

## Working Session 7: Fundamental Freedoms I

*As delivered by Jennifer Lea  
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According to the European Court of Human Rights (ECtHR), L.B. is a Christian convert from Iran. For him, being a Christian means believing in Jesus Christ and telling others about Christ's message of salvation. He has been baptised, studies and recites the Bible, and considers the members of his church to be his family.<sup>1</sup>

L.B. is also an asylum seeker in Switzerland. If he is returned to his home country, he will likely face ill-treatment and possibly death under Iran's apostasy laws.<sup>2</sup>

Yet, the Swiss authorities recently denied L.B.'s asylum request finding that "applicants who practice their faith *discreetly*, do not face real ill-treatment upon their return"<sup>3</sup> to Iran. The ECtHR affirmed that ruling thereby undermining the scope of Article 9 of the European Convention on Human Rights (ECHR).<sup>4</sup>

My name is Jennifer Lea. I represent ADF International, a legal organization dedicated to protecting the right to freedom of religion, assembly, and expression.

For ADF International the rule of law is essential for the protection of human rights. In this case, the various courts' decisions all fell short of the standard written in law. The legal standard is not whether L.B. can exercise his religion *privately* and *discreetly*. According to Article 9 of the ECHR, and OSCE Guidelines, the standard grants L.B. the right to *freely* and *publically* manifest his religion in a broad range of ways.<sup>5</sup>

At the supplementary HDIM meeting in Vienna, in 2017, Professor Marco Ventura rightly underscored that religious freedom is in danger of becoming an "empty" right, not taken seriously."<sup>6</sup> Indeed, the scope of religious freedom is increasingly eroded here in Europe.

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<sup>1</sup> *A. v Switzerland*, (2017) Application No. 60342/16 § 13.

<sup>2</sup> *Ibid.*, § 11.

<sup>3</sup> *Ibid.*, § 36. *Emphasis added.*

<sup>4</sup> ECHR, Article 9. See also International Covenant on Civil and Political Rights (ICCPR), Articles 4(2), 18(1) and *OSCE Guidelines on the Legal Personality of Religious or Belief Communities*, (2014), pages 15-17.

<sup>5</sup> *Ibid.*

<sup>6</sup> OSCE Press Release, *Ensuring FoRB and tolerance and non-discrimination for all is vital to security*, (22 June 2017), available at <https://www.osce.org/chairmanship/324851>.

Religious freedom is a fundamental human right, and a positive cornerstone of democracy, that cannot be derogated even in times of public emergency.<sup>7</sup> ADF International is therefore dedicated to supporting the right of individuals to *freely* and *publicly* manifest their religion or belief, in worship, practice, and observance.<sup>8</sup>

Indeed, religious freedom is a key OSCE objective. Ambassador Clemens Koja recently remarked, “The right to freedom of religion provides an indispensable contribution toward promoting stability and security [...] respect for religious freedom is a clear indicator for the respect of other, closely interlinked, human rights: freedom of association, assembly, and freedom of expression.”<sup>9</sup>

Without adequate respect for the legal standard of religious freedom, OSCE member states will continue to return many individuals like “L.B.” to countries where they will face discrimination, persecution, and the constant threat of death.

ADF International therefore **strongly urges** the OSCE to **clearly reject** a standard of religious freedom that would require individuals to live their faith *privately* and *discreetly* and **recommit** itself to the recognized standard in law – that is the right to *freely* and *publicly* manifest one’s religion.

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<sup>7</sup> ICCPR, Article 4(2).

<sup>8</sup> European Convention on Human Rights, Article 9.

<sup>9</sup> OSCE Press Release, previously cited.