

## EPF Occasional Policy Brief

# RECOMMENDATIONS ON FREEDOM OF RELIGION OR BELIEF

*Updated February 2018*

## *1. Legislation and policies relating to freedom of thought, conscience, religion or belief*

### SITUATION AND RECENT DEVELOPMENTS

The area of freedom of thought, conscience, religion or belief is presently regulated by the law “On freedom of conscience and religious organizations,” adopted by the Supreme Council of the Republic of Armenia back in 1991, prior to the adoption of the Constitution of Armenia, based on the USSR Law “On freedom of conscience and religious organizations.” Bearing in mind the fact that the Law has a number of deficiencies, contradictions and fails to comply with Armenia’s international obligations, the Ministry of Justice of Armenia (MoJ) has developed and circulated on **June 1, 2017 the draft law (the Draft) on “Making Amendments to the Law of the Republic of Armenia on the Freedom of Conscience and on Religious Organizations” and amendments and/or supplements to adjacent laws<sup>1</sup> through the Governmental [www.e-draft.am](http://www.e-draft.am) website without duly notifying relevant stakeholders and with rather restricted timing for discussions – until July 2.**

The civil society organizations and religious communities with which EPF is in regular contact had already articulated several concerns regarding the Draft.

In particular, it could be inferred from the wording of the Draft that it would not be applicable to the activities of the Armenian Apostolic Church (AAC) as opposed to other religious communities, thus creating a risk of discriminatory approach and undermining the foundations of equality and secularism.

Hence, EPF, within the project supported by the Embassy of the Kingdom of the Netherlands to Armenia and Georgia, **initiated public discussions with all interested parties**, which took place on **June 16.**

Representatives from the Ministry of Justice, the

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<sup>1</sup> <https://www.e-draft.am/projects/246>

Staff of the Ombudsman of Armenia, religious groups and organizations, CSOs, international organizations and embassies attended the discussion. The discussion provided a platform for comprehensive, profound and inclusive considerations of the Draft, and development of relevant recommendations regarding its worrisome provisions.

For the draft law to be understandable to a wider audience and the international community, EPF translated it into English and provided it to all interested international parties.

*“On October 27, International Religious Freedom Day, the Eurasia Partnership*

*Foundation (EPF), a local NGO, held the closing ceremony of its three-year program aimed at promoting religious tolerance and nondiscrimination. As part of the event, EPF held an awards ceremony for the best coverage of issues related to the freedom of religion or belief. EPF received 32 written articles, 14 videos, and 12 caricatures as submissions for the awards. Throughout the program, EPF trained hundreds of journalists on religious tolerance with its partner NGO. According to human rights NGOs and religious minority representatives, the program positively impacted media coverage of religious issues.”<sup>2</sup>*

**International Religious Freedom Report for 2017**  
**Bureau of Democracy, Human Rights and Labor**

To mitigate possible risks with the Draft, EPF also approached the OSCE/ODIHR Senior Adviser on Freedom of Religion or Belief, who suggested that that national human rights institution (the Ombudsman of Armenia) officially apply to OSCE/ODIHR with a request to provide a review of the Draft. Thanks to these timely advocacy measures, any possible plan by the Government to pass the law quietly to the Parliament failed since too many local and international actors were already engaged. The outcome of the campaign was the legal opinion on the Draft Law provided by OSCE/ODIHR on **October 16, 2017**. Since civil society actors cannot apply and receive recommendations from the ODIHR directly, it was a big success that EPF had convinced the Human Rights Defender Mr. Arman Tatoyan to request a legal opinion from OSCE. On top of this, based on EPF’s request, the MoJ confirmed that the draft law would be equally applicable to the Armenian Apostolic Church (AAC) – the dominant church in Armenia. It was a positive development that some religious organizations (such as the Church of Jesus Christ of the Latter-day Saints, Bahai Community of Armenia) and diplomatic missions, such as the Apostolic Nunciature, which are usually reserved in terms of engaging in such discussions, were part of the advocacy process due to the carefully crafted methodology of trust building EPF applies during human rights advocacy. On **November 21, 2017** the MoJ, having revised the Draft law, initiated public discussions where the concept of the revised Draft was presented to the participant CSOs and religious groups and organizations. The MoJ outlined that the recommendations of the OSCE/ODIHR had been taken into account and an improved Draft would be circulated for another round of opinions from stakeholders. The revised Draft law was shared by the MoJ for opinions on **November 30, 2017** with very disappointing content related to a number of restrictive and/or unprofessional provisions, unclear wording and lack of understanding of religion and religious life. EPF had consultations with a number of CSOs and the

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<sup>2</sup> [www.state.gov/j/drl/rls/irf/religiousfreedom](http://www.state.gov/j/drl/rls/irf/religiousfreedom)

Evangelical community of Armenia on the revised Draft and they shared EPF's concerns. The suggested text reflected rather common and widespread stereotypes/misunderstandings/biases about religious/belief communities, minority or newly established religions and religious life. For instance, it was noticeable that there was a hidden (or not really hidden) perception that religious organizations: *i.* are dangerous for society, state security, morals etc.; *ii.* are actively pursuing children, elderly and other "vulnerable groups"; *iii.* follow mercenary goals; *iv.* are agents of foreign influence, etc. Hence, all those 'ways' were legally blocked though the revised Draft. EPF's key concerns are reflected in its text of recommendations on the Draft submitted to the MoJ. The revised Draft was furthermore submitted by the MoJ to the Venice Commission and OSCE/ODIHR for a joint opinion, which is expected to be followed by another round of revision and then probably submission to the Parliament of Armenia for adoption. To note, according to the Point 25 of the National Human Rights Action Plan of Armenia 2017-2019, the Draft is expected to be adopted **in the second trimester of 2018.**

### RECOMMENDATIONS TO THE GOVERNMENT OF ARMENIA

- include in the Draft not only the freedom of conscience and religion, but also the freedom of belief; provide for not only the concept of "religious organization" but also "belief organization";
- replace the phrase "grounds for prohibition" of FoRB into "grounds for limitation" of FoRB;
- replace the term "state security" with the term "public order", in line with ECHR, ECtHR case law and OSCE/ODIHR recommendations to Armenia; stipulate that the limitations of the manifestation of FoRB must be set in law, and be necessary and proportionate to the (legitimate) aims that they pursue; remove the terms "weakening of defense capacity", "propagating of religious hatred", "immoral" as a basis of limitation of FoRB from the Draft;
- remove or reword the provision imposing collective responsibility on a religious organization for activities of its members, in line with OSCE/ODIHR guidelines on Legal Personality of Religious or Belief Communities;
- remove the precondition of having at least 100 adult founders for registration of a religious organization according to OSCE/ODIHR standards, as well as remove the requirements relating to activities, directed towards religious spheres, based on a historically canonized holy book, the faith being part of the system of world's contemporary religious communities;
- either remove the provision on the precondition of an expert opinion for registration of a religious organization or reword this requirement, by specifying that an expert opinion shall be provided by an independent neutral body, which does not have representatives from other religions or belief communities and which is not entitled to assess whether or not the considered religion or belief is genuine;
- remove the total ban on religious organizations to be financed by and finance their spiritual centers located outside of the territory of the Republic of Armenia according to OSCE/ODIHR standards;
- revise the term "believer of a religious organization", instead providing for the category of "follower", having regard also to the fact that freedom of religion and belief extends to the

rights of non-believers;

- clarify the applicability of the articles of the Draft to the AAC, by guaranteeing that the privileges given to the AAC are justified and non-discriminatory. Ensure that other religious or belief communities have access to some of the privileges enjoyed by the AAC based on objective and non-discriminatory criteria;
- prescribe specifically an exhaustive list of documents to be requested and legitimate grounds for requesting such documents from religious organizations by giving them sufficient time to prepare them;
- remove the requirement on the detailed list of data to be included in the report, while mentioning the publication of only the statistical data and financial results of religious organizations;
- include the right to humanitarian, benevolent activities in the list of religious organizations' rights.

## ***2. Freedom of thought, conscience, religion or belief and the right to education***

### **SITUATION AND RECENT DEVELOPMENTS**

The history of the Armenian Church was introduced in Armenian schools as a pilot subject starting from 2002 and later became compulsory, giving rise to practical problems in terms of the child's freedom of conscience.

A field study conducted by EPF with the support of the Embassy of the Kingdom of the Netherlands revealed that during the history of the Armenian Church course, some teachers arbitrarily, without following the program methodology, start the class with The Lord's Prayer, during which the children stand up, and at the end they make the sign of the cross.<sup>3</sup>

At the same time, studies illustrate that many of the representatives of religious minorities have a positive attitude towards the history of the Armenian Church. They regard the topics of this subject as part of their national history and if this is not in conflict with their conscience, they enjoy studying it<sup>4</sup>. However, there is also a viewpoint that the textbooks on the history of the Armenian Church are primarily aimed at teaching the theology of the Armenian Church, and there is no alternative course for the pupils whose parents do not wish for their children to participate in the course on the history of the Armenian Church.

The Committee on the Rights of the Child has suggested in its concluding observations of 2013 that Armenia should revise the curriculum of schools in order to reflect the freedom of religion of all children and eliminate the compulsory subject of the history of Armenian Church from the curriculum.

In accordance with OSCE Toledo Guiding Principles on Teaching About Religions and Beliefs in Public Schools, if a compulsory program involving teaching about religions and beliefs is not sufficiently objective, efforts should be made to revise it to make it more balanced and impartial, but where this is not possible, or cannot be accomplished immediately, recognizing

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<sup>3</sup> <https://rm.coe.int/16807023b9>

<sup>4</sup> Ibid.

opt-out rights may be a satisfactory solution for parents and pupils, provided that the opt-out arrangements are structured in a sensitive and non-discriminatory way.

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- based on the 2013 recommendations of the UN Committee on the Rights of the Child and the recommendations addressed to Armenia during the Universal Periodic Review in 2015, and bearing in mind the secular nature of education in Armenia stipulated by national legislation, revise the content of the subject called the history of the Armenian Church, reflecting the coverage of historical events and excluding religious preaching;
- eliminate the instances of religious preaching in schools by the AAC as well as anti-preaching against other religions and beliefs, which lead to intolerant and discriminatory practices, through intervention of authorized bodies (where necessary) guaranteeing that the education on religion is provided in line with the objective, impartial and democratic principles of pluralism;
- eliminate prayer, crossing oneself and other religious ceremonies while teaching the history of the Armenian Church at schools;
- opt out of the history of the Armenian Church as a compulsory school subject. In parallel to it or as an option, introduce the subject of world religions and/or history of culture, thus reducing the risk of endangering the freedom of conscience and religion of the child in the school, in line with recommendations of the UN Committee on the Rights of the Child, UN Committee on Racial Discrimination, European Commission of Racism and Intolerance (ECRI) and OSCE Toledo Guiding Principles on Teaching About Religions and Beliefs in Public Schools. The teaching process should be exclusively secular, avoiding elements of religious indoctrination, usage of religious symbols or rituals in public school, which is in line with Armenia's Constitution and Law on Education.