



**Supplementary Human Dimension Meeting**

**FREEDOM OF RELIGION OR BELIEF,  
FOSTERING MUTUAL RESPECT AND UNDERSTANDING**

**2-3 July 2015**

**Vienna, Austria**

**FINAL REPORT**

## Table of Contents

1. EXECUTIVE SUMMARY.....	2
2. SYNOPSIS OF THE SESSIONS AND RECOMMENDATIONS .....	2
OPENING SESSION.....	2
SESSION I – FREEDOM OF RELIGION OR BELIEF AND FOSTERING MUTUAL RESPECT AND UNDERSTANDING IN THE OSCE AREA – OPPORTUNITIES AND CHALLENGES ....	4
SESSION II – CREATING THE CONDITIONS FOR MEANINGFUL AND SUSTAINED INTERRELIGIOUS DIALOGUE IN ORDER TO ENSURE STABILITY AND SECURITY IN THE OSCE REGION .....	8
SESSION III: ADVANCING FREEDOM OF RELIGION OR BELIEF AND FOSTERING MUTUAL RESPECT AND UNDERSTANDING THROUGH DIALOGUE AND CO- OPERATION AMONG AND BETWEEN AUTHORITIES, RELIGIOUS AND BELIEF COMMUNITIES AND CIVIL SOCIETY .....	11
3. ANNEXES.....	14
Annex 1: Agenda .....	14
Annex 2: Opening Remarks.....	16
Annex 3: Keynote Speech.....	22
Annex 4: Biographical Information on Panellists and Moderators.....	27

## **1. EXECUTIVE SUMMARY**

The second Supplementary Human Dimension Meeting (SHDM), organized by the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) and the Serbian OSCE Chair-in-Office on 2-3 July 2015, provided a forum to discuss the nature and scope of the right to freedom of religion or belief (FoRB) and its role in fostering mutual respect and understanding. It offered an opportunity to take stock of relevant developments in the OSCE region since the 2010 SHDM on Freedom of Religion or Belief, with the view to reflecting on the lessons learned in efforts to implement relevant commitments and to considering how those may apply to changing circumstances and new challenges. The meeting brought together 139 participants, including 83 delegates from 35 OSCE participating States, four representatives from one OSCE Partner for Co-operation (Israel), 46 representatives of 30 non-governmental organizations, participants from OSCE executive structures (OSCE Secretariat, Action against Terrorism Unit, the OSCE Parliamentary Assembly, OSCE Parliamentary Liaison Office and the Office for Democratic Institutions and Human Rights), and three representatives of two international organizations (Council of Europe and the European Union Agency for Fundamental Rights).

The meeting was organized around three working sessions:

- Freedom of religion or belief and fostering mutual respect and understanding in the OSCE area – challenges and opportunities;
- Creating conditions for meaningful and sustained interreligious dialogue in order to ensure stability and security in the OSCE region;
- Advancing freedom of religion or belief and fostering mutual respect and understanding through dialogue and co-operation among and between authorities, religious and belief communities and civil society.

## **2. SYNOPSIS OF THE SESSIONS AND RECOMMENDATIONS**

This section summarizes the discussions which took place during the opening session and the three thematic sessions and presents recommendations made by participants. The recommendations were directed towards a variety of actors, including OSCE participating States, OSCE executive structures, and civil society organizations. These recommendations have no official status as they are not based on consensus among the 57 OSCE participating States. Further, the inclusion of a recommendation in this report does not suggest that it reflects the views or policies of the OSCE. Nevertheless, these recommendations serve as useful indicators of how participating States are meeting their commitments pertaining to freedom of religion or belief and promoting mutual respect and understanding as well as their views on follow-up activities in this area.

### **OPENING SESSION**

Opening remarks were delivered by Ambassador Sanja Milinković on behalf of Ambassador Vuk Žugić, Chairperson of the OSCE Permanent Council and Permanent Representative of Serbia to the OSCE, and by Mr Michael Link, Director, OSCE/ODIHR, followed by the keynote speech of Dr. Yevgeny Zhovtis, Chairperson of the Board of the Kazakhstan International Bureau for Human Rights and Rule of Law.<sup>1</sup>

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<sup>1</sup> The texts of the opening session remarks and keynote speech can be found at Annexes 2 and 3.

Ambassador Milinković underlined that freedom of religion or belief (FoRB) has been one of the principal OSCE human dimension commitments since the adoption of the Helsinki Final Act in 1975. She pointed out that, despite efforts to implement a range of OSCE commitments pertaining to FoRB, many challenges related to the manifestation of religion or belief in the OSCE region remain. Ambassador Milinković equally emphasized the importance of interreligious and interfaith dialogue in fostering mutual respect and understanding and ensuring stability in the OSCE region. In this context, she pointed out that establishing effective and regular channels of communication among and between OSCE participating States, religious and belief communities and civil society at the national and international levels is crucial to the promotion and protection of FoRB for all, including non-believers, and to fostering mutual respect and understanding in the OSCE area.

Ambassador Milinković saluted OSCE/ODIHR for its important work in these areas and called on OSCE participating States and civil society organizations to support ODIHR's initiatives, stressing the significance of co-ordinated joint efforts. She invited participants to engage in active and open discussions, pointing out that recommendations stemming from this SHDM will be of relevance and importance to this year's OSCE Ministerial Council meeting due to take place in Belgrade on 3-4 December 2015.

In his opening remarks, Director Link highlighted a statement by Professor Heiner Bielefeldt, the United Nations Special Rapporteur on Freedom of Religion or Belief, who commented that FoRB "*should not be seen as an act of mercy by the state, but rather as an inalienable and non-negotiable right for all human beings that the state has to respect*". Emphasizing that this entitlement belongs to all members of the human family, Director Link noted with concern that the full and free exercise of this right is under threat in the OSCE area. He stressed that governmental and social restrictions on FoRB were not conducive to the security and stability of the pluralistic and increasingly religiously diverse societies within the OSCE.

Recalling the two sets of commitments that were the focus of the SHDM, namely the right to freedom of religion or belief and fostering mutual respect and understanding, Director Link pointed out that these were overlapping, mutually reinforcing and interrelated. He noted that only a coherent and integrated approach would ensure their effective implementation. While welcoming the attention on interreligious dialogue and co-operation, which have a vital role to play in promoting FoRB, Director Link stressed that these activities could never substitute a clear focus on the state's duty to respect, protect and promote the right to freedom of religion or belief for all.

Director Link underlined ODIHR's long-standing efforts to assist participating States, civil society, and religious and belief communities in protecting and promoting the right to freedom of religion or belief for all, and in preventing and responding to intolerance and discrimination based on religion or belief. He assured participants of ODIHR's ongoing support and assistance to ensure the full and effective realization of these important commitments.

In his keynote speech, Dr Zhovtis noted that challenges in ensuring the full and effective realization of the right to freedom of religion or belief are not only often linked to political and social contexts in a particular state, but also to conceptual approaches which determine the development of legislation and law enforcement practice pertaining to FoRB. Dr Zhovtis emphasized that international law guarantees "the right to freedom of religion or belief", not "the right to religion or belief". He further noted that some OSCE participating States regard FoRB as the "right to religion or belief", while others correctly consider it as "the right to

freedom of religion or belief”. He argued that these two conceptual approaches impact the realization of FoRB in different ways. The first approach, for example, leads states to interpret this right as a privilege that they grant to people, and then set rules on how and when people may enjoy this right; in the latter, states ensure that freedom of religion or belief is respected and protected in line with their international commitments, including the principle of non-interference.

Dr Zhovtis also spoke about international human rights law, which he described as “the law of principles, rather than norms”. In his view, international human rights instruments are based on principles, which are subsequently elaborated and interpreted in various soft law documents and international jurisprudence; in many participating States, such documents are often disregarded during the process of developing national legislation and policy with the result that FoRB is often inadequately protected under modern national legal frameworks.

Referring to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, Dr Zhovtis reiterated that the right to freedom of thought, conscience and religion belongs to *everyone*. He noted with regret, however, that in many OSCE participating States the notion of “everyone” has to a large extent become synonymous with individuals who consider themselves religious believers or to religious associations. Dr Zhovtis emphasized the importance of protecting and promoting FoRB for all, including non-believers, and underlined that FoRB is an individual right that can also be exercised collectively. He called on relevant actors to continue advancing FoRB and tolerance and non-discrimination, taking into account the aforementioned challenges.

## **SESSION I – FREEDOM OF RELIGION OR BELIEF AND FOSTERING MUTUAL RESPECT AND UNDERSTANDING IN THE OSCE AREA – OPPORTUNITIES AND CHALLENGES**

### ***Moderator:***

**Ms Katarzyna Jarosiewicz-Wargan**, Head of Human Rights Department, OSCE/ODIHR

### ***Panelists:***

**Mr Jakob Finci**, Member of the Assembly of the Interreligious Council of Bosnia and Herzegovina, former Ambassador of Bosnia and Herzegovina to Switzerland

**Dr Nazila Ghanea**, Lecturer in International Human Rights Law, University of Oxford, member of the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief

The first session reviewed developments pertaining to the right to freedom of religion or belief in the OSCE region since the SHDM on Freedom of Religion or Belief in 2010 and examined current policies and efforts to implement relevant OSCE commitments.

Drawing on the role of religion in the Balkan wars and in the post-war reconciliation process, Mr Finci noted that religion can be both misused by politicians to instigate conflicts and tensions as well as serve as a vehicle to bring about reconciliation, mutual respect and understanding. Mr Finci stated that a crime committed in the name of a religion is the biggest crime against that religion and reminded participants that the restoration of interreligious relations and trust, once heavily damaged following conflict, as was the case in Bosnia and

Herzegovina, requires long-term and consistent efforts on the part of state authorities, civil society, and religious and belief communities.

Mr Finci shared a number of good practices that contributed to the reconciliation process in Bosnia and Herzegovina after the war. The establishment of an interreligious council and the signing of a statement on Shared Moral Values and Commitment in June 1997 by representatives of the Islamic and Jewish communities and the Serbian Orthodox and Catholic Churches were highlighted as important achievements demonstrating the positive role religions can play in the peace process. He stressed that the time has come to take another step forward and in this regard he proposed the adoption of a forward-looking covenant in Bosnia and Herzegovina aimed at building a democratic society where everyone is treated with respect and dignity and where diversity is accepted and celebrated.

Referring to the misuse and instrumentalization of religion, Mr Finci called on European Muslims to take serious action to confront violence committed in the name of Islam. In this context, he drew the attention of participants to the Declaration of European Muslims drafted by Grand Mufti of Bosnia and Herzegovina, Dr Mustafa Cerić, and urged European Muslims to consider adopting this document. Mr Finci strongly condemned intolerance against Muslims and reiterated that *diversity with unity* is the only means by which the security and stability of society can be ensured.

In her remarks, Dr Ghanea stressed that a climate of mutual respect and understanding is an outcome of advancing FoRB for all. She noted that clarity on this point would help frame discussions in this area and, most importantly, joint efforts aimed at fulfilling relevant OSCE commitments. Underlining that FoRB should not be the sole preserve of those religious communities who are part of official dialogue processes and related activities, Dr Ghanea reiterated that FoRB is a human right inherent to all human beings, without discrimination, including detainees, migrants, children and women

Dr Ghanea pointed out that the right to “change” or “to have or adopt” a religion or belief falls within the inner and private realm of the individual (*forum internum*) and is an absolute right, not subject to limitation under any circumstances. She noted that the manifestation of religion or belief (*forum externum*) may be susceptible to limitation, but only under the strict circumstances set out in the relevant limitation clauses in international human rights instruments. Dr Ghanea emphasized that violations of FoRB continue to take place in the OSCE region often stemming from laws that are not in line with international standards. She added that changing social circumstances throw up new challenges and called on OSCE participating States to be dynamic and responsive when it comes to developing relevant laws and policies or amending existing ones to address such challenges. She stressed that state authorities need to make positive, active and sustained investments to translate their commitments pertaining to FoRB and fostering mutual respect and understanding into reality in their contexts. In this regard, Dr Ghanea highlighted the importance of capacity building of relevant state institutions on FoRB and strengthening the role of national human rights institutions (NHRIs) and civil society in ensuring adequate oversight in matters relating to FoRB as areas requiring attention and further investment.

The ensuing discussion emphasized that the lack of full implementation of OSCE commitments and other international standards continues to constitute a significant barrier to the full enjoyment of FoRB in the OSCE region. There was general agreement amongst participants that OSCE commitments and international obligations pertaining to FoRB as

well as relevant domestic legislation consistent with international standards must be implemented by OSCE participating States in full. Stressing the interrelatedness of human rights, participants noted that violations of FoRB are usually associated with violations of several other human rights such as the rights to freedom of peaceful assembly, freedom of association, and freedom of opinion and expression. In this context, some participants expressed the concern that FoRB is often seen as less important than other human rights and emphasized the importance of rejecting such a view. Participants also reiterated the link between security and full respect for FoRB.

A number of participants drew attention to issues related to the legal personality of religious or belief communities. They noted that burdensome and excessive registration requirements imposed on religious or belief communities in a number of OSCE participating States are often used as a pretext to deny the right to FoRB. In this regard, participants cited the 2014 OSCE/ODIHR-Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities as a benchmark document containing minimum international standards in the area of recognition of religious or belief communities. They called on OSCE participating States to make use of them when developing and reviewing relevant laws, policies and practices.

Some participants referred to the need to ensure the autonomy of religious or belief communities in matters pertaining to the election and appointment of their leadership. Others expressed concern about anti-discrimination laws that violate the autonomy and self-organization of religious or belief communities by forcing them into apparent conflict with their moral beliefs, values or practices. To mitigate against these challenges, participants recommended that OSCE participating States engage in meaningful, transparent and inclusive consultations with religious or belief communities prior to adopting relevant legislation. Violations of FoRB in disputed territories or conflict-ridden areas as well as challenges related to ensuring conscientious objection to military service, the right to wear religious symbols and attire in public spaces, and the protection of places of worship were highlighted by some participants as areas that require targeted response by participating States in line with relevant OSCE commitments and international standards.

Many OSCE participating States reaffirmed the importance of the OSCE Ministerial Council Decision 3/13 on Freedom of Thought, Conscience, Religion or Belief adopted in Kyiv in 2013. While highlighting this decision as a positive step forward, they expressed concern about continuing acts of intolerance against individuals and communities on grounds of religion or belief in the OSCE region. In this context, participants underlined interreligious and interfaith dialogue and co-operation across national and regional borders as an essential means to promote mutual respect and understanding. Some participants noted that although building interreligious councils is not the duty of states, they could nevertheless still play an important role in encouraging and facilitating the establishment of inclusive dialogue platforms.

*The following specific recommendations were made in Session 1:*

Recommendations to OSCE participating States:

- OSCE participating States should implement OSCE commitments and international standards pertaining to FoRB and related human rights in full;

- OSCE participating States should ensure their national laws pertaining to FoRB are in line with relevant OSCE commitments and international human rights standards;
- OSCE participating States are urged to use widely the 2014 OSCE/ODIHR-Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities when developing and reviewing relevant legislation and policies;
- OSCE participating States should engage in meaningful, inclusive and transparent consultations with religious or belief communities prior to drafting legislation pertaining to FoRB;
- OSCE participating States should seek assistance from OSCE/ODIHR and its Advisory Panel of Experts on Freedom of Religion or Belief in the areas of training relevant state authorities and institutions on FoRB and conducting legal reviews of relevant national legislation and policies;
- OSCE participating States should put an end to all forms of violence against individuals and communities motivated by religious bias and investigate all incidents of violence;
- OSCE participating States should explore the advancement of FoRB through active engagement of religious institutions;
- OSCE participating States should situate their efforts aimed at fostering mutual respect and understanding within a human rights for all perspective, prioritizing the respect for the rights to FoRB, freedom of peaceful assembly, freedom of association, and freedom of opinion and expression;
- OSCE participating States should promote opportunities for open and inclusive dialogue among religious or belief communities and also with policy makers on all relevant aspects of public life;
- OSCE participating States should respond positively to requests by the UN Special Rapporteur on Freedom of Religion or Belief to conduct visits to their countries without restrictions;
- OSCE participating States should ensure that the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief is sufficiently resourced and made good use of;
- OSCE participating States should support the translation of the 2014 OSCE/ODIHR-Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities into national languages.

Recommendations to the OSCE, its institutions and field operations:

- The OSCE and its institutions should mainstream FoRB into other human rights work;
- OSCE/ODIHR should be more active in facilitating exchange of relevant good practices among OSCE participating States;
- OSCE/ODIHR should consider how to improve the visibility and accessibility of the work of its Advisory Panel of Experts on Freedom of Religion or Belief;
- OSCE/ODIHR should continue to build the capacity of religious or belief communities and civil society organizations on FoRB;
- OSCE/ODIHR should give due attention to the interplay between FoRB and other fundamental human rights as well as between FoRB and tolerance and non-discrimination issues when developing relevant OSCE events and activities;

- The OSCE Representative on Freedom of the Media should develop, in close co-operation with OSCE/ODIHR and its Advisory Panel of Experts on Freedom of Religion or Belief, guidelines on voluntary professional standards and self-regulation of the media in countering religious intolerance and discrimination.

## **SESSION II – CREATING THE CONDITIONS FOR MEANINGFUL AND SUSTAINED INTERRELIGIOUS DIALOGUE IN ORDER TO ENSURE STABILITY AND SECURITY IN THE OSCE REGION**

### ***Moderator:***

**Ms Anna-Katharina Deninger**, Special Representative of the OSCE Chair-in-Office on Youth and Security

### ***Panelists:***

**Father Roman Bogdasarov**, Head of the Secretariat of the Interreligious Council of Russia, Head of Church and Society Division of the Russian Orthodox Church

**Dr Harriet Crabtree**, Director of the Inter Faith Network for the United Kingdom

The second session explored factors that are conducive to a meaningful and sustained interreligious dialogue and highlighted the importance of active involvement of women and youth in interreligious dialogue activities.

Father Bogdasarov provided a brief overview of the ongoing dialogue among and between Christians, Muslims, Jews, Buddhists and other believers in Russia. Recognizing the contribution of Interreligious Council of Russia in promoting and maintaining an environment of mutual respect and understanding, Father Bogdasarov went on to stress the equally important role of *traditions* in these processes. In his opinion, many religious communities, including Christians, Muslims and Jews, value their traditions, which link present-day life to the customs of ancestors and, most importantly, address matters such as the upbringing of children and their moral education. Father Bogdasarov explained that the willingness to preserve traditions and similar moral principles contributes to the unity and continued co-operation among and between various religious communities. In this context, he expressed concern about the imposition of alien values and principles on children in Russia by the mass media. According to him, many religious communities in Russia share similar concerns.

Father Bogdasarov emphasised the importance of the participation of women and youth in interreligious dialogue and co-operation. In his opinion, some men act defensively and often view other parties with suspicion and doubt during the course of negotiations and consultations. He noted that women often use a different, more constructive approach in such environments; instead of building borders, they build bridges, focusing their minds on matters held in common and on forging trust. Father Bogdasarov called for an interreligious dialogue with the equal participation of women and men which, he believed could be strengthened over time by engaging youth.

Dr Crabtree commented that dialogue is an exchange of views with the intention of greater understanding. According to her, *meaningful* dialogue is closely linked to clarity of purpose and participants' commitment to involvement and outcomes. She stressed that there needs to be clear thought on the part of organisers as to why they are fostering particular dialogues and

a careful talking through of purpose with participants, including eliciting any concerns that they may have as well as suggestions for its effective prosecution. Emphasizing the importance of *sustainability*, Dr Crabtree noted that dialogues – whether one-off or long term – can take a great deal of time and effort to nurture and often require considerable support and commitment.

*Inclusiveness* was another important element of dialogue that Dr Crabtree discussed in her presentation. She noted that the question of involvement of women in interreligious dialogue – or often lack of it – can be linked to such factors as family responsibilities and the relative lack of women in clerical or lay readership roles in many religious communities. Drawing on her experiences with the Inter Faith for the UK, she underlined that many women from various backgrounds are often involved in dialogue initiatives at the local level; however, there is a paucity of women in national level activities. Dr Crabtree also noted that involving young people in ongoing, non-youth specific interreligious activities can be a challenge too, partly because of their different patterns of availability and interests, but also due to the lack of opportunities for them to develop the confidence and skills to take part in such initiatives.

With regard to the inclusion of religious or belief communities in the dialogue process, Dr Crabtree emphasized that who participates is generally at the discretion of the organiser unless there is a legal requirement stating otherwise. If a dialogue is focused purely on a religious or philosophical issue and organized by religious communities, it would be highly unlikely that the state would have any direct involvement or would intervene in this process, beyond encouraging religious and belief groups to be open in their approach to involving others. However, as Dr Crabtree noted, if a dialogue is organized by the state, for example, on social issues, then the state has a duty to ensure that it is inclusive and transparent, in line with the principle of non-discrimination.

In the subsequent discussion, several participants emphasized the need for a more precise definition of the term “interreligious dialogue”. They noted that further discussions would benefit from unpacking the various dimensions of this term, including legal, educational and social. Despite this conceptual ambiguity, participants generally agreed that a collaborative approach centered on dialogue and partnership involving religious or belief communities is crucial for ensuring security and stability in the OSCE region. In this context, many participants emphasized that for genuine dialogue to occur, participating States must implement their OSCE commitments and international human rights obligations. In their view, meaningful interreligious dialogue is not possible if human dimension commitments are seriously violated; dialogue becomes a camouflage for violations of commitments if it does not happen in a context in which the human rights of all are safeguarded. It was noted that while interreligious dialogue and cooperation are of great importance and their contribution to the well-being of society needs to be more systematically and fully explored, this can never substitute for a clear focus on the state’s duty to respect, protect and promote the right to FoRB for all as well as other fundamental human rights.

A number of participants pointed out that dialogue is not necessarily a platform where everyone agrees, but rather a space where people are free to express their views in confidence and without fear. Noting that freedom of expression and opinion may be limited in strict circumstances set out by international human rights law, a number of participants stressed that criminalization of insulting or hate speech, which are not clearly defined, may hinder meaningful and open dialogue. Another participant urged OSCE participating States to repeal blasphemy laws to ensure that individuals and communities can practise their religion or

belief without fear of prosecution. An opposing view was expressed by one participant who believed that repealing such laws may lead to radicalization and violent extremism.

A number of participants emphasized the role of civil society organizations, human rights defenders and NHRIs in promoting meaningful and sustained interreligious dialogue. They underlined that a vibrant and independent civil society plays a crucial role in bringing key issues to the attention of governments and in holding participating States accountable for the commitments they have undertaken. In this context, participants recalled the OSCE/ODIHR Guidelines on the Protection of Human Rights Defenders and encouraged OSCE participating States to actively promote and use these Guidelines.

One participant noted that in many OSCE participating States interreligious dialogue is conducted by and between men. She reiterated the importance of the full and active engagement of women in dialogue processes and recommended that OSCE/ODIHR conduct a survey on how women can contribute to such initiatives based on existing practices at the grassroots level.

*The following specific recommendations were made in Session 2:*

Recommendations to OSCE participating States:

- OSCE participating States should ensure environments conducive to meaningful and sustained interreligious dialogue by safeguarding human rights for all;
- OSCE participating States should ensure open, inclusive and transparent interreligious dialogue if they are organizers of a dialogue;
- OSCE participating States should include women in dialogue processes that they organize and increase the visibility of women's contributions to such processes;
- OSCE participating States should encourage religious or belief communities to be open and inclusive in their approach to other groups, women and youth, in their dialogue initiatives;
- OSCE participating States should repeal blasphemy laws and laws criminalizing insulting and hate speech;
- OSCE participating States should support individuals and groups in challenging prejudices, stereotypes and hate speech expressed against all persons and communities regardless of their religious or non-religious beliefs.

Recommendations to the OSCE, its institutions and field operations:

- OSCE/ODIHR should implement activities aimed at raising awareness about the contributions of religious organizations to social cohesion, security, education of youth, and other aspects of life;
- OSCE/ODIHR should conduct a survey on how women can contribute to interreligious dialogue drawing on existing practices at the grassroots level.

Recommendations to religious or belief communities:

- Religious or belief communities are encouraged to be more inclusive and open to minority or new religious or belief groups, women and youth in their dialogue initiatives.

### **SESSION III: ADVANCING FREEDOM OF RELIGION OR BELIEF AND FOSTERING MUTUAL RESPECT AND UNDERSTANDING THROUGH DIALOGUE AND CO-OPERATION AMONG AND BETWEEN AUTHORITIES, RELIGIOUS AND BELIEF COMMUNITIES AND CIVIL SOCIETY**

***Moderator:***

**Ms Azra Junuzovic**, Deputy Head of Tolerance and Non-Discrimination Department of the OSCE/ODIHR

***Panelists:***

**Mr John Kinahan**, Assistant Editor, Forum 18 News Service, Norway

**Ms Mine Yildirim**, Head of Project, Freedom of Belief Initiative, Norwegian Helsinki Committee, Turkey

The third session explored how OSCE participating States, religious and belief communities, and civil society organizations can work together to promote and protect the right to FoRB for all and foster mutual respect and understanding in the OSCE region.

Mr Kinahan emphasized that OSCE commitments offer a rich agenda for dialogue and cooperation among and between authorities, religious and belief communities, and civil society within participating States and across the OSCE region. He referred to the Document of the Ministerial Council Meeting adopted in 2008 in Helsinki, which stated that “human rights are best respected in democratic societies, where decisions are taken with maximum transparency and broad participation. We support a pluralistic civil society and encourage partnerships between different stakeholders in the promotion and protection of human rights.” In this respect, Mr Kinahan reiterated that dialogue should be built on a human rights for all perspective and that trust, an essential pre-requisite for fruitful dialogue and co-operation, is destroyed if human rights are seriously violated.

Mr Kinahan expressed a concern that despite these and other commitments, a number of OSCE participating States continue to flagrantly violate human rights and fundamental freedoms while holding meetings at which claims to religious tolerance and commitment to dialogue are advanced. He stated that such developments were dangerous and worrisome, as OSCE commitments from the Helsinki Final Act onwards recognise that national and international security and human rights are interrelated and interdependent. While noting that national security is claimed by some participating States as a valid ground for limiting the freedom of certain religious or belief communities, Mr Kinahan emphasized that such repression encourages radicalisation. In his opinion, facilitating FoRB and related human rights is the best way counter to radicalisation.

Mr Kinahan noted that dialogue initiatives may include roundtables on issues related to legislation, state policy and practice. In his opinion, the inclusion of human rights defenders in such spaces can only strengthen the dialogue process and ensure that human rights considerations are addressed.

Ms Yildirim reiterated that FoRB is a multi-faceted right that has implications for many areas in the lives of individuals and communities. She noted the importance of continued and consistent efforts to implement measures aimed at raising awareness of the general public and targeted audiences on the nature and scope of FoRB and the challenges faced by religious or belief communities and individuals of diverse backgrounds, including non-believers. She

suggested that the identification of relevant trends and solutions through dialogue among and between state officials, religious or belief communities, and civil society should be an ongoing activity.

Ms Yildirim explained that the Norwegian Helsinki Committee's Freedom of Belief Initiative in Turkey regularly organizes events that provide an opportunity for dialogue on complex issues such as the right to acquire legal personality and FoRB in education. She pointed out that such events have proved to be useful in bringing together diverse religious or belief groups and non-believers, human rights organizations and relevant public authorities to discuss challenging topics. Ms Yildirim stressed that dialogue meetings should have clear objectives and lead to concrete outputs.

During the ensuing discussion, participants presented a range of good practices on how FoRB can be advanced through interreligious dialogue among all relevant stakeholders. It was emphasized, however, that while various forms of dialogue and co-operation among and between authorities, religious and belief communities, and civil society have been established to varying degrees, this work is often poorly co-ordinated and not always focused on the implementation of the full range of OSCE human dimension commitments. Therefore, the need for better co-ordination and information sharing among relevant actors was stressed by a number of participants, as was the need to recognize civil society and religious and belief communities, including non-believers, as essential partners in advancing FoRB and fostering mutual respect and understanding. A number of participants also stated that OSCE/ODIHR should continue to facilitate the sharing of experiences among participating States of efforts to promote interreligious dialogue.

Some participants raised the issue of stereotypes and prejudices that create a general climate of mistrust, fear and hostility. They called for recognition of the positive role that free and independent media can play in reducing the incidence of bias and prejudice. Some participants, however, also noted that the media, the Internet and social networking sites can also play a negative role by spreading derogatory information about or incitement to discrimination, intolerance and hatred against certain religious or belief communities. In this context, one participant noted that particular attention should be paid to the public discourse of political leaders and state officials as well as public training and educational programmes as these may also spread bias and prejudice. In this context, participants raised their concerns about anti-Semitism and intolerance against Christians and Muslims in the OSCE region.

Many participants emphasized that the OSCE, and specifically ODIHR and its Advisory Panel of Experts on Freedom of Religion Belief, are well-placed to contribute to advancing FoRB and fostering mutual respect and understanding by assisting participating States in implementing relevant commitments. Participants specifically emphasized the need to strengthen the role and expand the activities of ODIHR in these areas.

*The following specific recommendations were made in Session 3:*

Recommendations to OSCE participating States:

- OSCE participating States should recognize religious and belief communities and civil society, including human rights defenders, as partners in advancing FoRB and fostering mutual respect and understanding;

- OSCE participating States should continue to engage in and promote meaningful, sustained and inclusive interreligious dialogue based on a human rights approach;
- OSCE participating States should foster the participation of religious and belief communities in public life;
- OSCE participating States should explore the positive and negative roles that media, social networks and the Internet play in fostering mutual respect and understanding, with the view to addressing negative trends and strengthening positive ones;
- OSCE participating States should consider adopting a Ministerial Council Decision on combating intolerance and discrimination against Muslims in Belgrade in December 2015;
- OSCE participating States should consider adopting a Ministerial Council Decision on combating intolerance and discrimination against Christians in Belgrade in December 2015.

Recommendations to the OSCE, its institutions and field operations:

- OSCE/ODIHR should facilitate the exchange of experiences relevant to the promotion of interreligious dialogue among OSCE participating States;
- OSCE/ODIHR should continue its engagement on FoRB and the return of property belonging to religious or belief communities.

### 3. ANNEXES

#### Annex 1: Agenda



#### Supplementary Human Dimension Meeting

#### FREEDOM OF RELIGION OR BELIEF, FOSTERING MUTUAL RESPECT AND UNDERSTANDING

2-3 July 2015/ Hofburg, Vienna

#### AGENDA

<b>Day 1</b>	<b>2 JULY 2015</b>
15:00 – 16:00	<b><u>OPENING SESSION</u></b> <i>Opening remarks:</i> <b>Ambassador Vuk Žugić</b> , Chairperson of the Permanent Council, Permanent Representative of Serbia to the OSCE <b>Mr Michael Georg Link</b> , Director, OSCE/ODIHR <i>Keynote Speech:</i> <b>Dr Yevgeny Zhovtis</b> , Chair of the Board, Kazakhstan International Bureau for Human Rights and the Rule of Law
16:00 – 18:00	<b><u>SESSION I: Freedom of Religion or Belief and Fostering Mutual Respect and Understanding in the OSCE Area - Opportunities and Challenges</u></b> <i>Introducers:</i> <b>Mr Jakob Finci</b> , Member of the Assembly of the Interreligious Council of Bosnia and Herzegovina, former Ambassador of Bosnia and Herzegovina to Switzerland <b>Dr Nazila Ghanea</b> , Lecturer in International Human Rights Law, University of Oxford, member of the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief <i>Moderator:</i> <b>Ms Katarzyna Jarosiewicz-Wargan</b> , Head of Human Rights Department, OSCE/ODIHR
18:00 – 19:00	Reception hosted by the Serbian OSCE Chair-in-Office

**Day 2**

**3 JULY 2015**

10:00 – 12:00

**SESSION II: Creating the Conditions for Meaningful and Sustained Interreligious Dialogue in order to Ensure Stability and Security in the OSCE Region**

***Introducers:***

**Father Roman Bogdasarov**, Head of the Secretariat of the Interreligious Council of Russia, Deputy Head of Church and Society Division of the Russian Orthodox Church

**Dr Harriet Crabtree**, Director of the Inter Faith Network for the United Kingdom

***Moderator:***

**Ms Anna-Katharina Deninger**, Special Representative of the OSCE Chair-in-Office on Youth and Security

12:00 – 14:00

Lunch

14:00 – 16:00

**SESSION III: Advancing Freedom of Religion or Belief and Fostering Mutual Respect and Understanding through Dialogue and Co-operation among and between Authorities, Religious and Belief Communities and Civil Society**

***Introducers:***

**Mr John Kinahan**, Assistant Editor, Forum 18 News Service, Norway

**Ms Mine Yildirim**, Head of Project, Freedom of Belief Initiative, Norwegian Helsinki Committee, Turkey

***Moderator:***

**Ms Azra Junuzovic**, Deputy Head of Tolerance and Non-Discrimination Department, OSCE/ODIHR

16:00 – 16:30

Break

16:30 – 17:30

**CLOSING SESSION**

Reports by the Moderators of the Working Sessions

Comments from the floor

***Closing remarks:***

**Ambassador Vuk Žugić**, Chairperson of the Permanent Council, Permanent Representative of Serbia to the OSCE

**Mr Michael Georg Link**, Director, OSCE/ODIHR

17:30

Closing

## **Annex 2: Opening Remarks**

### **Opening Address by Ambassador Sanja Milinković of Serbia on behalf of Ambassador Vuk Žugić of Serbia, Chairperson of the OSCE Permanent Council at the OSCE Supplementary Human Dimension Meeting on Freedom of Religion or Belief, Fostering Mutual Respect and Understanding Hofburg, Vienna, 2-3 July 2014**

Excellencies,

Colleagues,

Ladies and Gentlemen,

It is my pleasure to welcome you on behalf of the Serbian Chairmanship of the OSCE to the Second Supplementary Human Dimension Implementation Meeting.

At the outset, I would like to thank Director Link and his able staff for assistance in organizing this event.

Since the Helsinki Final Act, freedom of religion or belief has been one of the main pillars of the OSCE human dimension commitments. Participating states committed themselves to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They also confirm the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves, as among all States.

Many OSCE participating states have carried out reforms in order to ensure implementation of OSCE commitments on freedom of religion or belief. However, many challenges are very present such as different restrictions and cases in which individuals cannot freely study religion, assemble to worship and even facing with criminal charges for engaging in these activities.

We believe that fruitful discussions and exchange of views could help us to identify concrete policies and practical strategies that can be taken forward by participating States in order to overcome existing gaps.

OSCE participating States have recognized the important role of inter-religious dialogue in fostering mutual respect and understanding in the OSCE area. In particular, Ministerial Council Decision 3/13 called on participating States to “promote and facilitate open and transparent interfaith and interreligious dialogue and partnerships”.

However, let me emphasise that open and transparent interfaith and interreligious dialogue, with the aim to ensure peace and stability and foster mutual respect, requires active cooperation among wide range of different actors at national and international level.

With this regard, mutual efforts and enhanced partnership are crucial. Establishing effective channels of communication between Participating States, religious and belief communities, and civil society could be the way for significant improvement of implementation of relevant

commitments on the promotion and protection of the right to freedom of religion or belief, for all including non-believers.

Dear participants,

We need to hear your voices and particularly those coming from young generation. We will not always agree on everything; indeed, there are bound to be differences in understanding and a diversity of views and opinions on what freedom of religion or belief means. But let us proceed in a listening and learning mode and with open minds and open hearts, because in the final analysis those are among the essential prerequisites for creating and sustaining a culture of mutual respect and understanding.

Before the floor is turned over to you dear Director Link, I would like to salute the important work that ODIHR does to promote and protect the right of freedom of religion or belief for all and to foster mutual respect and understanding in the vast and complex OSCE region, and I call on participating States, international and civil society organisations to welcome the excellent initiatives you are taking in this area and to offer their full and ongoing support.

Let me finally wish you a successful meeting, fruitful discussion and exchange of positive experiences and good practices. I would like to assure you that your recommendations will be embodied in the documents we are preparing for the ministerial meeting in Belgrade.

**Opening Address by Mr Michael Link,  
Director of the OSCE Office for Democratic Institutions and Human Rights  
at the OSCE Supplementary Human Dimension Meeting  
on Freedom of Religion or Belief, Fostering Mutual Respect and Understanding  
Hofburg, Vienna, 2-3 July 2014**

Excellencies,

Ambassador Žugić,

Distinguished Colleagues,

Ladies and Gentlemen,

It gives me great pleasure to welcome you to the second OSCE Supplementary Human Dimension Meeting (SHDM) of 2015 focusing on freedom of religion or belief, fostering mutual respect and understanding.

We return to the discussion of this theme in the context of an SHDM after nearly five years. This offers an excellent opportunity to take stock of the developments during this period, to reflect on the lessons learned in our efforts to implement the relevant commitments, and to consider how these may apply to changing circumstances and new challenges.

Participants at the SHDM on Freedom of Religion or Belief in 2010 stressed that OSCE and its relevant institutions and field operations should enhance dialogue and consultation with religious communities and develop and carry out activities aimed at enhancing understanding of freedom of religion or belief.

In taking forward these recommendations, in recent years my Office has been proactive in its work to strengthen adherence to commitments related to promoting and protecting this fundamental right and fostering mutual respect and understanding. It has facilitated the holding of discussions and debates, including at the annual Human Dimension Implementation Meeting. Guidelines, legal expertise and comments have been made available to participating States and the public. Significantly, following the decision by participating States, ODIHR's activities in the area of freedom of religion or belief now continues with an enhanced capacity within ODIHR's Human Rights Department.

The objective of ODIHR's freedom of religion or belief work is to assist participating States, civil society, and religious or belief communities in protecting and promoting the right to freedom of religion or belief for all. ODIHR also engages in efforts to prevent and respond to intolerance and discrimination based on religious or belief grounds. To achieve these objectives, ODIHR deploys a range of activities, mechanisms and tools, including monitoring developments related to the right to freedom of religion or belief in the OSCE area, capacity building efforts, the work of the ODIHR Advisory Panel of Experts on freedom of religion or belief, and developing guidelines and recommendations pertaining to freedom of religion or belief for participating States. I would like to highlight a few of these.

In January of this year, as a part of its capacity building work, ODIHR conducted a two and a half day training of trainers in Warsaw on OSCE commitments and international standards in the area of freedom of religion or belief. This training, which was attended by trainers from civil society organizations in Central Asia, the South Caucasus and Eastern Europe, was based on a specially-designed, in house training curriculum utilizing an interactive approach

to learning. I am happy to say that this training programme is being rolled out and carefully evaluated, and we look forward to refining the methodology in light of the feedback received from participants.

ODIHR's Advisory Panel of Experts on Freedom of Religion or Belief, first established in 1997, was restructured and subsequently reappointed in 2013, and met in January 2015 together with ODIHR staff to discuss its future work plan. We look forward to the next meeting in September when specific lines of activity to advance priority areas of the work will be elaborated. Since its inception, the Panel has been particularly active in providing valuable assistance to those participating States requiring expertise in the legislative sphere, utilizing the 2004 OSCE/ODIHR-Venice Commission Joint Guidelines for Review of Legislation Pertaining to Freedom of Religion or Belief.

Developing guidelines and recommendations pertaining to freedom of religion or belief for OSCE participating States and civil society is another area where ODIHR is actively engaged. In this regard, this year saw the official launch of the OSCE/ODIHR-Venice Commission Joint Guidelines on Legal Personality of Religious and Belief Communities, which clarifies international standards in relation to access to legal personality for religious or belief communities and outlines examples of good practices in this area. These Guidelines build well on the aforementioned 2004 Guidelines, which has proved its worth as a valuable resource for governments and civil society in the OSCE area and as a vital reference tool for law reviews undertaken by ODIHR.

There are also two new projects which commenced earlier this year and deserve a brief mention. One focuses on Central Asia, specifically Kyrgyzstan and Tajikistan, and aims at increasing awareness of international standards and OSCE commitments pertaining to freedom of religion or belief among government officials, religious or belief communities and civil society actors, as well as enhancing the capacity of civil society to monitor and report on violations of freedom of religion or belief. The other seeks to promote security for religious or belief communities in two pilot regions of Ukraine by building the capacity of civil society, religious or belief communities and relevant state institutions on freedom of religion or belief and hate crimes, and promoting dialogue among religious or belief communities and between these groups and the state. While both projects are still in the early stages of implementation, the feedback received to date indicates that the various activities undertaken thus far are working towards achieving the stated objectives of each project.

Ladies and Gentlemen,

The presence of numerous civil society representatives, including members of religious or belief communities, at this meeting is a welcome confirmation of the interest within civil society in the area of freedom of religion or belief, fostering mutual respect and understanding within civil society. The high-level participation of representatives of governments further underscores its relevance. It also speaks to the potential of this forum – the Supplementary Human Dimension Meeting – to serve as an important space for an exchange of views and experiences on national and local policies and practices related to the implementation of OSCE commitments in this important area.

At the outset of our discussions, I am reminded of an insightful statement by Professor Heiner Bielefeldt, the United Nations Special Rapporteur on Freedom of Religion or Belief, who noted that freedom of religion or belief “should not be seen as an act of mercy by the state, but rather as an inalienable and non-negotiable right of all human beings that the state has to respect”. This entitlement belongs to all members of the human family. It is not conditional

on what they believe or whether they believe at all. It is grounded in the inherent and inviolable dignity of the human being. It is upheld in international instruments and embedded in OSCE commitments.

Sadly, as we survey the situation in the OSCE area we note that freedom of religion or belief is under threat. This threat comes from various sources. A particularly worrying practice can be found in those participating States where the full and free exercise of this right is limited to a list of options predefined and approved by the state. This has resulted, among other things, in the illegal and arbitrary arrest, detention and torture of members of religious or belief communities not recognized by the state. A no less troubling phenomenon has been the rise in some places of hostile social forces – born of prejudice, fear and contempt – which have created intolerable and dangerous environments for particular religious or belief communities. Such governmental and social restrictions on the right to freedom of religion or belief are not conducive to the security and stability of our societies and point to the nature and scale of the effort required by us to address these very real, ever present challenges.

Ladies and Gentlemen, as you know, promoting a sustainable legal and social culture of freedom of religion or belief, mutual respect and understanding is a complex and long-term process. Such long-term efforts must be grounded in building relationships among and between state authorities, civil society and religious or belief communities. The promotion of freedom of religion or belief, mutual respect and understanding needs to be understood as a long-term policy priority, conducted in consistent fashion over time.

With this in mind, I wish to emphasize a point which I am sure is not lost on you. While interreligious dialogue and cooperation are of great importance and whose contribution to the well-being of society needs to be more systematically and fully explored, this can never substitute for a clear focus on the state's duty to respect, protect and promote the right to freedom of religion or belief for all. I say this, because in relation to freedom of religion or belief, there is sometimes a tendency both at the international and national level to transfer the focus from the duties of state to the responsibility of religious or belief communities to promote dialogue, cooperation, mutual respect and understanding.

Ladies and Gentlemen, It is no doubt that interreligious dialogue among and between religious or belief communities plays a vital role in promoting freedom of religion or belief, mutual respect and understanding. The focus on dialogue at this Supplementary Human Dimension Meeting is most welcome and necessary. But dialogue in and of itself, and however well-intentioned and inclusive, will not ensure the effective implementation of OSCE commitments on the right to freedom of religion or belief. Therefore, I would like to emphasize that participating States, as duty-bearers, have a primary responsibility to ensure full and effective respect, protection and facilitation of freedom or religion or belief.

As you know, we are considering two sets of commitments at this Supplementary Human Dimension Meeting. One pertains to the right to freedom of religion or belief. The other relates to fostering mutual respect and understanding. They are overlapping, mutually reinforcing and interrelated commitments. We need to bear this in mind as we explore together practical strategies for taking the work forward. Clearly, only a coherent, integrated approach will ensure the effective implementation of these commitments. But the challenging and sensitive nature of these topics also requires that we take into account different national and regional contexts as well as the increasingly pluralistic societies within the OSCE area characterized by a diversity of religious and belief communities.

The agenda of this meeting offers plenty of scope for a full and frank discussion of the issues and challenges facing the OSCE area in relation to promoting freedom of religion or belief and fostering mutual respect and understanding. We are fortunate to have with us a number of distinguished speakers whose insights will no doubt greatly enrich our conversation and serve as a stimulus to clear thinking and analysis on our part. As we explore the practical steps that need to be taken to secure the right to freedom of religion or belief for all and intensify efforts to foster mutual respect and understanding, please be assured of ODIHR's ongoing support and assistance to ensure the realization of these important objectives.

Thank you for your attention.

### Annex 3: Keynote Speech

**by Dr Yevgeny Zhovtis,  
Chairperson of the Board of the Kazakhstan International Bureau  
for Human Rights and Rule of Law  
at the OSCE Supplementary Human Dimension Meeting  
on Freedom of Religion or Belief, Fostering Mutual Respect and Understanding  
Hofburg, Vienna, 2-3 July 2014**

#### **The Conceptual and Practical Problems of Ensuring the Right to Freedom of Thought, Conscience, Religion or Belief in the OSCE Region**

Mr. Director,

Distinguished Participants,

Such fundamental political rights and civil freedoms as the right to freedom of expression and speech, freedom of association and peaceful assembly, freedom of religion or belief are often violated in the world, in general, and in the OSCE region, in particular. The challenges faced in ensuring such freedoms are often coupled with the political context, nature of the political regimes in particular countries, and the level of social development. Apart from that, the challenges are also linked to conceptual approaches, different “gaps” between the states, which, on its face, are united by common OSCE documents on human dimension, and which mark the 40th anniversary of the Helsinki Final Act this year.

Today I will try to speculate on some of these approaches and “gaps”, which determine the development of legislation and law enforcement practice in respect of the right to freedom of religion or belief. It is not only the question of mutual understanding and respect between different religions or groups having different beliefs, which, of course, is important for avoiding conflicts, but also the question of relationships between the state and religious groups, since such relationships shape up, largely, the atmosphere of tolerance or xenophobia.

Well, the first argument that I want to put forward in the form of a question, is to determine what precisely we are talking about: either *the right or the freedom or the right to freedom*? This is a fundamentally important statement of fact and it is not a coincidence that the same legal semantic structure - the “right to freedom” - is used in the international instruments in respect of expression, association, peaceful assembly, and religion or belief. Not the right of expression and speech, not the right of association or the right of assembly, and not the right to religion or belief, but rather the freedom of speech, freedom of assembly, freedom of association and freedom of religion or belief.

This seemingly theoretical issue leads up, in fact, to different ways of legal regulation. The point is that the right of association, assembly or religion, for example, means a sort of potential possibility, power, the implementation of which should be ensured by the state. In turn, freedom of association, freedom of assembly and freedom of religion, as a so-called “negative” right, provides guarantees of non-interference by the state or third parties with such freedom, subject to, if necessary in a democratic society, restrictions which meet the admissibility criteria.

Simply put, if the state guarantees the right to religion, it sets rules for the use of such right. Where the state grants the right to freedom of religion or belief, it must ensure non-

interference with such freedom. This is a different purpose and a different approach. So, a number of states - members of the OSCE believe that they provide the right of association, peaceful assembly, and the right to religion or belief, based on their understanding of what such rights represent and how such rights should be restricted. In this case such rights turn, as noted by the UN Special Rapporteur on freedom of association and assembly Maina Kiai, in the privileges granted by the state. Other states guarantee freedom of association, freedom of peaceful assembly, freedom of expression, freedom of religion or belief and ensure the right to such freedom. Insofar as they guarantee freedom, in most of these countries there is no specific legislation on media, on public associations, on peaceful assembly or religious activities. These are different approaches and different ways of legal regulation.

The second point that I want to dwell on is that **international law and international practice in the field of human rights is the right of, first of all, principles rather than norms**, this is the implementation of the fundamental principles of human rights in law and law enforcement practice in specific legal situations; this is again a conceptual, value approach or orientation.

Unless this point is recognised, one cannot expect national legislation, institutions and practices to comply with international standards in the field of human rights and freedoms. This is particularly true of fundamental freedoms. Until the principles of the presumption in favour of law, non-discrimination, legal certainty and predictability, proportionality of restrictions, etc. are applied in practice, the fundamental human rights and freedoms cannot be ensured and protected from unreasonable restrictions.

Why, despite the fact that the ratified international human rights treaties (covenants, conventions, etc.) form part of national legislations in accordance with the constitutions of the member states of the OSCE, in many countries they are practically not applied by the law enforcement agencies, nor even judiciary bodies?

In the first place, this is due to the fact that these legal instruments are based on the principles for the application of which one needs to look up other documents, sources of the so-called “soft” law (various guidelines, rules, standards, etc., issued by various bodies such as UN, OSCE and other international organisations). Apart from that, one must check the international jurisprudence, decisions of various international bodies and human rights institutions, regardless of whether or not they have legal force and are of advisory nature. This is because, firstly, they contain the current understanding of a right that is enshrined in the International Covenant on Civil and Political Rights and other international treaties on human rights; secondly, they summarise international legal practice in respect of a particular right or freedom; thirdly, they contain those international standards, which are much talked about and the observance of which is assessed often differently by human rights activists and the authorities; fourthly, they set out the circumstances in which the limitation of rights and freedoms is admissible, and when it is inconsistent with the international standards.

The whole vast array of legal and other information gives an opportunity to develop national legislation and practice, bringing them closer to international standards, which in turn are based on the fundamental principles.

In many member states of the OSCE the principles, I have listed above, are not only absent from any legal documents, there are rarely used in law enforcement, including judicial practice. Public officials, police, prosecutors, employees of national security have little knowledge of international treaties on human rights, not to mention the legal sources of “soft

law”. Moreover, they generally believe that if the sources of “soft law” are not legally binding, there is no need to use them.

With such approaches, it is difficult to expect that the freedom of religion or belief will be guaranteed and protected in accordance with modern legal concepts.

### *Individual or collective right*

I want to draw your attention to the fact that, as rightly noted by Russian researcher S. Buryanov, the right of everyone to freedom of conscience and religion or belief is a legal dimension of freedom of ideological choice (including to form, maintain, choose and change the choice), and lawful behaviour based on the choices made. This right is the systemically important in the system of human rights. Unless such right is implemented, other human rights lose much of their actual content, remaining just a declaration.

I would also like to bring to your attention the fact that, starting with the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and ending with the constitutions of many states, they all use the term “everyone” in the provisions dedicated to freedom of religion or belief. Neither a group, nor a community, nor a religious association are the subject of the provision, use and protection of this right but rather everyone. This is not a collective right to freedom, it is an individual right to freedom that can be also exercised collectively.

In this regard, the next point I want to make is that legislation and law enforcement practice, particularly in a number of the OSCE member countries, is based on the fact that the concept of freedom of conscience and related legal regulation of relations concerning “everyone” is reduced almost exclusively to the freedom of religion (i.e. the freedom of only those individuals who consider themselves believers), and even more to the problems facing by religious associations (i.e. collective forms of exercise of the right to freedom of religion) in their activities.

As a result, the legislation concerning the freedom of conscience is regarded as a “special”, specifically religious. Priority is given to religious groups and not to the person who becomes the “appendage” to confessions. The right of “everyone” to freedom of conscience remains in the legal system only as a declaration, being, in actual fact, outside of the legal framework.

A. Pchelintsev, Director of the Institute of Religion and Law of Russia, tried to classify or divide the substantive characteristics of the right to freedom of religion or belief into:

**individual powers**, which include:

- 1) the right to hold any belief, including religious (to practice any religion);
- 2) the right not to adhere to any belief and to profess no religion;
- 3) the right to change religion or belief;
- 4) the right to establish a new belief system or a new religion;
- 5) the right to express and disseminate religious or other convictions and act in accordance with them;

- 6) the right to receive religious or other education of your own choice according to belief;
- 7) the right to give religious or other ideological upbringing and education of children;
- 8) the right to protect children from religious or other ideological education and training;
- 9) the right to have free access to places of worship;
- 10) the right not to give oath, which is contrary to religious or other beliefs of a person;
- 11) the right to openly express religious or other beliefs and to neutral attitude of the state to legal forms of manifestation of religion or belief;
- 12) the right to privacy of religious or other beliefs; and
- 13) the right to exemption from civic duties if they are contrary to beliefs or religion of the citizen, and where necessary, the right to substitute one duty with another.

Alongside, the right to freedom of religion or belief includes **collective (joint) powers**, namely:

- 1) the right to freedom of association in religious or other organisations formed by ideological choice, which may be duly registered;
- 2) the right to establish and maintain freely accessible places of worship and assembly;
- 3) the right to freedom to express and disseminate one's beliefs or religious beliefs and practices without any coercion or interference by the state and third parties;
- 4) freedom to acquire and maintain places of worship, to conduct and attend religious services and events;
- 5) the right to manage associations formed on the basis on the worldview choice, self-administration principle in accordance with own hierarchical and institutional structure, including the right to select, appoint and replace their personnel in accordance with their requirements;
- 6) the right to produce, purchase, import, export and distribute ideological and religious literature, printed and audio-visual materials and other items used for religious and other activities;
- 7) the right to establish private schools and to manage them as well as to engage in educational, cultural, charitable and social activities; and
- 8) the right to seek and receive voluntary material and financial aid from individuals and legal entities for support of their activity.

All of these make up the content of the right to freedom of religion or belief. However, the legislation and law enforcement practice existing in many countries within the OSCE region generally follow the path of imposing restrictions on the collective form of the right to freedom of conscience and religion. These limitations apply automatically to “everyone”, reducing this possibility for “everyone” to use their right only within the framework of religious associations.

If we look at what remains of the right to freedom of conscience and religion, subjected to legal regulation within the framework of the activities of religious associations, for “everyone”, for an individual in the law and application practice of some states in the OSCE region, we find that not so much remains. Such “everyone” faces problems in spreading his views, buying and distributing religious literature, religious upbringing of children, etc.

As a result, the actual situation with respect to the right to freedom of conscience and religion begins to become grotesque. For example, some states in the OSCE region demand mandatory registration of religious associations and technically ban public collective practice of religion without registration. Notably, they establish quantitative criteria for such registration: normally from 10 to 50 or more people in case of the registration of local associations and several thousand in case of the registration of national communities. Given the requirement of the mandatory registration, this leads to a paradox. In order to achieve the required number of members of a religious association, one needs to somehow spread their religious views. However, in order to do this, one needs a duly established and registered organisation.

Further, a missionary is now understood as not only the spread of the new religion in the country, but also the spread of an existing religion in another region of the country with respect to that in which the religious association has been registered.

Some countries have essentially introduced censorship of religious literature, which can be distributed only if the relevant approval of the religious expertise has been obtained. Theological disputes are viewed from a legal point of view. Remarkably, such approaches concern religious literature, however do not apply to, for example, philosophical, scientific or entertaining literature.

In a number of OSCE member countries it is prohibited to carry out religious rituals in private homes or outside of religious buildings. What is also important noting is that the establishment of such restrictive requirements are standard for various religions, regardless of their peculiarities.

Representatives of confessions from a number of OSCE member states can perhaps add much more to the problems I have named.

I think that the root of all these problems is the conceptual understanding of the nature of the right to freedom of religion or belief, and also the way how the state should ensure and protect such right. Legitimate objectives of the national security, public order, protection of the constitutional order, health and public morals and the rights and freedoms of others without adhering to the fundamental principles of international law on human rights is often achieved by means which encroach on the very essence of the right to freedom, depriving it largely of its nature.

This is not conducive to the exercise by people of their natural and inalienable and fundamental right to freedom of thought, conscience, religion or belief, and it also creates an atmosphere of contradictions, conflicts, and ultimately the possibility of radicalisation.

There seems, however, to be an alternative to follow the best contemporary forms and means of ensuring the right to freedom of conscience and religion or belief, to promote tolerance, understanding and non-discrimination, taking into account all the challenges that our states are facing.

Thank you for your attention!

## **Annex 4: Biographical Information on Panellists and Moderators**

### **OSCE Supplementary Human Dimension Meeting on Freedom of Religion or Belief, Fostering Mutual Respect and Understanding Hofburg, Vienna, 2-3 July 2014**

#### **Biographical Information: Speakers and Moderators**

##### ***Keynote speaker:***

##### **Dr Yevgeniy Zhovtis, Chair of the Board, Kazakhstan International Bureau for Human Rights and the Rule of Law**

**Dr Yevgeniy Zhovtis** is a co-chairperson of the Working Group of the Consultative Body “Dialogue on Human Dimension” under the Ministry of Foreign Affairs of the Republic of Kazakhstan. Mr Zhovtis is also the chairperson of the Kazakhstan International Bureau for Human Rights and the Rule of Law (which he co-founded in 1993), a member of the Steering Committee of the World Movement for Democracy, a member of the OSCE/ODIHR Panel of Experts on Freedom of Assembly and a member of Crude Accountability Board. Mr Zhovtis has been the recipient of numerous human rights awards, including the EU and US Democracy and Civil Society Award in 1999, the Friedrich Ebert Stiftung Human Rights Award in 2007, the Norwegian Helsinki Committee Andrey Sakharov Freedom Award and the Freedom Award for Kazakhstani Democratic Activists, both in 2010, the Moscow Helsinki Group Human Rights Award in 2011 among several others. Mr Zhovtis has published extensively on the problems of democratization and economic transformation, human rights and the rule of law in Kazakhstan and the post-Soviet space.

#### **SESSION I: FREEDOM OF RELIGION OR BELIEF AND FOSTERING MUTUAL RESPECT AND UNDERSTANDING IN THE OSCE AREA-OPPORTUNITIES AND CHALLENGES**

##### ***Introducers:***

##### **Mr Jakob Finci, Member of the Assembly of the Interreligious Council of Bosnia Herzegovina, former Ambassador of Bosnia Herzegovina to Switzerland**

**Mr Jakob Finci** graduated from Faculty of Law in Sarajevo, and from 1966 was a practicing lawyer, specializing in international commercial law. He is one of the founders of the reborn Jewish cultural, educational and humanitarian society La Benevolencija. He served as a Vice-President and President of La Benevolencija, in August 1995 he became the first elected President of the Jewish Community of Bosnia Herzegovina. From September 1996 until April 2000 Mr. Finci was the Executive Director of the Soros Foundation - Open Society Fund for Bosnia and Herzegovina. Since 1994 he is a member, and from February 2001 to April 2002, he was the President of the Association of Free Intellectuals Circle 99. In 1997 Mr. Finci was one of founding fathers of Inter Religious Council of Bosnia Herzegovina, and for two years served as the first President of the IRC, fulfilling the same function again in 2003. In February 2000, he was elected Chairperson of the Association of Citizens “Truth and Reconciliation”. In May 2002 Jakob Finci was appointed by the High Representative to be first director of the State Agency for Civil Service, an appointment which was confirmed by Council of Ministers, and in March 2008 was named as the Ambassador of Bosnia and

Herzegovina in Switzerland, and non-resident ambassador to Lichtenstein. On academic side, Mr. Finci was working as a tutor at the UN University on the ECMIR project between 1988 – 1990, and since 2001 lectures at a interdisciplinary postgraduate studies program at Sarajevo University. For his work, Mr. Finci has been decorated several times. These honors include: the Grand Cross of the Order of Merit of the Federal Republic of Germany as well as the American decoration First American Freedom in Richmond Virginia. He has also been named Chevalier de la Légion d'Honneur of the French Republic, and in 2009, he was proclaimed “Person of the Year” by Sarajevo’s daily newspaper SAN, and Man of the Year for 2013 by Bosnian daily “Večernji list”. Jakob Finci received International Prize Primo Levi in 2013 in Genoa – Italy,

**Dr Nazila Ghanea, Lecturer in International Human Rights Law, University of Oxford, member of the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief**

**Dr Nazila Ghanea** is an Associate Professor of International Human Rights Law at the University of Oxford and serves as a member of the OSCE Advisory Panel of Experts on freedom of religion or belief. She serves on the Board of Governors of the Universal Rights Group and is an Associate at the Oxford Human Rights Hub.

She has authored, co-authored and edited a number of academic and UN publications including: *Religion or Belief, Discrimination and Equality: Britain in Global Contexts* and *Human Rights, the UN and the Bahá'is in Iran*. She is co-author, along with Heiner Bielefeldt and Michael Wiener, of a forthcoming Oxford University Press monograph.

**Moderator:**

**Ms Katarzyna Jarosiewicz-Wargan, Head, Human Rights Department, OSCE/ODIHR**

**Ms Katarzyna Jarosiewicz-Wargan** is an expert in management and strategic planning, human rights and social welfare, with professional experience from Poland, the United States, Western Balkans, South Caucasus and Central Asia. She is responsible for formulating strategies, vision and direction for the Human Rights Department; creating conditions for implementing the vision (structure, work plans, budgets); and managing the staff. She also advises ODIHR and governments on human rights matters and develops and maintain relations with OSCE and other partners.

**SESSION II: CREATING THE CONDITIONS FOR MEANINGFUL AND SUSTAINED INTERRELIGIOUS DIALOGUE IN ORDER TO ENSURE STABILITY AND SECURITY IN THE OSCE REGION**

**Introducers:**

**Father Roman Bogdasarov, Head of the Secretariat of the Interreligious Council of Russia, Deputy Head of Church and Society Division of the Russian Orthodox Church**

**Father Roman Bogdasarov** is a Vice-chair of the Department of Church-society Relations of Moscow Patriarchate, Head of Secretariat of Interreligious Council of Russia. He

graduated from National Research Nuclear University, Moscow St.Tikhon Theological University and completed his Postgraduate studies of The Moscow Theological Academy. He was actively involved in organizing interreligious events in Azerbaijan, Armenia, Kazakhstan, Russia (Moscow, Sochi, Northern Caucasus).

**Dr Harriet Crabtree, Director of the Inter Faith Network for the United Kingdom**

**Dr Harriet Crabtree** OBE is the Director of the Inter Faith Network for the UK (IFN). IFN links in membership national faith community representative bodies, inter faith bodies and educational and academic bodies with an interest in inter faith issues. It has worked with them since 1987 to promote inter faith understanding and cooperation in the UK. Before coming to work for IFN, Harriet studied and worked in the United States, living at the Center for the Study of World Religions at Harvard Divinity School (from which she received her doctorate). She has worked in the field of inter faith relations since 1990, researched and written on a number of areas, including the development of local inter faith structures in the UK.

**Moderator:**

**Anna-Katharina Deininger, Special Representative of the OSCE Chair-in-Office on Youth and Security**

**Ms Anna-Katharina Deininger** was appointed as Special Representative of the Chair-in-Office on Youth and Security in February 2015, which followed her previous engagement as an OSCE Youth Ambassador under the Swiss CiO programme "Youth for Security and Cooperation in Europe". Among others, she is a board member of the United Nations Youth Associations Network and she represents the Academic Forum for Foreign Affairs within the Austrian National Youth Council.

**SESSION III: ADVANCING FREEDOM OF RELIGION OR BELIEF AND FOSTERING MUTUAL RESPECT AND UNDERSTANDING THROUGH DIALOGUE AND COOPERATION AMONG AND BETWEEN AUTHORITIES, RELIGIOUS AND BELIEF COMMUNITIES AND CIVIL SOCIETY**

**Introducers:**

**Mr John Kinahan, Assistant Editor, Forum 18 News Service, Norway**

**Mr John Kinahan** works for Forum 18 < <http://www.forum18.org>>, a Christian initiative based in Norway which provides original reporting and analysis on violations of freedom of thought, conscience and belief of all people in an objective, truthful and timely manner. It publishes on Central Asia, the South Caucasus, Russia and Belarus, as well as publishing analyses on Turkey. The name 'Forum 18' comes from Article 18 of both the Universal Declaration of Human Rights and the International Covenant of Civil and Political Rights. He read History at University College Cardiff, has worked on freedom of thought, conscience and religion issues since 1997, and is a former member of the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion and Belief.

**Ms Mine Yildirim, Head of Project, Freedom of Belief Initiative, Norwegian Helsinki Committee, Turkey**

**Ms Mine Yıldırım** completed her doctorate at the Abo Akademi University Institute for Human Rights. She is currently the head of the Freedom of Belief Initiative project of the Norwegian Helsinki Committee. She specialises on freedom of religion or belief in international law and wrote her doctoral thesis on the collective dimension of freedom of religion or belief in international law where she examined the right to acquire legal personality and the right to autonomy in their internal affairs of religious or belief communities. The protection of freedom of religion or belief in Turkey, minority rights as well as state-religion relations are also areas she works on. She is the co-editor of the book entitled *Freedom of Religion and Belief in Turkey* (Cambridge Scholars Publishing, 2014). She has published on these topics in English in academic journals - inter alia, on conscientious objection, the return of property to non-muslim community foundations in Turkey and the right to establish places of worship- as well as in Turkish newspapers. In her capacity as the head of the Freedom of Belief Initiative she writes annual monitoring reports and policy briefs on with a view to contribute to the effective protection of the right to freedom of religion or belief in Turkey.

**Moderator:**

**Dr Azra Junuzović, Deputy Head, Tolerance and Non-Discrimination Department, OSCE/ODIHR**

**Dr Azra Junuzović** is a Deputy Head of the Tolerance and Non-Discrimination Department at the Office for Democratic Institutions and Human Rights (ODIHR). She has been performing various functions in the OSCE since 2002 working for ODIHR and the OSCE Mission to Bosnia and Herzegovina on the issue of tolerance and non-discrimination. In her daily work, she consults and trains government officials, as well as law enforcement and civil society on hate crimes, intolerance and discrimination. She has written articles on the issue of hate crimes, OSCE's involvement in non-discrimination issues, education access in post-conflict environments and ethnicity and modern identities. Prior to her OSCE work, she was engaged with the Danish Save the Children. During the 90s, she worked on humanitarian and human rights issues in Bosnia and Herzegovina. She holds the Ph.D. in Sociology from the University in Sarajevo and M.A. in Sociology from the Bosphorus University in Istanbul. As a participant of the Bosnia Undergraduate Development Programme, she studied at Rutgers University in New Brunswick in the United States.