

# Public hearing on Freedom of Religion or Belief in EU's External Relations

Public hearing organised by:

Dennis de Jong MEP

The European Platform on Religious Intolerance and Discrimination (EPRID)

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Texts collected by the  
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EPRID IS A PLATFORM CONSISTING OF NGOs AND RELIGIOUS GROUPS OF DIFFERENT FAITHS THAT ENDEAVOURS TO ENSURE THAT RELIGIOUS INTOLERANCE AND DISCRIMINATION ARE ADDRESSED IN A CONSISTENT AND COMPREHENSIVE MANNER WITHIN BOTH EU POLICY AND ACTIVITIES.

EPRID INVOLVES ORGANISATIONS AND INDIVIDUALS FROM VARIOUS BACKGROUNDS, INCLUDING BAHÁ'Í, BUDDHIST, CHRISTIAN (ACROSS DENOMINATIONS) AND SECULAR.



## Dr Nazila Ghanea

### Freedom of Religion or Belief in human rights law: A few observations

Dr Nazila Ghanea teaches international human rights law at Oxford University and was the Founding Editor of the international journal *Religion and Human Rights*.

- ★ **Freedom of religion or belief, as a freedom upheld in all human rights law instruments, is increasingly under strain. The EU should not underestimate the significance the contribution of a unified voice and action in all its activities regarding this right.** Merely scanning the last decade of EU actions is illustrative of the range of countries around the world where the EU has raised concerns regarding violations to freedom of religion or belief. Such a record could be consolidated further with EU action carefully calibrated to deal with the intensity of the violation at hand.
- ★ **There are a number of forces in the diplomatic sphere which are contributing to a relative indifference to freedom of religion or belief violation.** Amongst these reasons are presumptions that freedom of religion or belief is more complicated, more context dependent, more contested and hence harder to protect than other rights. In this regard, we should recall the strong protections upheld in human rights instruments regarding this right, and the fact that violations of freedom or religion or belief rights often provide a much wider indicator of the political stability of a particular jurisdiction and its civil society.
- ★ **Violations of freedom of religion or belief are different to a number of other status-based claims in that it risks both the detailed protections offered for a particular right – freedom of religion or belief, but also discrimination in relation to a whole host of other rights – for example security of person, employment and family life.** There is therefore this dual aspect and wider risk attached to such violations.
- ★ **The former rights are well articulated in human rights instruments, and we should be cognisant of the absolute nature of the individual’s right to have, adopt and change her religion or belief without coercion.** Freedom to manifest, whether alone or in association with others, covers a very wider spectrum of activities related to worship, observance, practice and teaching. Falsely construing this freedom to manifest narrowly would mean dismissing outright an inherent part of this right. Such manifestation is subject to limitation but only on particular, carefully assessed, grounds. Therefore, to recognize the scope of freedom of religion or belief we need to consider a range of areas of human activity, carried out alone or in association with others, in manners familiar to us as ‘religion’ and otherwise.
- ★ **In sum, we should not construe this right too narrowly nor separate it out unduly from other areas of human rights concern. Upholding this right is not a luxury, it is imperative to a respect for human rights more generally.**



## Joseph Maïla

*Head of the Religions Team,  
Policy Planning Directorate,  
French Ministry of Foreign and European Affairs*

*“...religion plays an important role in relations between nations, development issues and the interplay of internal political forces”*

The **Religions Team** was established as part of the Policy Planning Directorate on June 1<sup>st</sup>, 2009. It was created at the behest of Bernard Kouchner, who wanted to ensure that the various manifestations of religion in international affairs and the religious aspects of certain conflicts were taken into consideration and analysed.

Indeed, religion plays an important role in relations between nations, development issues and the interplay of internal political forces. Under these circumstances, taking account of religion in international relations involves integrating the specific weight of religious allegiances, beliefs and convictions into our analysis. It is therefore necessary to take an **in-depth, multi-disciplinary approach, combining a wide spectrum of expert knowledge and opinion** in the religious sphere with other approaches that give greater emphasis to security, development and societal aspects.

### **The Religions Team has three assignments:**

- 1. To observe broad religious trends in the contemporary world.** This involves observing the great religious changes of our time, such as secularism and secularisation in Europe, the links between nationalism, religion and conflicts, the increasing importance of religion-oriented debates in international and regional institutions. In addition, a joint seminar between the Ministry of Foreign and European Affairs and the Centre for International Studies and Research was launched in June 2009. Bringing together recognised academic experts, it provides a forum for the in-depth study of particular subjects, taking an interdisciplinary approach, and an opportunity to set up a system to observe these phenomena. It has been greeted with great interest by academics specialising in religious affairs, whose opinion has been little sought hitherto.
- 2. To provide support on all matters of current interest** that the department deals with. The Unit’s approach is to provide specifically religious input on the great international issues of the day. The sense of many events, international meetings and political contexts cannot be properly grasped without an understanding of their attendant religious dimension. Recent examples include the emollient diplomacy of President Obama’s speech in Cairo, unambiguously turned towards Islam and Muslims and the dialogue between religions in the Mediterranean basin.

3. The third mission of the Religions Team is to **help diplomatic personnel hone their understanding of religious questions and to raise awareness of the impact that religion has on major international relations issues.** Part of this mission is to provide training on negotiations in a multi-faith context. When a conflict between religious communities erupts, how should mediation be handled? How can demands of different religious communities be satisfied when they are often bound up with symbolic elements of religious representation and belief, which are important in the hierarchy of values of these societies? Our familiarity with—not to mention our attachment to—the secular and centralised French Republican model is not always very helpful when it comes to contexts where there is extensive regional decentralisation or even federalism.

A new intellectual frontier—that of the place of religion in international relations—has opened up before us. At the Religions Team, our objective is to serve French diplomacy by strengthening its appreciation of religion at the international level and by ensuring that it is taken into consideration in our vision of the world.

### **Freedom of Religion or Belief (FoRB)**

In our daily work, we cooperate with most of the departments of our Ministry on issues related to FoRB. Defending FoRB has become a very important part of every foreign policy among European MS.

FoRB encompasses 3 main ideas:

1. It means first that each individual has a **freedom of conscience**, including the **right to have his own convictions**, religious or not. Therefore, he has the right to believe, the right not to believe, and also the right to change his beliefs;
2. It also means the **freedom to worship and to manifest one’s religion**, in public or in private. It includes freedom of practicing, teaching and observance;
3. Thirdly, it means the **freedom to establish religious, charitable and humanitarian institutions**

Over the past few years, EU institutions have devoted a special attention to the defence and promotion of FoRB. A new Agency for Fundamental rights, the FRA, has been created in 2007. In the European Parliament, meetings and debates are going on this topic. The work done by the European Commission and the Parliament has lead the Member States to issue, through the General Affairs Council on **November 16th 2009**, special **conclusions** reaffirming the strong commitment of the EU to the promotion of freedom of religion or belief (FoRB), as it is a fundamental freedom which applies equally to all persons. The Council also underlined that States have a duty to protect everyone, including persons belonging to religious minorities.

As for France, it will always defend and promote FoRB as it should be an important task for the new European External Action Service. But it is essential to remind, at every step and in every situation, that **FoRB is inseparable from freedom of expression.** Moreover, FoRB should only be **promoted in the frame of fundamental rights.** By doing so, we avoid falling into debates about religions for itself and we can concentrate on individual rights, which is the only universal framework. FoRB belongs to individuals, whether alone or as members of a group.



**Public Hearing Panel**

From left to right: **Jochem de Groot** (Dutch Ministry of Foreign Affairs), **Joseph Maïla** (*Pôle Religions*, French Ministry of Foreign Affairs), **Beatriz Lorenzo Didic** (Spanish Ministry of Foreign Affairs—Spanish Presidency of the Council of the European Union), **Dennis de Jong** (MEP, Host), **Nazila Ghanea** (University of Oxford), **Christel Lamère Ngnambi** (EPRID), **Gerhard Sabathil** (D.G. External Relations, European Commission), **Shane Jones** (UK Representation to the European Union).



## Beatriz Lorenzo Didic

*Spanish Ministry of Foreign Affairs*

**“...the EU has a great number of tools and instruments at its disposal... What we need now is less stalling and more action.”**

Ladies and Gentlemen,

It is a pleasure and an honour for me to be here today, with the aim of discussing an issue which has centred a great part of the both the European Union’s and Member States’ efforts and actions in recent time.

This is so because throughout the past years, the violation of fundamental freedoms such as that of religion or belief, of expression and of non-discrimination have become worryingly present within societies worldwide. In some cases, these violations had already been very present, though not as visible as today, when the media, an active civil society and governments play an increasing role in raising and combating these intolerable violations of fundamental rights and freedoms.

In yet other cases, such violations are the result of growing use—for political reasons—of religious sentiments and traditions, sparking intolerance, discrimination and even confrontation between groups and individuals.

When analysing the deep causes of religious intolerance, we learn that they can only be addressed and tackled in the context of the eradication of all forms of discrimination, and of the promotion and protection of the rest of fundamental freedoms of individuals. It is in this broader context where these issues are being tackled within relevant multilateral *fora*.

The European Union has for decades been very active in this field. Internally, its member States have embraced different models of relations between State and religious practice. The choice of religion or any other form of belief is limited to a private sphere, but promoted and protected as a fundamental right of each individual, and not as an imposed organisational.

We are aware of the fact that globalisation and immigration are leading to the constitution of growingly diverse and multicultural societies. This present reality has shown the complexities that we encounter when seeking to strike an acceptable balance between integration of those with different cultures and traditions, and the respect and protection of precisely these differences. Surely, we are still in the process of helping to shape our societies internally, but success achieved so far has given us enough legitimacy to play a leading role in promoting and protecting freedom of religion or belief in those cases and places where grave violations occur.

And this is precisely what we are here for today, to discuss what the EU has done so far, and where and how the EU can do more to promote and protect freedom

of Religion or Belief, in other words, and as formulated in the invitation that was sent to the Spanish rotating Presidency for this event: “What role does or should freedom of religion or belief play in EU’s relations with third countries?”

I will, throughout the next minutes, try to answer these questions, in order to then briefly explain the discussions that have taken place regarding the possible elaboration of a “Toolkit” on this issue.

Let’s, firstly, address the first question: what role *should* freedom of religion and belief play in the EU’s relations with third countries?

Throughout recent times, it has become quite clear that the promotion and protection of freedom of religion and belief should play an essential, not only in the EU’s relations with third countries, but in international relations in general.

This has increasingly been so, not only because of the already mentioned violations of these freedoms in numerous parts of the world, but also because religion has come to play a growing role within the dynamics of the International community and society. We cannot afford to turn a blind eye to the strength of religion, at a moment when Iran, Afghanistan or Pakistan have become the centre of attention; and when the deadlock of the Middle East Process continues to spark rivalries, confrontation, and even hatred among religious communities. We must also address the severe violations of these rights that have too often been justified on the grounds of fighting terrorism or as a consequence of other security concerns.

But sadly and too often, religion has been linked to extremist attitudes or political objectives, thus constituting the target of criticism and accusations within a simplistic approach of the phenomenon of violent expressions of extremism.

This is why we consider that freedom of religion or belief should centre the EU’s attention in its relations with third countries, but within the broader framework of our action in the field of human rights and fundamental freedoms. Freedom of Religion, Belief or Conscience is not only one of the core rights of individuals, it is also inextricably linked to, and a precondition to the exercise of civil and political, as well as economic, social and cultural rights. Therefore, the action of the EU in fighting religious intolerance, discrimination on these and other grounds and the promotion and protection of Freedom of religion, belief or conscience will necessarily build upon standards enshrined in multilateral legal instruments (such as the Universal Declaration of Human Rights, the ICCPR, etc.). It is therefore necessarily pursued in the context of human rights principles of universal, indivisible and interrelated human rights.

This, in general terms, but let’s go now to the second question: what role—more precisely—does freedom of religion and belief play in the EU’s relations with third countries, and what are the EU actions in this domain?

I am sure other colleagues here present (especially the Commission) will be able to talk to us in more concrete terms instruments that have been used in different spheres of foreign EU action to promote and protect these fundamental freedoms. But let me remind you that, during the last semester the Swedish Presidency circulated an “inventory of the EU work on promoting freedom of religion or belief”. This document constitutes a tremendously useful tool for the EU, as it systematizes and explains concrete EU action in the field and helps to form a clear idea and overview of the EU’s role in this domain.

As I am doing now, the inventory clearly states that the position of the EU is predicated on maintaining focus on the enjoyment by all of the fundamental rights concerned, protecting all persons professing any faith, as well as the right not to belong to a belief. This broad approach is reflected in the EU’s actions at both bilateral and multilateral level.

But let’s go on now to analyse more specifically what this action has consisted of.

At bilateral level, the EU raises issues of religion and belief in political dialogues with third countries, including in HR Dialogues and Consultations. The EU has the greatest leverage on the States with which it has developed regional policy frameworks (ENP, Eastern Partnership, Union for the Mediterranean), has agreed on joint commitments (action Plans) or shares regional HR institutions, such as the Council of Europe or the OSCE.

The EU also raises grave and urgent individual cases, and has issued public CFSP Statements, both at local and at Brussels level. Other options are being explored to show the EU’s concern when these fundamental rights and freedoms are violated or in danger of being violated. The possibility of issuing HOMs Statements or press points has—for example—been raised.

In addition, we must also mention the European Instrument for Democracy and Human Rights, which has to date provided a framework in third states which promote fundamental freedoms and fight all forms of discrimination, including based on religion or belief.

All these bilateral actions run parallel to intense EU efforts in multilateral *fora*—both at universal and regional level—regarding freedom of religion, belief or conscience.

Needless to say, the EU has stepped up these efforts in United Nations throughout more recent times, due to the context we have been facing, mainly owing to attempts of some states to gather widespread support for notions such as “defamation of religion” and for the recognition of collective rights related to this notion, as well as to cultural relativism and the notion of “traditional values”, both of which would lead to undermine basic human rights principles.

In UN *fora*, such as the UNGA Third Committee and the Human Rights Council, the EU has consistently to work on acceptable language for all parties, but has been forced to vote against OIC draft resolutions on “combating defamation of religion” and against the Russian draft Resolution on “traditional values” during the 12<sup>th</sup> ordinary HRC session.

The EU has—time and again—sponsored and advocated the resolution on the elimination of all forms of Intolerance based on religion or belief within the UNGA.

Similar efforts and the so—called “red lines” were defended by the EU throughout the Durban Review Conference, and these same views continue to be valid for the EU position within the framework of the Ad Hoc Committee on Complementary Standards, which will present its Second Report to the HRC during this ongoing XIII ordinary session.

The EU has also been an active supporter of existing UN monitoring mechanism, such as the Special Procedures, both thematic and regional, which have been active in this domain. Of particular importance is the UN Special Rapporteur on



Freedom of Religion of Belief, Asma Jahangir, who published her last report in December 2009, and will present it to the HRC during this session. The EU wishes to defer discussions on this Report to the forthcoming June session of the HRC, so as to coincide with a clear sign of support from our side to the continuity of the mandate, and the election of a new mandate holder. The EU has been very actively cooperating with the work of this Special Procedure, notably in interactive dialogues and during country visits, as we consider that her work sets a valuable basis for further work in this regard.

The UN is no doubt one of the multilateral *fora* where the EU has been most active in promoting its views in the promotion and protection of Freedom of Religion, Belief and Conscience. But it is far from being the only one.

The EU has taken advantage of numerous regional organisations to voice concerns on concrete violations or national measures in third countries which were carried out in contravention of agreed international standards. This has been the case in the context of the Council of Europe or the OSCE. In the latter, the EU rotating Presidency has selected “tolerance” as one of its main priorities within the Human Dimension.

Furthermore, and as a broad framework of action for action in both multilateral and bilateral spheres, the EU has at its disposal the Guidelines on Human Rights, a valuable tool which sets the basis for action—among others—in cases of Human Rights Defenders in danger, cases of Torture or other Cruel or degrading forms of Treatment of punishment, cases of Violence and other forms of discrimination against women and girls, or in those cases where the death penalty is used under diverse criteria foreseen by the Guidelines. As you can imagine, many of these cases have been, and will surely continue to be closely linked to the exercise of individuals’ freedom of religion, belief or conscience. The EU will keep these Guidelines very much in mind when acting to promote and protect these rights.

Last, though not least, I must at least briefly mention action carried out by the EU in support religious tolerance through intercultural dialogue and understanding. This has been the case within UNESCO, and this is also the EU approach to initiatives that promote understanding among cultures and civilisations, interfaith dialogue and tolerance, while fully respecting the rule of law, human rights and fundamental freedoms. A perfect example of this is the Alliance of Civilisations.

This initiative, launched by Spain and Turkey, and now working under the umbrella of the United Nations and under the leadership of its High Representative, Jorge Sampaio, constitutes an inclusive platform of dialogue, cooperation and understanding among different groups and individuals, and works to eradicate the profound causes of extremism and confrontation. All EU Member States are members of the Alliance of Civilisation Group of Friends, and all have supported UNGA Resolution 64/14, on the Alliance of Civilisations.

All that has been mentioned so far is part of the picture of what the EU does in the promotion and protection of freedom of religion, belief and conscience. In its external action. Nevertheless, we must still ask ourselves, as we have during the past months, and as you ask me here today: *what more should* the EU do to promote freedom of religion, belief or conscience, and *what will it do* throughout what is left of this semester, under the Spanish rotating Presidency?

Last November, shortly after the elaboration of the afore-mentioned “EU inventory”, Foreign Affairs Ministers, through GAERC Conclusions on this precise issue, showed the clear political commitment of the EU with the challenge of more effectively promoting freedom of religion of belief. They asked for the elaboration of further concrete proposals to promote freedom of religion or belief in bilateral relations, as well as in the multilateral context.

This impulse was given by Ministers in the light of the fact that a lot is being done in this domain, but that the EU must strive to be more visible, more active, and more effective in its actions to fight against religious intolerance, and to address different aspects of freedom of religion, belief and conscience.

This is why Spain, as rotating Presidency of the EU, has again raised this issue among partners, within the EU Working Group on Human Rights of the Council of the EU.

It is true that the elaboration of an *EU Toolkit* on this matter has been proposed. Nevertheless, the Presidency, supported by other EU partners, has decided to push for an approach based more on action and less on multiplying documents and papers.

Throughout this speech, I hope to have shown that the EU already has a great number of tools and instruments at its disposal to counter attempts to violate freedom of religion and belief, both through attacks on individuals and on existing international standards and instruments which protect these fundamental rights and freedoms. What we need now, in our view, is less stalling and more action. With this in mind, Spain, as rotating Presidency, through COHOM Working Group, has tasked the Council Secretariat and invited the Commission to operationalise the compilation of existing EU policy tools, as well as tools used by member States on a national basis. Examples of this include the UK’s toolkit on FORB, distributed among their Embassies, or Germany’s matrix on the situation regarding FORB in the world.

From now on, Spain wishes to push for clear EU action in this field, starting the soonest and thus taking advantage of existing momentum.

Within multilateral *fora*, an example of this is the active role we will promote, with the support of Belgium, when addressing the Report of the Ad Hoc Committee at the current HRC session, and when working with third States regarding the African draft resolution on this matter. The Presidency will continue to promote a more proactive role of the EU when discussing related issues in any multilateral *fora*, and focus on outreach with potentially *like-minded* countries in this framework, always promoting freedom in religion and belief in the broader approach of fundamental human rights and freedoms.

The Presidency also wishes to make better use of already mentioned regional frameworks, and use other *fora* for dialogue, such as ASEM, Union for the Mediterranean or the EU–Africa Partnership.

We are also making more active use of the Alliance of Civilisation to discuss FORB and Freedom of Expression related issues. Precisely in this context, on May 3<sup>rd</sup> and 4<sup>th</sup>, a Conference will be held in Cordoba, Spain, in the Framework of the Alliance of Civilisation. The Conference will be an occasion to discuss part of what we are discussing here and today: the exercise of freedom of religion and belief, with a special reference to democratic societies. The Conference will consist of four panels, dealing with different issues, among them, religious

pluralism in democratic societies, the role of religious leaders in the promotion of a Culture of Peace, or the prevention of radicalisation and extremism. Among Moderators and panellists will be representatives from different geographical areas, cultures and religions.

Also, the results of work that is being carried out by the General Secretariat of the Council and by the Commission, could serve as useful information to be sent to EU and Member States Delegations on the ground. This would make them aware of existing instruments at their disposal, as well as raise awareness of the implications of not only violations of Freedom on Religion or Belief, but also debates surrounding this concept. At the same time, this would serve to trigger further action by members of delegation, and this increase the EU’s visibility and transparency when acting to promote FORB.

Other proposals for increased and improved action of the EU are aimed at increasing attention paid to coherence among internal and external action in this domain, as well as at actively engaging with civil society working on these issues.

This is precisely why I am here today, and why I am very much looking forward to exchange views, concerns and most of all, proposals on how to make the EU an active and effective actor in the promotion of freedom of religion, belief and conscience; and of other human rights and fundamental freedoms in the world.

Thank you.



## Shane Jones

*UK Representation in Brussels*

***“...supporting freedom of religion of belief is also in the UK’s strategic and national interests... We recently developed a Freedom of Religion or Belief Toolkit to support our diplomatic posts to promote the right.”***

Many thanks to Mr de Jong and EPRID for your invitation to take part in this important hearing.

The UK Government is committed to promoting tolerance, non-discrimination, freedom of expression, freedom of thought, conscience, and religion or belief. I have been asked to share with you the UK’s experience of developing a Freedom of Religion of Belief toolkit, to support our work in this field.

Freedom of Religion of Belief is important because supporting human rights, and having a strong and well functioning multilateral system to up-hold human rights; is our international commitment and a moral obligation. But beyond this, supporting freedom of religion of belief is also in the UK’s strategic and national interests.

Communities whose religious freedoms are not respected are more likely to be displaced. Freedom of religion or belief is often crucial to peace in society. One of the UK’s strategic policy goals is to prevent and resolve conflict.

Many conflicts find their roots in, or are exacerbated by, religious differences. Discrimination on the grounds of religious belief has also led to human rights violations against individuals.

It is therefore in the interests of the UK to help people to enjoy Freedom of Religion or Belief and to end discrimination on these grounds. It is also a value that is essential to the UK’s own culture and its success as a multi-cultural and religiously diverse society. It is a human right that the UK is committed to uphold.

We therefore recently developed a Freedom of Religion or Belief Toolkit to support our network of diplomatic posts to promote the right.

The UK has developed a number of human rights toolkits to advise our staff working in our Embassies and High Commissions overseas on human rights issues and provide guidance on promoting human rights and combating violations of them.

As with other toolkits, our Freedom of Religion of Belief toolkit was drawn up in consultation with a range of government departments, as well as with NGOs and other civil society stakeholders. Many of you are represented here today.

The toolkit assumes limited knowledge of human rights. It is aimed at Embassy staff who will be engaging with their host governments either on policy or through programme development.

The toolkit contains a number of basic issues and answers about freedom of religion that staff overseas may encounter when working to promote this right. More specifically it:

- Defines freedom of religion or belief, in line with UDHR and ICCPR and explains what is meant by “religion” and “belief”;
- Explains why it is important to the UK;
- Sets out what is necessary to enjoy freedom of religion or belief (i.e. the right to change one’s religion, worship or assemble, issue and disseminate relevant publications etc);
- Identifies cross-cutting issues which need to be considered (i.e. children or vulnerable groups and freedom of religion, freedom of religion and freedom of expression, restrictions on freedom of religion);
- What particular problems our Embassies/High Commissions are most likely to encounter when promoting this right (i.e. apostasy, legal recognition, blasphemy);
- And how our Embassies/High Commissions can help promote freedom of religion or belief;
- Lists regional as well as international treaties which codify associated rights.

In using the toolkit, we first encourage our Embassies/High Commissions to undertake an assessment of the situation regarding freedom of religion in their country, including through using a checklist of key questions contained in the toolkit.

On the basis of this assessment staff at our Embassies/High Commissions are encouraged to consider a number of options:

- urging host governments to carry out reporting obligations under human rights treaties and to implement Treaty Monitoring Bodies recommendations;
- urging host governments to issue invitation for UN Special Rapporteur to pay a monitoring visit;
- identifying whether there are individuals or groups who are being persecuted for working to promote freedom of religion and, if so, to whom the EU Guidelines on Human Rights Defenders apply; and
- undertaking public diplomacy activities to support freedom of religion.

This work can also be supported through the use of project funds to support practical in-country programmes to promote freedom of religion or belief. We also encourage our Posts to consider freedom of religion when drawing up their questions and recommendations from their host government in advance of that government’s UN’s Universal Periodic Review.

In conclusion. The Foreign and Commonwealth Office’s toolkit aims to support our work on Freedom of Religion or Belief globally, by informing and getting the

most out of our diplomatic missions. This reflects our broader human rights strategy of mainstreaming the protection of human rights throughout our diplomatic network.





## Dr Gerhard Sabathil

*Director External Relations L,  
European Commission*

***“The European Union has developed a solid approach to freedom of religion, belief or conscience in its external relations, both at the multilateral and bilateral level.”***

Freedom of religion or belief is a deeply held and profound human right. It includes the liberty to espouse individual thoughts and convictions but also to declare them, individually or with others. It also encompasses the right to change one’s religion, prohibits discrimination against those who might hold different beliefs and forbids the use of force to make others change their religion or belief.

Commitment to principles of democracy, respect for human rights and the rule of law is underpinning all European Union endeavours. In particular, promoting freedom of expression and freedom of religion or belief are key to achieving our objective of improving relations between countries as well as within and among cultural and religious communities.

By means of Article 17 of the new Treaty of Lisbon, the EU recognises the identity and specific contribution of Churches and engages on this basis an ‘open, transparent and regular’ dialogue with them. As far as this covers international relations/foreign policy issues RELEX and the future External European Action Service would be in charge. Two examples of our activities are the Alliance of Civilizations—for which I am the coordinator in the Commission—and the place of freedom of religion and beliefs in EU foreign and human rights policy, the 12 January statement of HR/VP Ashton on the trial in Iran against seven Bahá’í leaders being a recent example.

The November General Affairs Council adopted conclusions underlining the EU’s strong attachment to freedom religion or belief, and tasked the EU bodies to evaluate existing initiatives and elaborate further proposals on EU action in this regard. The Council expressed alarm by recent reports of increasing acts of extreme violence against persons belonging to religious minorities. It also noted with concern that legislation on defamation of religion is often used to mistreat religious minorities and limit freedom of religion of belief and freedom of expression. In this respect the Council restated that defamation of religions is not a human rights concept.

On the opposite, the EU believes there is a strong link between freedom of religion and belief and freedom of expression and opinion. Freedom of expression is a non-negotiable part of Europe’s values and traditions. Governments should not dictate the opinions put forward by individuals but at the same time such opinions engage these individuals and only them. Freedom of speech is the basis not only of the possibility to express an opinion but also to

criticize it. At the same time freedom of speech has limits, defined and enforced by law in each EU member state, for example regarding the denial of the holocaust, as well as by international law, that need to be respected

The European Union has developed a solid approach to freedom of religion, belief or conscience in its external relations, both at the multilateral and bilateral level. At the bilateral level the issue of freedom of religion or belief plays a primary role in EU dialogues with Third Countries. This is achieved both through highlighting individual cases whenever necessary and through releasing public declarations when violations occur, is it Christianophobia, Islamophobia or anti-Semitism. At the multilateral level the EU is an active player on the world stage by supporting the international consensus on the resolution of religious intolerance and working to strengthen its implementation, also through the European instrument for Democracy and Human Rights (EIDHR). We are currently working on further strengthening of our actions in all fields.

Several external factors have shaped EU priorities and actions: after 9/11 in particular, polarisation on issues related to religious freedom in multilateral fora, OIC attempts to gather support at UN for notion of defamation of religion, severe violations of freedom of religion on the grounds of “fighting terrorism” etc

EU efforts aim at preventing the erosion of existing universal standards on freedom of religion and the underpinning principles of human rights and fundamental freedoms. We have systematically offered our cooperation to the main sponsors (OIC) of the resolution on combating defamation of religion within the UNGA. However in the absence of an agreement we voted against the draft resolution as it could have a negative impact on several fundamental freedoms (freedom of expression, freedom of religion or belief etc).

EU continues its work aimed at maintaining broad political consensus in the UNGA on freedom of religion and religious tolerance, in particular as regards the EU sponsored resolution on the elimination of all forms of intolerance based on religion or belief of March last year.

Inter religious dialogue may contribute towards the elimination of misunderstandings and improve relations between people of different religious and cultural background. The Commission believes that this dialogue should be endorsed at numerous levels (political, academic, cultural, etc.) and that symbolic steps aimed at “reconciliation” between religions might generate positive results

In parallel, since the 1980s successive Presidents of the European Commission have maintained a dialogue about European integration between Churches, Religions, Communities of conviction and representatives of philosophical non-confessional associations and the European Commission. Those meetings are of an informal nature and their overall objective is the promotion of the dialogue with religious and humanist communities. The benefits lie in better knowledge of the significance of European integration on the part of religious leaders and in the light that they for their part are able to shed on contemporary political trends. Former EP President Hans-Gert Pöttering has also played an important part in promoting inter-faith dialogue. A growing number of religious organizations have already appointed permanent representatives in Brussels for this work.

In conclusion, the Commission aims to further nourish our dialogue on universal human rights, including on elimination of all forms of intolerance based on



religion or belief, as well as the relation between the freedom of expression and the freedom of religion also in an intercultural context.



*Many thanks to our host, MEP Dennis de Jong*



## Recommendations of the European Platform on Religious Intolerance and Discrimination to the Institutions of the European Union concerning the implementation of Freedom of Religion or Belief

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### Why implement commitments to Freedom of Religion or Belief?

Freedom of thought, conscience and religion, which guarantees the right to hold and manifest religious and non-religious beliefs alike, is one of the pinnacle principles of all modern democracies. Following the atrocities of World War II, Article 18 in the Universal Declaration of Human Rights states that “Everyone has the right to freedom of thought, conscience and religion.” European Convention on Human Rights’ (1950) Article 9 provides a right to freedom of thought, conscience and religion. This includes the freedom to change a religion or belief, and to manifest a religion or belief in worship, teaching, practice and observance, subject to certain restrictions that are “in accordance with law” and “necessary in a democratic society.” The Charter of Fundamental Rights of the EU likewise affirms citizens’ “freedom of thought, conscience and religion” (Article 10).

Over the past decades, more citizens and leaders seem to understand the role and importance of religion and belief issues in national and international affairs. As recent research has shown, respect for Freedom of Religion or Belief not only contributes to citizens’ social wellbeing, but also has a positive impact on stability, democracy and religious tolerance in a given society. Thus, promoting Freedom of Religion or Belief is not only a moral or legal obligation, but also a strategic choice to be considered by policymakers.

Freedom of Religion or Belief (FoRB) is often crucial to peace in society, and the lack thereof often leads to other human rights violations, including denials of freedom of expression, detention without trial, impunity for attacks on property and people, banning of religious assemblies and unlawful killing.<sup>1</sup> This has often led specialists to claim that FoRB is indeed a *litmus test* for other fundamental rights. As with other fundamental freedoms, FoRB benefits all as it contributes to creating the conditions required for peace, democratisation and development and for the promotion of other human rights. Despite this, over half of the world’s population live in countries where the state seriously limits citizens’ freedom to believe, learn about belief or manifest belief. This negatively affects all communities of belief, including those whose beliefs are not theistic, such as

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<sup>1</sup> As per British Foreign and Commonwealth Office’s ‘Toolkit’ on FoRB: “Freedom of Religion or Belief – how the FCO can help promote respect for this human right”.

atheists.<sup>2</sup> Based on this, and in view of implementing the fundamental right to Freedom of Religion or Belief, EPRID suggests a number of recommendations to the Institutions of the European Union.

## Recommendations

**(1) Develop guidelines on the promotion of the defence of FoRB, similar to the toolkit developed by the UK’s Foreign and Commonwealth Office; these guidelines:**

1. Should look at FoRB as a fundamental freedom and its various sorts of infringements, as well as the ways it intersects with other fundamental rights and freedoms.
2. Should include a checklist (see UK Toolkit) on the necessary freedoms pertaining to FoRB in order to assess whether they are being respected, and mechanisms to identify infringements to FoRB.
3. Include suggestions and material for civil servants (especially in the European External Action Service). Inspiration may be taken from the work of the Dutch Government, the ‘Toolkit’ developed by the UK’s Foreign and Commonwealth Office and the *Guidelines for the Review of Legislation pertaining to Freedom of Religion or Belief* by the ‘Vienna Commission’ of the OSCE’s Office on Democratic Institutions and Human Rights, among others.
4. The preparation of such guidelines should include Civil Society consultation and take into account recommendations given by Civil Society Organisations.

**(2) Concerning the European External Action Service’s (EEAS) Human Rights mandate:**

1. Human Rights should remain high on the EU’s external policy agenda and the EEAS should be sufficiently resourced in order to have the capacity to fulfil this role.
2. Sharing of best practices in the Institutions and among the Member States is one of the most efficient ways to delineate and devise implementation mechanisms for the EEAS’ Human Rights mandate. As concerns FoRB this should include sharing of the work already done in the Council and Commission as well as in the UK, the Netherlands, Germany and Spain in particular. Also, mechanisms such as the U.S.’s *List of Countries of Particular Concern* are efficient tools to implement the defence of Freedom of Religion or Belief.
3. Consider the setting up of a ‘Religion Unit’ similar to the *Pôle religions* (Religions Unit) in France (Dept of Prospective Studies, Ministry of Foreign Affairs), paying full attention to the evolution of religious issues in international relations. Such a unit, located within the EEAS, would be devoted to the study of international religious phenomena, and advise the Human Rights missions of the EEAS. This unit should endeavour to

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<sup>2</sup> As per Swedish Mission Council submission to the OSCE, 29 September 2009: “Guidelines for the Review of Legislation pertaining to Freedom of Religion or Belief”.

understand global religious or convictional phenomena, institutions based on religion or belief, and communities of conviction, largely speaking.

4. Consider training and awareness-raising about FoRB, for EEAS civil servants, including EU delegations in third countries, paying attention to cultural and religious sensitivity in this context. Vulnerable groups and individuals, such as women and children, and religious, ethnic or other minorities, should receive particular attention. Sensitivity about cultural and religious issues would need to be integrated in both human rights and conflict analyses and there should be capacity and resources to provide such expert knowledge on both headquarters and delegations levels.
5. Consider introducing a civil society consultation mechanism in the workings of the EEAS in line with existing mechanisms, preferably in conjunction with Human Rights Dialogues.

**(3) Concerning the Human Rights Dialogues (European Commission, Council, High Representative)**

1. Streamline FoRB as an issue to be discussed during each Human Rights Dialogue, considering it as a litmus test for other Human Rights and fundamental freedoms.
2. Maintain regular dialogues with Civil Society.

**(4) Recommendations for the European Parliament**

1. Institutionalise a permanent all-party working group with Civil Society Organisations. Such a group should endeavour to address issues pertaining to FoRB and concerning the implications of religious or convictional presence in society for European policy-making in a relevant manner. It should allow an open and active discussion of these issues, and especially help feature Freedom of Religion or Belief for all higher up the agenda of the European Union. An example of such a ‘Religion and Society’ Working Group exists in the Netherlands.
2. Call the EU Fundamental Rights Agency to provide the Parliament with accurate and reliable data on infringements of FoRB in the European Union, and advise how these could be tackled.
3. Actively debate the issue of FoRB in relevant *fora* (e.g. DROI, AFET, LIBE, EMPL etc., and country/regional Parliamentary Delegations), monitor the activities of the EEAS, the Commission and Council in this field and come with recommendations, where appropriate. In particular, Parliamentary Delegations could undertake to conduct comparative research on the international religious freedom situation. MEPs should also pay attention to FoRB as an issue of concern and document infringements to this fundamental freedom during third-country visits.