



**HCA Vanadzor's Position on  
RA Draft Laws on Making Amendments to the Republic of Armenia Law on Freedom of  
Conscience and Religious Organizations and on Amending and Supplementing Related Legal Acts**

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*“Freedom of thought, conscience and religion is one of the foundations of a democratic society. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, skeptics and the unconcerned. The pluralism is indissociable from a democratic society, which has been dearly won over the centuries.*

*From ECtHR judgment  
on Kokkinakis v. Greece*

On June 1, 2017 the RA Ministry of Justice posted for public discussion on its unified website for publications of draft legal acts the RA draft Laws on Making Amendments to the Republic of Armenia Law on Freedom of Conscience and Religious Organizations and on Amending and Supplementing Related Legal Acts /hereinafter also referred to as Draft Law/.

The present document provides HCA Vanadzor NGO's position on the regulations proposed in the Draft Law.

This position is based on international legal regulations and principles of human rights.

*International legal regulations underlying the position*

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- According to Article 18, Universal Declaration of Human Rights:

*“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”*

- According to Article 18, International Covenant on Civil and Political Rights:

*“1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.*

*2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*

*3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*

*4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.”*

- According to Article 9, European Convention on Human Rights:

*“1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.*

*2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”*

- According to Article 2, Protocol № 1 to the European Convention on Human Rights:

*“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”*

- According to Article 14, European Convention on Human Rights:

*“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”*

- According to Article 1, Protocol № 12 to the European Convention on Human Rights:

*“1. The enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.*

*2. No one shall be discriminated against by any public authority on any ground such as those mentioned in paragraph 1.”*

#### *On the subject to be regulated by the Law*

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The Draft Law suggests that the RA Law on Freedom of Conscience and Religious Organizations (adopted on June 17, 1991) shall be worded in a new edition as: "RA Law on Freedom of Conscience, Religion and Religious Organizations".

Article 1 of the Draft Law defines the subject to be regulated by the Law. According to Paragraph 1 of this Article, the present Law shall regulate the relations concerning the exercise by each person in the Republic of Armenia of his/her freedom of thought, conscience and religion, as well as establishment and functioning of religious organizations.

According to Para 2 of the said Article, the relations between the Republic of Armenia and the Armenian Apostolic Church shall be regulated by the Republic of Armenia Law on Relations between the Republic of Armenia and the Armenian Apostolic Church.

Thus, while the Draft Law concerns freedom of thought, conscience and religion, it nevertheless does not apply to the Armenian Apostolic Church. Particularly, Article 1(2) of the Draft Law contains a discriminatory approach/creates an unequal environment for the Armenian Apostolic Church and other religions/religious movements, without any objective basis for such differentiation.

The Armenian Apostolic Church ranges among Christian communities in the group of Orthodox churches. The fact that the Apostolic Church is the national church of the Republic of Armenia cannot serve as a basis for providing it with broader rights and freedoms as compared to other religions/beliefs.

If we refer to the basic provisions of the RA Law on Relations between the Republic of Armenia and the Armenian Apostolic Church of February 22, 2007, we can see that in contrast to the rights and duties for the religions associations and organizations as stipulated under the Draft Law, the Armenian Apostolic Church enjoys broader rights.<sup>1</sup> Here, we mean the privileges below as prescribed by law.

- Set up or sponsor pre-school institutions, primary, secondary and high schools, secondary vocational and higher educational institutions;
- Hold voluntary training courses at public educational institutions by using their premises and resources and coordinating with those institutions the issues related to such trainings;
- Have a permanent representative in hospitals, orphanages, nursing homes, military units, places of detention, including pre-trial detention centers;
- Raise funds publicly and get donations and gifts tax-free.

Article 9 of the European Convention on Human Rights protects everyone's right to freedom of thought, conscience and religion. These rights, as well as the right to change one's own religion or belief are inviolable.

There is a great variety of religions and beliefs. Therefore, it is important to emphasize that the right to freedom of thought, conscience and religion equally protects not only forms of traditional religion, but also the theist, non-theist and atheistic beliefs, as well as the right not to practice any religion or belief.

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<sup>1</sup> See Articles 8, 9, 10 and 11, RA Law on Relations between the Republic of Armenia and the Armenian Apostolic Church, <http://www.arlis.am/DocumentView.aspx?DocID=32513>

The title of the Draft Law and the subject to be regulated by the Law as defined in its Article 1 do not express the entire essence of the law on the right to freedom of thought, conscience and religion and are discriminatory in their nature insofar as the said Draft Law does not regulate the relations with the Armenian Apostolic Church.

Also, the study of the Draft Law makes it possible to argue that the Draft Law not only regulates the relations concerning establishment and functioning of **religious organizations**, but also defines the legal regulations on establishment and functioning (without status of a legal person) of **religious associations** (Chapter 3 of the Draft Law). In other words, it appears that religious associations were not covered in the subject of regulation.

According to Article 40 of the RA Law on Legal Acts, the title of Legal Act must comply with the contents of the legal act and provide brief information on the subject of its regulation.

According to Article 41(1) of the said Law, articles may have titles. The titles of articles should comply with the content of such articles.

Based on the above, **we suggest**:

- Covering in the subject to be regulated by law the relations with the Armenian Apostolic Church and remove from circulation the RA Law on Relations between the Republic of Armenia and the Armenian Apostolic Church of February 22, 2007;
- Removing the whole Para 2 from Article 1 of the Draft Law;
- Adding words "religious associations" before the phrase "religious organizations" in Article 1 of the Draft Law.

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*On basic concepts used in the Law*

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Article 3 of the Draft Law defines the basic concepts used in the Law: religious association, religious organization, authorized body.

We believe that to express accurately the essence of the Draft Law and not to cause any uncertainty for the reader, the concepts below should be added to the said article: follower/member of a religious association/organization, membership fee and donation.

Based on the above, **we suggest** defining in Article 3 of the Draft Law the following concepts in the sense of this law:

- essence of the concept “follower/member of a religious association/organization”;
- essence of the concepts “membership fee and/or donation”

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*On safeguards to ensure freedom of thought, conscience and religion*

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The right to freedom of thought, conscience and religion is closely linked to other fundamental rights and freedoms such as freedom of expression,<sup>2</sup> freedom of assembly and association<sup>3</sup>, and prohibition of discrimination.<sup>4</sup> Moreover, the right to choose or change religion on one’s own may not be subject to any restrictions.

Article 4 of the Draft Law defines safeguards for freedom of thought, conscience and religion.

According to Para 2 of the said Article, everybody in the Republic of Armenia is equal before the law regardless of their attitude to religion, religious affiliation or beliefs.

According to Para 3 of the said Article, any discrimination on the grounds of religious affiliation or attitude to religion shall be prohibited.

Article 1 of Protocol № 12 to the European Convention on Human Rights provides for a general prohibition of discrimination based on enjoyment of any right set forth by law.

The regulation proposed under the Draft Law is not enough as such to ensure prohibition of discrimination on the grounds of thought, conscience and religion.

Article 39 of the RA Law on Police Service stipulates the limitations imposed on police officers. According to Para 1(7) of the said Article, the police officers may not join any religious organization (...), use their official powers to the benefit of any religious association, preach any attitude towards such associations or practice religious activities when fulfilling their official duties (...).

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<sup>2</sup> See Article 10, ECHR.

<sup>3</sup> See Article 11, ECHR.

<sup>4</sup> See Article 14, ECHR; Article 1, Protocol № 12.

According to Article 43(1)(8) of the RA Law on Service in National Security Agencies, the national security agency servants shall have no right to join any religious organizations, and according to Para. 9 of the said Article, the national security agency servants shall have no right to use their official powers to the benefit of (...) religious (...) associations and their activity campaigns.

Article 1 of the RA Law on Military Service defines the essence of the military service. Para 3(4) of the said Article prohibits military servicemen from joining any religious associations. Para 3(6) of the said Article prohibits military servicemen from using their official powers to the benefit of religious associations and their activity campaigns. It should be noted that the said Article also stipulates the ban on servicemen to set up any religious associations.

The bans on joining and setting up any religious organizations/associations as set out in all the above Laws are obvious manifestations of discrimination contradicting the principles of human rights.

The need for a separate comprehensive anti-discrimination law has repeatedly been voiced. By the way, passing such a law is also an international commitment for the Republic of Armenia.

Taking into account the relevance of the issue as a guarantee for prohibition of discrimination as set out in the Draft Law, also a package on making amendments to the above legal acts: RA Laws on Service in National Security Agencies, Military Service and Police Service, should be attached to the Draft Law.

**We suggest:**

Attaching to the Draft Law a package on making amendments to the RA Laws on Service in National Security Agencies, Military Service and Police Service to remove the discriminatory provisions from the said legal acts and ensure the right to freedom of thought, conscience and religion.

***On limitations on the right to freedom of thought, conscience and religion***

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Article 5 of the Draft Law provides the grounds for limitations on the freedom of thought, conscience and religion.



According to Para 1 of the said Article, the freedom of thought, conscience and religion may be subject to limitations only in the cases prescribed by law and limitations that are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

Para 2 of the said Article provides the grounds under which this freedom must be limited. These grounds are as follows:

- “1) It is aimed at violent overthrow of the constitutional order, inflammation of national, racial, religious hatred, or advocating for violence or war;*
- 2) There are reliable data that a person or a group of persons is a member of an organization or coordinates or takes part in the activity of an organization that aims to damage the national security of the Republic of Armenia, overthrow its constitutional order, weaken its defense capacity, carry out a terrorist act or coerce apostasy;*
- 3) Religious propaganda or such attempts are carried out without the consent of the parents or any other legal representatives at educational or preschool or educational institutions for minors under 14.”*

The case law of the European Court of Human Rights outlines the conditions below; only under such conditions limitations on the right to freedom of thought, conscience and religion may be imposed. Such conditions must meet the requirements below:

- be defined by law;
- pursue a legitimate aim;
- be necessary in a democratic society to protect the public safety, public order, health or morals or the rights and freedoms of others.

For any limitation to be lawful, the relevant law provision must be sufficiently comprehensive and foreseeable. Moreover, the limitation prescribed by law should be necessary in a democratic society and be applied only to achieve a certain legitimate aim and be proportionate to the pursued aim. To ensure that the intervention is proportionate to the pursued aim, there should be reasonable links between the state policy goal and the means to achieve it.<sup>5</sup>

According to Article 5(2)(2) of the Draft Law, the right to freedom of thought, conscience and religion is limited if there are reliable data that a person or a group of persons is a member of an

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<sup>5</sup> See Kokkinakis v. Greece <http://hudoc.echr.coe.int/eng?i=001-57827>  
Wingrove v. the United Kingdom <http://hudoc.echr.coe.int/eng?i=001-58080>  
Svyato-Mykhaylivska Parafiya v. Ukraine <http://hudoc.echr.coe.int/eng?i=001-81067>

organization or coordinates or takes part in the activity of an organization that aims to damage the national security of the Republic of Armenia, overthrow its constitutional order, weaken its defense capacity, carry out a terrorist act or coerce apostasy.

The grounds for such limitation do not comply with the principle of legal predictability and certainty; it is not clear how these data will be processed and who will determine their reliability, etc.

Based on the above, we suggest:

- Bringing Article 5(1) of the Draft Law in compliance with Article 9(2) of the European Convention on Human Rights:

*“Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.”*

- Removing the whole Para 2 from Article 5(2) of the Draft Law.

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***Right to freedom of thought, conscience and religion in the context of the right to education***

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Article 4 of the Draft Law provides safeguards for the freedom of thought, conscience and religion.

According to Para 5 of the said Article, the Republic of Armenia guarantees parents' right to ensure their children's religious education in accordance with the parents' beliefs before they get 14 years old.

Article 2 of the Protocol № 1 to the European Convention on Human Rights provides as follows:  
*“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”*

This Article applies to each of the State's functions in relation to education and to teaching, does not permit a distinction to be drawn between religious instruction and other subjects. It enjoins the State to respect parents' convictions, be they religious or philosophical, throughout the entire State education programme.<sup>6</sup>

The European Court of Human Rights clarified that this obligation applies not only to ensuring the essence and procedure of education but also all the "functions" of the state in ensuring education. The word "respect" used in the Article means more than "acknowledge" or "take into account". In addition to a primarily negative undertaking, it implies some positive obligation on the part of the State.<sup>7</sup>

The Draft Law provides children under 14 with a right to be educated in compliance with their parents' religious beliefs, that should be also ensured for the children who have not reached adult age yet. The right to make informed decisions on the choice of religion or belief cannot be determined by the child's age. There is no specific age at which a child becomes entitled to make his or her own decisions on matters of religion or belief, but the guarantee to parents and guardians should at very least be limited to children in primary and secondary education and to minors.<sup>8</sup>

Based on the case law of the ECtHR and the sensitivity and significance of the given issue in the formation of the child's world outlook and personal convictions, the law should ensure a right for children to get religious education in compliance with their parents' convictions by the time they become adult.

Based on the above, **we suggest:**

- Replacing the words "by the time they reach 14" in Article 4(5) of the Draft Law with "by the time they get adult" and edit it as follows: .

*"The Republic of Armenia shall guarantee parents' right to ensure their children's religious*

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<sup>6</sup> The Case of Kjeldsen, Busk Madsen and Pedersen v. Denmark, ECtHR Judgment of 7 December 1976 (Application No. 6303/05), para. 51 <http://hudoc.echr.coe.int/eng?i=001-57509>

<sup>7</sup> The Case of Campbell and Cosans v. The United Kingdom, ECtHR Judgment of 25 February 1982 (Application no.7511/76; 7743/76) para. 37 <http://hudoc.echr.coe.int/eng?i=001-57455>

<sup>8</sup> Draft joint opinion on the draft law on freedoms of conscience and religion and on the law making amendments and supplements to the criminal code, the administrative offence code and the law on the relations between the Republic of Armenia and the Holy Armenian Apostolic Church of the Republic of Armenia by the Venice Commission and the OSCE/ODIHR. CDL-AD(2011)028, p. 9, para. 26.

*education in accordance with the parents' beliefs before they get adult.”*

- Replacing the words “minors under 14” in Article 5(2)(3) of the Draft Law with “persons under adult age” and edit it as follows:

*“The freedom of thought, conscience and religion shall be limited if (...) religious propaganda or such attempts is carried out without the consent of parents or other legal representatives at educational or preschool or educational institutions for persons under adult age.”*

- Replacing the words “minors under 14” in Article 10(1)(5) of the Draft Law with words “minors under 18” and edit it as follows:

*“Religious association may be set up by (...) relevant religious training groups for religious education of their members and their children under 18 by consent of their parents, by using for such purpose their own premises or premises granted to them.*

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***On access to justice for religious organizations/associations***

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As mentioned above, the Draft Law regulates the relations concerning establishment and functioning of religious organizations and religious associations.

Article 3 of the Draft Law defines the basic concepts used in the Law.

Thus, a religious association is defined as a union of physical persons set up to manifest and spread their belief in community with others and meet the other religious needs of the members of the association.

Religious organization is a religious association registered as a legal entity in the manner prescribed by law.

Therefore, a religious organization is also a religious association, but it has a legal status; it is a registered legal entity.

Chapter 3 of the Draft Law is entitled "Religious Associations". According to Article 6(1) of the said Chapter, everyone shall be entitled to set up religious associations with others to manifest

their religion, belief or conviction in worship, observance, practice and teaching in public or private, apply and maintain them in daily life, including act in line with their own religion, belief or convictions in their daily life.

Article 10 of the Draft Law stipulates the rights of religious associations. Moreover, the study of the said Article shows that the concept of "religious associations" used in the title of the Article refers to both state-registered organizations and religious associations without state registration.

According to Para 1(2) of the said Article, religious associations shall be entitled to represent and protect in a manner prescribed by law their own rights and legal interests and those of their members before any other organizations, national government and local government bodies.

The provision in question does not cover the right of religious associations to judicial protection of its rights and legal interests and those of their members, which does not comply with the idea that religious organizations are subjects of law and in fact deprives religious organizations of the right to judicial protection guaranteed for everyone under Article 6(1) of the European Convention based on the case law on ECtHR.

Under the case of *Metropolitan Church of Bessarabia and Others v. Moldova*, the European Court of Human Rights expressed its position on the need to guarantee judicial protection to protect religious interests; particularly, the ECtHR stated that: “...one of the means of exercising the right to manifest one’s religion, especially for a religious community, in its collective dimension, is the possibility of ensuring judicial protection of the community, its members and its assets, so that Article 9 must be seen not only in the light of Article 11, but also in the light of Article 6.”<sup>9</sup>

When considering the issue of legal personality, the Council of Europe Committee of Ministers *Recommendation Rec(2004)20 on Judicial Review of Administrative Acts (December 15, 2004)* should be mentioned.<sup>10</sup> The Recommendation was also invoked by the RA Constitutional Court in its Ruling N° 906 of September 7, 2010.

The said Recommendation stipulates that judicial review should be available at least to natural and legal persons in respect of administrative acts that directly affect their rights or interests.

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<sup>9</sup> See ECtHR judgment on *Metropolitan Church of Bessarabia and Others v. Moldova*.

<sup>10</sup> See Recommendation Rec(2004)20 of the Council of Europe Committee of Ministers on Judicial Review of Administrative Acts (December 15, 2004) [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805db3f4](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805db3f4)

In reference to this provision, the Explanatory Memorandum to the said Recommendation states that the Recommendation shall encourage to make it possible for the **non-governmental organizations, associations, other persons or agencies** entitled to protect collective or community rights to protect such rights and apply to courts to protect them. This refers to administrative acts addressing the interests of groups of persons rather than those of individuals. Moreover, the notion "administrative act" covers: 1. individual and normative legal acts which were adopted by the administrative body and may affect the rights of physical or legal persons; 2. cases of refusing to act or inaction, when representative of an administrative body is obliged to initiate proceedings based on an application.

Thus, based on the above, **we suggest:**

- Adding the word “courts of law” after the word “organizations” in Article 10(1)(2) of the Draft Law and edit it as follows:

*“Religious associations shall be entitled to represent and protect in a manner prescribed by law their own rights and legal interests and those of their members before any other organizations, courts of law, national government and local government bodies.”*

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### *On the right to financial assistance of religious organizations/associations*

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Article 11 of the Draft Law prescribes the duties of religious associations. According to Para 4 of the said Article, religious associations may not be financed by or finance their spiritual centers and parties outside the Republic of Armenia.

Article 12 of the Draft Law defines the relations between the state and religious associations. According to Para 2(3) of the said Article, the state does not finance the activity of religious associations.

The right to freedom of thought, conscience, religion or belief includes the freedom to solicit and receive voluntary financial and other contributions from individuals and institutions.<sup>11</sup> Each state has legitimate reasons for regulating fund transfers. However, provisions that discriminate against religious groups on religious grounds should not be permitted.<sup>12</sup>

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<sup>11</sup> Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief proclaimed by General Assembly resolution 36/55 of 25 November 1981, Article 6(f).

<sup>12</sup> OSCE/ODIHR-Venice Commission Guidelines for Review of Legislation Pertaining to Religion or Belief, page 20.

In reference to the relations between the State and religions, the European Court of Human Rights has reiterated for some times that there is no common European standard governing the financing of churches or religions, such questions being closely related to the history and traditions of each country. The margin of appreciation left to Contracting States in this regard is thus a wide one.<sup>13</sup>

Article 11 of the RA Law on Relations between the Republic of Armenia and the Armenian Apostolic Church states as follows: “The Armenian Apostolic Church shall be entitled to raise funds publicly and get donations and gifts tax-free. Production and sale of ritual items and accessories are also tax-free.

The regulation suggested by the Draft Law restricts the right of religious associations to receive funding from outside of the Republic of Armenia. The right to receive voluntary financial or other donations ensures the fulfillment of religious associations’ functions to set up and maintain prayer sites and charity and religious education institutions. The application of this provision may lead to a breach of the other rights of religious associations.

The right of the Armenian Apostolic Church to receive funding from outside of the Republic of Armenia is not limited; therefore, the regulation suggested under Article 11(4) of the Draft Law is discriminatory insofar as it deprives the religious organizations of the opportunity to finance and be financed by their religious centers and parties outside the Republic of Armenia.

Along with other draft legal acts, the draft Law on Making Amendments and Supplements to the RA Law on Non-Governmental Organizations is attached to the Draft Law. The draft Law on Making Amendments and Supplements to the RA Law on Non-Governmental Organizations provides that the RA Law on Non-Governmental Organizations covers the **relations concerning setting up religious organizations**.

Article 6(5) of the Draft Law stipulates that religious organizations enjoy a status of non-commercial organizations. The regulations in the Draft Law create for religious organizations and associations an obviously unequal environment as compared to the Armenian Apostolic Church.

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<sup>13</sup> Case of Klein and others v. Germany, ECtHR Judgment of 6 April 2017, Application No 10138/11

<http://hudoc.echr.coe.int/eng?i=001-172553>

The regulation suggested under Article 11(4) of the Draft Law does not comply with the lawful grounds set out in international legal instruments and case law of the European Court of Human Rights in the protection of human rights and fundamental freedoms.

Thus, the limitation on religious associations' right to get funding has no signs of certainty as the provision of the Draft Law does not prescribe the grounds or reasons for such limitation, and the expected consequences of the violation are set out in Article 11(5) of the Draft Law: *"Unless the funds received in violation of Paragraph 4 are returned to the financing person within a month, those funds shall be transferred to the state budget."* This clause is also uncertain as it is not clear how the transfer should be made and whether religious associations will be granted a right to challenge the decision before a court of law. The limitation on religious associations' right to get funding does not result from "pressing social need" and the measures taken by the state are not proportionate to the consequences that can occur if religious associations exercise other rights. That is, the principle "necessary in a democratic society" is not met.

And the final criterion of legitimate aim, is not met either as it does not comply with the grounds for limitation as laid down in Article 9(2) of the European Convention on Human Rights.

Based on the above, **we suggest:**

- Removing Para 4 and 5 from Article 11 of the Draft Law.

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### *On the right not to disclose religious beliefs*

Article 9 of the European Convention on Human Rights protects the actions concerning the internal side of personal conviction. The right to freedom of religion may be manifested in teaching, practice, worship and observance.<sup>14</sup>

Religious associations/organizations are entitled to set up prayer sites or other places of worship. The freedom of worship includes but is not limited to the following: freedom to practice a religion or belief collectively with others, freedom to practice religious and ritual ceremonies that directly express the religion and beliefs of the associations, as well as setting-up and

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<sup>14</sup> Case of C.J., J.J and E.J. v. Poland <http://hudoc.echr.coe.int/eng?i=001-99384>



maintenance of prayer sites in freely accessible places, use of religious objects and display of symbols.<sup>15</sup>

The European Court of Human Rights noted that the right to build prayer sites as laid down in the Convention cannot be interpreted as a right to consult state bodies.<sup>16</sup> The religious associations' right to set up prayer sites is valid without any interference by the state.

The religious associations' freedom to manifest a religion is directly related to setting up and maintenance of prayers sites and other places of worship. The State has a positive obligation to both maintain the safety of prayer sites and other places of worship, and not to interfere with the exercise of their rights by religious associations, except for the cases set forth in the European Convention on Human Rights.

**We suggest:**

- Adding the clause below in Article 10(1) of the Draft Law: “Set up and maintain prayer sites and other places of worship”;
- Removing from Article 8(2) of the Draft Law the words “or prayer sites” and edit it as follows:  
*«Religious organization shall have a statute that shall stipulate the location and legal address of the religious organization.»*

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<sup>15</sup> Case of Lupeni Greek Catholic Parish and others v. Romania, ECtHR Judgment of 19 May 2015, Application No 76943/11 <http://hudoc.echr.coe.int/eng?i=001-169054>

<sup>16</sup> Human Rights Committee, General Comment, Article 18, Forty-eighth session <http://www.refworld.org/docid/453883fb22.html>