

International Religious Freedom Advocacy  
*A Guide to Organizations, Law, and NGOs*

H. Knox Thames  
Chris Seiple  
Amy Rowe

---

## COUNCIL OF EUROPE

The Council of Europe (CoE) is the oldest regional organization in Europe, established in 1949 by the Treaty of London with ten founding members. The CoE was originally envisioned as a way to build European identity after World War II. Open to all European democracies, the CoE expanded significantly after the end of the Cold War, and its membership overlaps with both the European Union and the Organization for Security and Cooperation in Europe. The CoE now stretches into Eastern Europe and beyond, with members including the Russian Federation, Armenia, Azerbaijan, and Georgia. Today, the number of participating countries totals forty-seven, plus six observers (Belarus, Canada, the Holy See, Japan, Mexico, and the United States).

**Council of Europe members**

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Macedonia, Turkey, Ukraine, United Kingdom

Headquartered in Strasbourg, France, the purpose of the CoE is to promote human rights, democratization, and rule of law in all member countries. Considering the wide array of countries and traditions brought into the CoE after the postcommunism expansion, the CoE focuses heavily on ensuring all members uphold their legally binding commitments to human rights and democratization. The CoE has several important bodies that the religious freedom advocate should be aware of—the European Court of Human Rights, the Committee of Ministers, the Commissioner for Human Rights, and the European Commission against Racism and Intolerance, as well as the Parliamentary Assembly.

*Nongovernmental Involvement*

The Council of Europe system is open to NGOs and advocacy groups. Advocates wishing to engage the CoE effectively should obtain “participatory status” by applying to the CoE Secretary General. Their letter must demonstrate that they are an international nongovernmental organization “particularly representative” in their area of expertise and operating on a European level, as opposed to just a national level. NGOs granted participatory status may observe the work of the various CoE bodies and submit reports, and they will be invited to ad hoc CoE conferences. No accreditation is required for NGOs to file cases with the European Court, other than demonstrating that they are the representatives of the alleged victim.

## RELIGIOUS FREEDOM COMMITMENTS

The essential document for the Council of Europe is the Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the European Convention on Human Rights, which was adopted in 1950 and entered into force in 1953. Acceptance has become a prerequisite for applicant countries wishing to join the CoE. Predating the UN International Covenant on Civil and Political Rights, the European Convention represented the first attempt to make legally binding the aspirational rights highlighted in the UN Universal Declaration of Human Rights.

Article 9 of the Convention protects the religious freedom of individuals residing in CoE countries. Following a similar formula to the UDHR, it specifically recognizes the freedom of the individual to “change his religion or belief.” Article 9 also recognizes the dual rights of individuals and communities to manifest their religion through worship, education, and practice. Subsection 2 of Article 9 does contain a limitation clause on manifestations of religious belief, but restrictions must meet a rigorous test to pass muster.

Article 10 protects all forms of expression, including religious speech, and Article 14 also forbids discrimination based on religion. Notably, and unlike in other regional and international covenants, the European Convention does not protect freedom of religion from derogations in times of emergency. There is also no limitation on religious freedom on grounds of “national security.”

**Article 9 – Freedom of thought, conscience and religion**

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.

**Convention for the Protection of Human Rights and Fundamental Freedoms**

Many additional protocols have been added to the Convention to expand its scope on a variety of issues. However, the greatest developments (especially for religious freedom) have come through the rulings of the European Court of Human Rights, which was established by the European Convention.

**EUROPEAN COURT OF HUMAN RIGHTS***Complaint Recourse Mechanism*

The European Court represents the most advanced and developed international human rights judicial system in the world, as all forty-seven Council of Europe members have submitted themselves to the Court's jurisdiction. The number of cases sent to the court is very large and increases each year. In 1981, roughly four hundred applications were filed, whereas in 2001 close to fourteen thousand were submitted. The Court is therefore extremely active, hearing a wide range of cases based on the various articles of the European Convention for Human Rights. In its various rulings, the Court has repeatedly emphasized that the freedom of thought, conscience, and religion is one of the foundations of a democratic society and must be protected. The Court's religious freedom jurisprudence will not be discussed here, but there are many resources easily accessible describing the various rulings and their impact.

Like domestic court systems, the wheels of justice turn slowly at the European Court. However, its judgments are legally binding and are often viewed as authoritative to other nations outside Europe. The number of judges serving at the court is equal to the number of member countries—currently forty-seven.

Judges serve in their individual capacities for a six-year term and are elected by the CoE Parliamentary Assembly with the possibility of reelection. Judges may not be involved in conduct “incompatible” with their independence or impartiality. However, they may sit on tribunals overseeing cases involving their home countries—an apparent conflict of interest the Council does not see.

### *Complaint Admissibility*

The court is open to individuals who allege a violation of their rights under the European Convention. Until the entry into force of Protocol 11 in 1998, individuals did not have direct recourse and had to confront a complicated two-tiered system, first petitioning the Commission on Human Rights, with surviving complaints then forwarded to the court. However, Protocol 11 in effect merged the Commission into an expanded court (the Commission no longer exists as a distinct body), gave individuals the right for direct petition, and revised court procedures to quicken the response time (from five to six years to two to three years).

#### **Article 35 – Admissibility Criteria**

1. The Court may only deal with the matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law, and within a period of six months from the date on which the final decision was taken.
2. The Court shall not deal with any application submitted under Article 34 that
  - a) is anonymous; or
  - b) is substantially the same as a matter that has already been examined by the Court or has already been submitted to another procedure of international investigation or settlement and contains no relevant new information.
3. The Court shall declare inadmissible any individual application submitted under Article 34 which it considers incompatible with the provisions of the Convention or the protocols thereto, manifestly ill-founded, or an abuse of the right of application.
4. The Court shall reject any application which it considers inadmissible under this Article. It may do so at any stage of the proceedings.

#### **Convention for the Protection of Human Rights and Fundamental Freedoms**

The Court is open to adjudicate conflicts between member states or rule on petitions brought by individuals, NGOs, or groups of individuals claiming to be the victims of a breach in the European Convention by a member state. Complaints cannot be brought against individuals. Admissibility requirements include the following:

- exhaustion of domestic remedies
- case initiated within six months of a final ruling
- petitions cannot be anonymous (upon request, the court can consent to keep the names of petitioners confidential)
- petitions cannot be before another international tribunal
- petitions cannot be “manifestly ill-founded.”

### *Complaint Procedure*

To hear cases, petitioners must write the court in Strasbourg alleging a violation of the European Convention. Violations do not have to concern state action, as the Court has ruled against governments for failing to take action against nonstate actors. The court Registry will send an application, which should be returned promptly with a signature and summary of the allegations and supporting facts, a listing of violated Convention rights, and copies of domestic decisions regarding the case.

The court has three levels of review—three judge committees, seven judge Chambers, and seventeen judge Grand Chambers. Committees review all applications and strike those that are clearly inadmissible. Their action is not reviewable. Petitions are next considered by a Chamber, which will again decide on admissibility, and if in the affirmative, the merits of the case. The Grand Chamber acts as a final court of appeals where applicants can appeal Chamber decisions.

It generally takes one year for a Chamber to decide on the admissibility question. An expedited process is available for cases involving a threat of imminent physical harm. The Court can take “interim measures” in such situations, in which it requests the offending government to take steps to prevent an action that could result in irreparable harm. For instance, in a case concerning the inappropriate extradition of Chechens from the Republic of Georgia to Russia, the Court issued interim measures directing Georgia not to extradite the individuals until the case was heard.

### *Remedies*

For controversies found to be admissible, a Chamber will first strive to find a “friendly settlement” between the parties, so as to avoid actual litigation. However, if that is not possible, the trial process will initiate, with a Chamber receiving briefs with legal arguments from the applicants. Legal representation is not required but is recommended, as proceedings transpire through the writing of legal briefs and court hearings. A legal aid mechanism does exist for those who cannot afford proper representation. The vast majority of cases end at the Chamber level.

Chamber decisions can be appealed to the Grand Chamber. The Grand Chamber, however, will only hear those cases that involve “serious question affecting the interpretation of the Convention” or where the Chamber decision might have a “result inconsistent with a judgment previously delivered by the Court.” Member states generally abide by final decisions.

Decisions can come either as awards of “just satisfaction” for monetary damages or lawyer’s fees, or through “individual” or “general measures” that order a state to comply with its Council obligations through a specific act (i.e., registering a church). Notably, the Court is not empowered to annul national laws. In addition, unlike in common law systems in the United States and the United Kingdom, there is no *stare decisis*. However, the Court is moving in that direction, as it often recognizes precedents from previous rulings. Notably, the Court is not responsible for overseeing the execution of its judgments—this responsibility falls to the Committee of Ministers of the Council of Europe. The Committee will oversee government compliance and ensure that compensation is paid or specific actions are taken.

### *Advocacy Actions*

The European Court of Human Rights is the most influential international human rights judicial body and can rule on religious freedom violations. Advocates should consider bringing cases on behalf of victims to the European Court asking for compensation or specific action, while also being prepared to participate in legal proceedings spanning several years. Advocates must be willing and able to meet the many submission requirements and maintain active involvement over the course of the lengthy process.

**CONTACT INFORMATION****European Court of Human Rights**<http://www.echr.coe.int/echr/>Council of Europe  
67075 Strasbourg-Cedex  
France

Tel: +33 3 88 41 20 18

Fax: +33 3 88 41 27 30

**COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE***Policymakers*

The Committee of Ministers is the Council's primary decision-making body. It is composed of foreign ministers or their deputies from every member state. As mentioned above, the Committee is the enforcement arm of the Court—Article 46 of the European Convention, as amended by Protocol 11, gives the Committee the responsibility for supervising the execution of Court decisions. To fulfill this mandate, the Committee will meet six times a year to discuss these matters. Decisions taken in the form of resolutions during these meetings, as well as the Annotated Agenda and the Order of Business, are available publicly.

The Committee of Ministers can also speak to issues touching on religious freedom through the holding of conferences or symposia. For example, during San Marino's chairmanship of the Committee in 2007, it convened a special conference on "The Religious Dimension of Intercultural Dialogue." The conference provided an opportunity for member states to discuss good practices and ways to foster dialogue between different religious communities, as well as between religious groups and governments.

*Advocacy Actions*

Generally, the Committee of Ministers is a difficult body to access. However, advocates should forward information about failures of CoE countries to implement European Court decisions. Advocates should also participate in conferences touching on religious freedom, which could provide another forum for raising awareness about problematic situations.

## CONTACT INFORMATION

### Committee of Ministers

<http://www.coe.int/t/cm/>

Council of Europe

Palais de l'Europe

Avenue de l'Europe

F-67075 Strasbourg Cedex

France

Tel: +33 3 88 41 20 00

Fax: +33 3 88 41 27 81

## COMMISSIONER FOR HUMAN RIGHTS

### *Monitoring Body*

The Council of Europe Commissioner for Human Rights was established in 1999 after the closing of the Commission for Human Rights under the Protocol 11 reforms. The Commissioner is an independent institution that promotes respect for human rights in all CoE member countries. The current Commissioner, Thomas Hammarberg of Sweden, began his nonrenewable six-year term in 2006.

### *Process*

While in a sense replacing the Commission on Human Rights, the Commissioner plays a different role within the CoE. The position was specifically chartered as a “non-judicial institution,” so the Commissioner plays no role in the vetting of applications to the European Court of Human Rights, and he may not bring cases to the Court or advocate for individual cases. However, upon the universal ratification by all Council members of Protocol 14, the Commissioner will be empowered to submit written comments and participate in cases before the European Court. As of this writing, all member states except the Russian Federation have ratified the protocol.

Currently, the Commissioner is empowered to identify “possible shortcomings in the law and practice of member States concerning the compliance with human rights.” Once identified, the Commissioner may work to promote the “effective implementation of these standards” by assisting in efforts to address these deficiencies. To fulfill this mandate, the Commissioner can travel to member countries to meet with high-ranking officials and parlia-

mentarians to discuss issues of concern, as well as meet with nongovernmental organizations. These trips produce a public report that analyzes the human rights situation and provides recommendations, which are presented to the Committee of Ministers and the Parliamentary Assembly. A few years after the initial visit, the Commissioner or his office may conduct a follow-up visit to evaluate progress made on employing the recommendations. A follow-up report is also issued.

When deemed appropriate, the Commissioner is free to issue recommendations on a specific human rights case in a member state without visiting, as well as provide unsolicited opinions on draft legislation or specific policies. The Commissioner is also tasked with promoting general awareness of human rights and supporting national human rights institutions.

### *Advocacy Actions*

The Commissioner plays an important advocacy role in the Council of Europe system, so advocates should provide the Commissioner with information about shortcomings in the practices of CoE countries and suggestions for reform regarding religious freedom. This information can be used either in Commissioner reports or to encourage increased engagement with a state over an issue of concern. Advocates can also attempt to meet with the Commissioner during country visits, as well as arrange meetings with victims of religious freedom violations. Once Protocol 14 is ratified by all CoE member states, advocates could approach the Commissioner about cases before the European Court and provide additional information and legal arguments.

#### CONTACT INFORMATION

**Thomas Hammarberg, Commissioner for Human Rights**

<http://www.coe.int/t/commissioner/>

Office of the Commissioner for Human Rights

Council of Europe

F-67075 Strasbourg Cedex

France

Tel: + 33 3 88 41 34 21

Fax: + 33 3 90 21 50 53

[commissioner@coe.int](mailto:commissioner@coe.int)

## VENICE COMMISSION

*Monitoring Body*

The Venice Commission, officially known as the European Commission for Democracy through Law, is an independent consultative body of the Council of Europe. Founded in 1990 and headquartered in Venice, Italy, it is charged with upholding Europe's constitutional heritage of democracy, human rights, and rule of law. The Venice Commission is composed of highly regarded independent experts versed in law or political science. The roster of experts therefore includes scholars, judges, and parliamentarians, appointed to four-year terms, all acting in their personal capacity.

*Process*

These experts review domestic legislation regarding constitutions or other laws potentially impacting human rights, in light of CoE agreements and international standards. The Venice Commission is empowered to draft guidelines on its own initiative and issues opinions in response to requests from CoE countries or organs. Importantly, the work of the Venice Commission is not limited to CoE members: it may issue opinions to any requesting country. Venice Commission members include all CoE countries, as well as Kyrgyzstan, Chile, South Korea, and Montenegro under its Enlarged Agreement.

The Venice Commission has been active on issues relating to religious freedom. For instance, it issued a strong opinion on a pending religion law in Romania, correctly criticizing the highly discriminatory registration scheme. While nonbinding, the importance and respectability of the Venice Commission requires governments to give its assessments serious attention.

*Advocacy Actions*

The Venice Commission is a prestigious international body that has spoken on the issue of religious freedom. While it is not possible for individuals or advocates formally to file petitions requesting Venice Commission review, they can send information to the Commission and approach individual commissioners about problematic laws or draft legislation that would benefit from Commission review.

**CONTACT INFORMATION****European Commission for Democracy through Law**

<http://www.venice.coe.int/>  
Secretariat of the Venice Commission  
Council of Europe  
F-67075 Strasbourg Cedex  
France  
Fax: +33 3 88 41 37 38  
[venice@coe.int](mailto:venice@coe.int)

**EUROPEAN COMMISSION AGAINST RACISM AND  
INTOLERANCE***Monitoring Body*

Originally created in 1993 and strengthened in 2002 with a new statute, the European Commission against Racism and Intolerance (ECRI) serves the Council as an independent human rights monitoring body. ECRI is led by an Executive Secretary and a support staff. Each CoE member state may appoint one expert and a deputy to serve in their individual capacities for a renewable five-year term.

ECRI is tasked with combating “racism, racial discrimination, xenophobia, antisemitism and intolerance in greater Europe,” in light of the European Convention. While religious freedom is not specifically listed, ECRI will take action to combat “violence, discrimination and prejudice” based on religion. ECRI’s activities in fulfilling its mandate fall into three categories of work: a country-by-country approach, work on general themes, and relations with civil society.

*Process*

Regarding the country-by-country approach, ECRI is charged with generating country reports that focus on the phenomena of racism, racial discrimination, xenophobia, anti-Semitism, and intolerance in each member state. These reports review the effectiveness of member state legislation and policies in combating racism and provide constructive recommendations for improved action. Each year, ECRI reports on ten to twelve countries, which begins a four- to five-year cycle of reporting. The third round of reporting focuses

less on documenting problems, concentrating instead on whether previous ECRI recommendations have been successfully implemented, and if so, to what extent.

The reporting process begins when ECRI rapporteurs visit a country to meet with NGOs and government officials. Their visit will result in a draft report, which will be shared confidentially with the government for feedback. After the conclusion of this dialogue, the final report is adopted and transmitted by the Committee of Ministers to the government concerned. The report is made available to the public about six to ten months after transmission, unless the government in question objects. The reports will address religious freedom concerns, if serious problems are present in the country.

ECRI's work on general themes provides examples of "best practices" in combating these forms of intolerance in all member states. ECRI will also issue General Policy Recommendations, which can touch on the treatment of religious groups. For instance, General Policy Recommendation Number 5 reported on "Combating intolerance and discrimination against Muslims" and Number 9 reported on "The fight against anti-Semitism." ECRI's civil society work is focused on supporting positive relations between civil society and member states.

### *Advocacy Actions*

ECRI's extensive reporting and monitoring system offers a valuable avenue for additional advocacy on religious freedom. Advocates should forward to ECRI information about instances of discrimination or intolerance based on religion. Advocates should try to meet with ECRI Rapporteurs when they conduct a country visit and provide information and recommendations.

#### **CONTACT INFORMATION**

##### **European Commission against Racism and Intolerance**

[http://www.coe.int/t/E/human\\_rights/ecri/](http://www.coe.int/t/E/human_rights/ecri/)

Council of Europe

F-67075 Strasbourg Cedex

France

Fax: +33 3 88 41 39 87

## PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

### *Policymakers*

The Parliamentary Assembly of the Council of Europe (PACE), located in Strasbourg, France, is composed of 630 parliamentarians (315 representatives and 315 substitutes) elected or appointed from national legislatures. Each of the forty-seven CoE countries is allowed to determine who may serve in the Parliamentary Assembly. PACE is led by a president elected from the body, who can serve up to three one-year terms.

### *Process*

While not having the authority of a national legislature or the European Parliament, the Parliamentary Assembly is active on human rights issues. PACE regularly sends teams of parliamentarians on fact-finding missions to member states and observer countries. The Parliamentary Assembly can also pass nonbinding resolutions, which are often effective in shaming an offending government into action. The Parliamentary Assembly has also begun writing an annual report on the state of human rights and democracy in Europe.

PACE does maintain twelve standing committees that focus on a range of issues. The Committee on the Honouring of Obligations and Commitments by member states of the Council of Europe would focus on CoE member compliance. For instance, this committee has been engaged with Armenia over the issue of conscientious objection to military service based on religious beliefs. The Committee on Legal Affairs and Human Rights and its Subcommittee on Human Rights would most naturally address religious freedom issues in countries not participating in the Council of Europe. The Committee on Political Affairs and its three subcommittees on the Middle East, External Relations, and Belarus could also address religious freedom concerns.

### *Advocacy Actions*

The Parliamentary Assembly, with its vast membership, represents an expansive parliamentary forum to push for religious freedom. Advocates should provide individual parliamentarians, relevant committees, and the Parlia-

mentary Assembly President with information about violations of religious freedom and request their involvement. Advocates should also attend PACE meetings and observe discussions from the gallery, as well as participate in any special meetings concerning religious freedom. Advocates should also try to arrange meetings between victims and PACE delegations conducting country visits. To attend PACE meetings, advocates will need to obtain “participatory status” from the CoE Secretary General.

### **CONTACT INFORMATION**

#### **Parliamentary Assembly**

<http://assembly.coe.int/>  
[http://assembly.coe.int/ASP/Committee/  
PACECommitteesInfoListing\\_E.asp](http://assembly.coe.int/ASP/Committee/PACECommitteesInfoListing_E.asp)

Council of Europe  
Avenue de l'Europe  
F-67075 Strasbourg Cedex  
France

Tel: +33 388 41 20 00

Fax: +33 388 41 27 81

[pace.com@coe.int](mailto:pace.com@coe.int)