support for and engagement with civil society in implementing the Guidelines is of crucial importance for the promotion and protection of freedom of religion or belief.

g) Use of external EU financial instruments

The external EU financial instruments should be used both as incentives and as deterrents (freezing of funds) with regard to freedom of religion or belief in a particular country, being closely related to the assessment of the human rights situation as a whole in the country.

2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission.