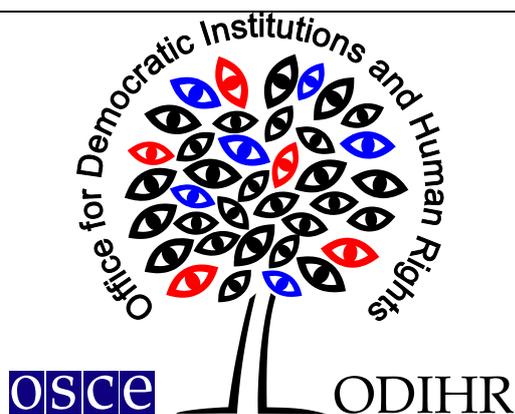


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COMMENTS

ON

“THE CONCEPT PAPER ON STATE POLICY IN THE

SPHERE OF RELIGION OF THE KYRGYZ

REPUBLIC”

Based on an unofficial English translation of the Concept Paper

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TABLE OF CONTENTS

- I. INTRODUCTION**
- II. SCOPE OF REVIEW**
- III. EXECUTIVE SUMMARY**
- IV. ANALYSIS AND RECOMMENDATIONS**
 - 1. International Standards**
 - 2. Principles and Goals of the Concept Paper**
 - 3. ‘Religious Extremism’**
 - 4. Religious or Belief Communities ‘New’ to the Kyrgyz Republic**
 - 5. Relationship between the State and Religious or Belief Communities**
 - 6. Other Issues**

I. INTRODUCTION

1. *On 7 February 2014, the President of the Kyrgyz Republic signed a Decree “On the implementation of decisions of the Council of Defense of the Kyrgyz Republic on the state policy in the sphere of religion”. This Decree called, amongst others, for a review of the governmental decree on the “Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic”, which was issued on 6 May 2006.*
2. *On 19 March 2014, the Head of the OSCE Centre in Bishkek sent a letter to the OSCE/ODIHR Director requesting an OSCE legal review of the “Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic” (the Concept Paper is attached to these Comments under Annex 1).*
3. *On 20 March 2014, the OSCE/ODIHR Director responded to this letter, confirming the OSCE/ODIHR’s readiness to prepare a legal review of the Concept Paper’s compliance with OSCE commitments and international human rights standards.*
4. *These Comments were prepared in response to the letter of 19 March 2014. They are based on contributions from members of OSCE/ODIHR’s Advisory Panel of Experts on Freedom of Religion or Belief and have benefited from consultations with the Secretariat of the European Commission for Democracy through Law of the Council of Europe (Venice Commission).*

II. SCOPE OF REVIEW

5. The scope of these Comments covers only the Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic (hereinafter “the Concept Paper”), submitted for review. Thus limited, the Comments do not constitute a full and comprehensive review of the legal framework or policy in the Kyrgyz Republic in the area of the freedom of religion or belief.
6. The Comments raise key issues and provide indications of areas of concern. The ensuing recommendations are based on international human rights standards, as found in the international agreements and OSCE commitments ratified and entered into by the Kyrgyz Republic.
7. These Comments are based on an unofficial English translation of the amendments, which can be found in Annex 1 to this document. Errors from translation may result.
8. In view of the above, the OSCE/ODIHR would like to make mention that these Comments are without prejudice to any written or oral recommendations and comments with regard to related legislation and policies in the Kyrgyz Republic that the OSCE/ODIHR may make in the future.

III. EXECUTIVE SUMMARY

9. At the outset, the OSCE/ODIHR welcomes the fact that the Concept Paper is based on a wide range of international standards and general principles of law applicable to the freedom of religion or belief and related human rights and fundamental freedoms. A number of general areas of concern remain, however. Notably, the Concept Paper does not fully apply the key principles of secularism and state neutrality, as it appears to

favour particular religions, while seeking to suppress the activities of religions new to the Kyrgyz Republic.

10. In order to ensure that future legal amendments or other laws touching on these or similar topics are in full compliance with international standards and OSCE commitments, the OSCE/ODIHR recommends as follows:

1. Key Recommendations

A. To ensure that the Concept Paper makes it clear that measures taken against either religious associations themselves or individuals should be appropriately targeted, and that all such measures, including denying or withdrawing legal personality, are prescribed by law, and necessary and proportionate to a legitimate aim contained in international human rights instruments [pars 21-25, 33];

B. To remove the call for the prohibition of insulting religious feelings from Section VII of the Concept Paper [pars 26-28];

C. To remove all generalized negative references to religious or belief communities which are new to the Kyrgyz Republic from the Concept Paper [pars 29-34];

D. To broaden the scope of co-operation to include voluntary co-operation and consultative mechanisms between the State and religious or belief communities other than ‘traditional’ religious or belief communities [pars 35-40];

E. To ensure that the Concept Paper itself, and any ensuing legislation, are discussed in an inclusive and voluntary process with representatives of all religious and belief communities, including women and men, in order to ensure that their views are heard and taken into account in the conceptualization and implementation of legislation and government policy in the religious sphere [par 48].

2. Additional Recommendations:

F. To change the definition of religion in the Concept Paper to include non-theistic religions as well [par 41];

G. To avoid the term ‘confessions’, and to use the term ‘religious communities’ or ‘religious associations’ instead [par 41];

H. To remove the statement in Section II banning the participation of religious associations in the political sphere [par 42];

I. To remove the prohibition of the involvement of minors in religious associations from Section II of the Concept Paper [par 43-44];

J. To clarify that the construction and use of freely accessible places of worship is part of the freedom of religion or belief [par 45];

K. To explicitly mention the right of parents to educate their children in private religious schools [par 46]; and

L. To reconsider the reference to the lack of a religious purpose of charity in Section

V of the Concept Paper [par 47].

IV. ANALYSIS AND RECOMMENDATIONS

1. International Standards

11. The Concept Paper affects a range of human rights and fundamental freedoms, in particular the freedom of religion or belief, which is protected by, amongst others, Article 18 of the International Covenant on Civil and Political Rights (hereinafter “the ICCPR”).¹ Other provisions of the ICCPR which are relevant here are Article 19 (freedom of opinion and expression), and Article 22 (freedom of association).
12. The Kyrgyz Republic is also bound by OSCE commitments, which insofar as relevant here include commitments undertaken with regard to the freedom of religion or belief in par 16 of the 1989 Vienna Document, which sets out key rights such as the right to legal personality, the right to maintain freely accessible places of worship, and the right to religious education and training. Moreover, par 9.4 of the 1990 Copenhagen Document contains the general State obligation to respect the right to manifest one’s religion or belief, either alone or in community with others, in public or in private, through worship, teaching, practice and observance, and obliges participating States to ensure that the exercise of these rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards. Also, par 9 of the 2003 Maastricht Document emphasizes the obligation to uphold the principle of non-discrimination in the area of religion or belief and the duty of the State to facilitate the freedom of religion or belief through effective national implementation measures. These commitments were recently reaffirmed at the 2013 Kyiv Ministerial Council.² Other relevant commitments include those on the freedom of expression (1990 Copenhagen Document, par 9.1) and the freedom of association (1990 Copenhagen Document, par 9.3).³
13. The Concept Paper itself also mentions that it is based on the European Convention on Human Rights⁴ (hereinafter “the ECHR”), to which the Kyrgyz Republic is not a party. Relevant provisions of the ECHR include Article 9, which protects the freedom of religion or belief, Article 10 (freedom of expression) and Article 11 (freedom of assembly and association). Where appropriate, reference will be made to judgments of the European Court of Human Rights (hereinafter “the ECtHR”), insofar as they interpret these provisions. The International Convention on the Rights of the Child⁵ (hereinafter “the CRC”), which protects the freedom of religion or belief of children in Article 14, is also of relevance.

¹ The International Covenant on Civil and Political Rights (adopted by General Assembly resolution 2200A (XXI) on 16 December 1966). This Covenant was acceded to by the Kyrgyz Republic on 7 October 1994.

² Kyiv 2013, MC Decision 3/13, Freedom of Thought, Conscience, Religion or Belief, available at <http://www.osce.org/mc/109339>.

³ For an overview of these and other OSCE Human Dimension Commitments, see OSCE/ODIHR, Human Dimension Commitments, 3rd Edition, available at <http://www.osce.org/odihr/76894>

⁴ The Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms, entered into force on 3 September 1953.

⁵ The International Convention on the Rights of the Child (adopted by General Assembly resolution 44/25 on 20 November 1989). This Convention was acceded to by the Kyrgyz Republic on 7 October 1994.

14. The ensuing recommendations will also make reference, as appropriate, to other documents of a non-binding nature, such as the OSCE/ODIHR-Venice Commission Guidelines on Legislation pertaining to Religion or Belief⁶ (hereinafter “the Freedom of Religion or Belief Guidelines”), the 1981 United Nations (UN) Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (hereinafter “the 1981 UN Declaration”)⁷; UN Human Rights Council Resolutions, General Comments of the UN Human Rights Committee and reports of the UN Special Rapporteur on Freedom of Religion or Belief.

2. Principles and Goals of the Concept Paper

15. The Concept Paper on State Policy in the Sphere of Religion (“the Concept Paper”), which was drafted in 2006, sets forth Kyrgyz policy in the religious sphere, and contains both general principles and a number of proposed measures. Commendably, the document identifies a range of international instruments as the basis for the actions of the Kyrgyz government in the religious sphere. These include the Universal Declaration of Human Rights, the ICCPR, OSCE commitments, the 1981 UN Declaration and the ECHR.
16. The Concept Paper notes that the freedom of religion or belief may be limited only by law and to the extent necessary for a number of legitimate interests, such as morals, health and the human rights of others. It also contains clear references to the principles of autonomy, secularism, the separation of church and State and equality and non-discrimination.
17. In the sphere of education, the Concept Paper emphasizes a secular approach, and the obligation not to impose particular beliefs as mandatory. It also requires that the teaching of subjects such as the history of religions should be presented in a neutral and objective form. It guarantees respect for the rights of parents (and legal guardians) to raise their children in conformity with their own convictions, including the right not to attend religious education.
18. The Concept Paper also contains language strongly affirming the importance of creating an environment of mutual respect and dialogue, both between believers and between believers and non-believers, including through co-operation of public authorities with religious associations and other civil society institutions.
19. Four key trends in the sphere of religion are identified in the Concept Paper: (1) “intensifying extremist religious manifestations, particularly in the Central Asian countries”; (2) “dissemination of ideas of extremism and fundamentalism as well as activities of different religious and terrorist groups”; (3) “a fusion of destructive trends and movements in Islam which can become a factor fostering religious extremist

⁶ Guidelines for Review of Legislation Pertaining to Religion or Belief, prepared by the OSCE/ODIHR Advisory Panel of Experts on Freedom of Religion or Belief in Consultation with the European Commission for Democracy through Law (Venice Commission) (“the 2004 Guidelines”). Adopted by the Venice Commission at its 59th Plenary Session in June 2004, CDL-AD (2004)028.

⁷ Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, UN General Assembly 25 November 1981, UN Doc. A/RES/36/55, available at <http://www.un.org/documents/ga/res/36/a36r055.htm>

ideas” and (4) “the activities of certain foreign religious organizations and foundations that seek to introduce their inadequate ideas and views, conflicting with traditional religions in the Republic, which can threaten intra- and inter-confessional peace and accord” (Section I).

20. The Concept Paper argues for the need for government action in these areas, noting the importance of “preventing different manifestations of religious extremism, fundamentalism and destructive religious movements” (‘Main Conclusions’). Before moving on to more specific issues, a number of general comments are made here regarding the conformity of the Concept Paper’s analyses and general statements with international standards.

3. ‘Religious Extremism’

21. The Concept Paper defines the term ‘religious extremism’ in the introductory Section as “adherence to extreme religious views and actions aimed at unconstitutional change of the existing order, undermining integrity and security of a state, fostering social, racial, national, religious, class and tribal hatred, destroying human personality and threatening human health and life”. It goes on to point out that “[t]he tendency to disseminate ideas of religious extremism and fundamentalism recently continue in the country.”
22. In response, Section VII calls for a ban on “any instigation to religious extremism, including involvement of individuals in religious activities using violence or threats of violence.” It also contains a call to prohibit “instigation of religious hatred, insult of religious feelings of believers and acts of violence or instigation to acts directed against any group of individuals on account of their attitude to religion”. In addition, it calls for measures to prevent and terminate on the territory of the Kyrgyz Republic the activities of religious associations which are aimed against the foundations of the constitutional order and the security of the State and its citizens.
23. OSCE participating States are committed to countering violent extremism and radicalization leading to terrorism, including by exchanging ideas and national best practices about their strategies and measures to counter violent extremism and radicalization leading to terrorism as well as to enhance their co-operation with media, the business community, industry and civil society.⁸ OSCE participating States have reiterated that the fight against terrorism is not a war against religions or peoples.⁹ Moreover, in the fight against terrorism and violent extremism, the State’s response should remain within the limits of human rights law¹⁰, in particular the freedom of religion or belief¹¹ the freedom of association¹² and the freedom of opinion and expression.¹³
24. OSCE commitments take as their starting point that limitations to these rights are only

⁸ Ministerial Council Decision 10/08 on Further Promoting the OSCE’s Action in Countering Terrorism.

⁹ Bucharest 2001, par 3.

¹⁰ OSCE Consolidated Framework for the Fight against Terrorism, adopted by Decision no. 1063 of the Permanent Council, at its 934th Plenary Meeting on 7 December 2012.

¹¹ Article 18 ICCPR, Article 9 ECHR, 1990 Copenhagen Document, par 9.4.

¹² Article 22 ICCPR, Article 11 ECHR, 1990 Copenhagen Document, par 9.3.

¹³ Article 19 ICCPR, Article 10 ECHR 1990 Copenhagen Document, par 9.1.

possible where there is a clear link to violence, such as is the case with terrorism and violent extremism.¹⁴ Considering the inherent vagueness of terms such as ‘religious extremism’, and the risk of excessive restrictions on human rights and fundamental freedoms not linked to violence due to the broad scope of this term, it is recommended to refer instead to the concepts of terrorism and violent extremism throughout the Concept Paper, and to sharply distinguish these terms from religion(s), and religious activities as such.

25. The measures contemplated in the Concept Paper which are aimed at restricting the ‘extremist’ activities of religious associations could significantly affect the freedom of religion or belief and the freedom of association. It is noted here that interferences with these freedoms, including measures taken against religious associations themselves, such as denying their access to legal personality or banning them, should be prescribed by law, and necessary and proportionate to a legitimate aim contained in international human rights instruments.¹⁵ In particular, care should be taken to ensure that criminal and/or administrative liability is attributed to those responsible for violations of the law and not to a particular religious community as such.¹⁶
26. The proposed prohibition of insulting the religious feelings of believers appears to be problematic in light of international standards. Such a ban would constitute a very significant interference with the rights of others, e.g. the freedom of expression.
27. As noted by the UN Special Rapporteur on Freedom of Religion or Belief, insulting the religious feelings of believers, sometimes referred to as the ‘defamation’ of religions, may offend people and hurt their religious feelings but it does not necessarily or at least directly result in a violation of their rights, including their right to freedom of religion or belief.¹⁷ The freedom of religion or belief primarily confers a right to act in accordance with one’s religion but does not bestow a right for believers to have their religion itself protected from all adverse comment.¹⁸ Criminalizing such acts may be counterproductive by creating an atmosphere of intolerance and can give rise to fear; even worse, it may provoke the chances of a backlash. It may also severely limit honest debate or research on religious matters.¹⁹ This may be the case, for example, where in the context of debates on religious matters researchers make claims about a religion which others may perceive as insulting. Finally, it may also restrict debate on practices (perceived to be) sanctioned by religion which violate human rights; criminalizing religious insult can severely restrict debate on such practices, as the debate may itself be

¹⁴ Freedom of Religion or Belief Guidelines, par A (4).

¹⁵ Article 18 of the ICCPR lists “public safety, order, health, or morals or the fundamental rights and freedoms of others” as legitimate grounds for restriction.

¹⁶ *Interim joint opinion on the law on making amendments and supplements to the law on freedom of conscience and religious organisations and on the laws on amending the criminal code; the administrative offences code and the law on charity of the Republic of Armenia by the Venice Commission and OSCE/ODIHR*, CDL-AD(2010)054, par 99; *Joint Opinion on the Law on Freedom of Religious Belief of the Republic of Azerbaijan by the Venice Commission and the OSCE/ODIHR, adopted by the Venice Commission at its 92nd Plenary Session (Venice, 12-13 October 2012)*, CDL-AD(2012)022, par 92.

¹⁷ Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, further to Human Rights Council decision 1/107 on incitement to racial and religious hatred and the promotion of tolerance, 20 September 2006, UN Doc. A/HRC/2/3, par 40-43.

¹⁸ *Ibid.*; see also *Aydin Tatlav v. Turkey*, ECtHR judgment of 2 May 2006, appl. no. 50692/99, par 27-30.

¹⁹ *Ibid.*; see also *Gündüz v. Turkey*, ECtHR judgment of 4 December 2003, appl. no. 35071/97.

considered offensive or hurtful to the feelings of religious believers.²⁰

28. A consensus on this issue was reached within the UN framework in Resolution 16/18 of the Human Rights Council, which called on States only to ban “incitement to imminent violence”.²¹ Religious insult, as prohibited in the Concept Paper, does not reach the threshold of incitement to imminent violence. It is therefore recommended to remove the call for a ban on insult of the religious feelings of believers from Section VII of the Concept Paper.

4. Religious or Belief Communities ‘New’ to the Kyrgyz Republic

29. The Concept Paper makes a number of claims about religious or belief communities new to the Kyrgyz Republic. It argues that such communities are “taking advantage of temporary socio-economic difficulties” in order to win more followers (‘Analysis of the Religious Situation’). The Concept Paper goes on to claim that “[u]nder the guise of different foundations and public organizations, they have founded illegal religious missionary centers” and that using “big foreign finances”, they “conduct active propaganda to communicate reactionary and occult doctrines to the youth in regions of the country.” It cites an analysis of literature disseminated by new religious movements as showing that “uncontrolled activities of these groups that are utterly expansionist by their character, cause irreparable harm to human health, violate fundamental human rights, endanger the family, the society, and the State” (Section VII). Section I also refers to the “spread and penetration of destructive groups and doctrines, harming health, morals, rights and legal interests of citizens”.
30. The Kyrgyz Republic is a State which recognizes the freedom of religion or belief both in its Constitution and in its international obligations. This means that all those within Kyrgyz jurisdiction (not only Kyrgyz citizens) are free not only to believe what they wish, but also to attempt to convince others of their beliefs through peaceful means.²² This includes new emerging religious movements or religions which may be new to the Kyrgyz Republic.
31. As the UN Special Rapporteur on Freedom of Religion or Belief has pointed out, it is not acceptable to identify harmful practices with particular communities or types of communities.²³ Allegations of harmful practices must always be based on clear empirical evidence and should not be presented as mere conjectures or negative projections, which often turn out to reflect existing stereotypes and prejudices.²⁴ More generally, the mere fact that religions are newly established should not be a cause to

²⁰ Ibid.; cf. also *Handyside v. UK*, ECtHR judgment of 7 December 1976, appl. no. 5493/72, par 49, in which the Court held that the freedom of expression also applies to views which “offend, shock or disturb”.

²¹ Human Rights Council Resolution 16/18, par 6 (f), available at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G11/127/27/PDF/G1112727.pdf?OpenElement>

²² See *Kokkinakis v. Greece*, ECtHR judgment of 25 May 1993, appl. no. 14307/88.

²³ Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, A/HRC/19/60, par 36, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/175/41/PDF/G1117541.pdf?OpenElement>.

²⁴ Ibid.

- discriminate them.²⁵ The references of the Concept Paper to claims of "irreparable harm to human health" and "endangering the family, society and the State" promote a negative and stereotypical view of new religious communities as harmful influences on society. Even where harmful practices do occur, they should not be attributed in a generalized manner to religions as such, but rather to certain individuals who engage in them.
32. In addition, as the European Court of Human Rights has noted, the neutrality requirement "excludes assessment by the State of the legitimacy of religious beliefs or the ways in which those beliefs are expressed."²⁶ This precludes the qualification by a State organ of the beliefs of new religious movements, or any other religion, as "inadequate ideas and views".
33. Section I of the Concept Paper also calls for improvements in regulation. It is pointed out here that although improvements in regulation are generally welcome, regulation should not be the norm, but the exception when it comes to religious associations, including those following religions new to the Kyrgyz Republic.²⁷ Regulation should only be contemplated where necessary and proportionate to an enumerated aim in an international human rights instrument.²⁸
34. It is therefore recommended to remove all generalized negative references to religious or belief communities which are new to the Kyrgyz Republic from the opening Section, Section I and Section VII of the Concept Paper, and to make explicit reference to the need to ensure that the regulation of religious associations remains the exception, not the rule, and that any restrictions to any religious association's freedom of religion or belief needs to be prescribed by law, necessary and proportionate to a legitimate aim.

5. Relationship between the State and Religious or Belief Communities

35. The Concept Paper argues that in order to deal with existing trends of terrorism, extremism, and the rise of new religious movements, the State should actively promote two particular religions, Sunni Islam and Orthodoxy. It speaks of a possible schism of the traditional Islamic religion (Section VII) and also argues that it is necessary to support "the maintenance of the integrity and unity among Muslims and the Orthodox, the traditional Islamic and Orthodox doctrines" (Section IV). It also proposes a range of co-operation measures with these two religions, including in areas such as healthcare, social services, science, education, and charitable activities (Section IV). The Concept Paper goes on, in Section VIII, to call for promoting the dissemination of knowledge about "the history and culture of historically established traditional religions in the Kyrgyz Republic". It also calls for co-operation between television and radio broadcasters and periodicals "founded by public authorities with traditional religious

²⁵ United Nations Human Rights Committee, General Comment 22, *The right to freedom of thought, conscience and religion* (hereinafter 'United Nations Human Rights Committee General Comment 22'), available at [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/9a30112c27d1167cc12563ed004d8f15?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/9a30112c27d1167cc12563ed004d8f15?Opendocument), par 2.

²⁶ Freedom of Religion or Belief Guidelines, par B 4, *Metropolitan Church of Bessarabia and Others v. Moldova*, ECtHR judgment of 13 December 2001, appl. no. 45701/99, par 117.

²⁷ Copenhagen 1990, par 24.

²⁸ Article 18 ICCPR, Article 9 ECHR, Copenhagen 1990, par 9.4.

organizations” for the production of television and radio programs highlighting “issues of history, cultural heritage, lifestyles, spiritual and moral values of the peoples of the Kyrgyz Republic.”

36. In principle, the State is free to establish different levels of co-operation with religious or belief communities. However, as the UN Human Rights Committee has noted, “the fact that a religion is [...] traditional or that its followers comprise the majority of the population, shall not result in any discrimination against adherents to other religions or non-believers”.²⁹ In addition, the European Court of Human Rights has stated that “[w]hile it may be necessary for the State to take action to reconcile the interests of the various religions and religious groups that coexist in a democratic society, the State has a duty to remain neutral and impartial in exercising its regulatory power and in its relations with the various religions, denominations and groups within them”.³⁰
37. The goal of maintaining the unity of, or promoting, particular religions goes beyond the appropriate role of the State. It also appears to run counter to the Concept Paper’s own emphasis on the principle of separation of religious associations from the state and the principle of the secular state (Section II). For the State to attempt to prevent schisms within religions from taking place, or to actively promote particular religions, would require it to take sides and declare that one particular set of beliefs is superior to another. This is a matter for religious communities and, ultimately, for individuals to decide for themselves.
38. As to the issue of co-operation, it is clear that co-operation of a voluntary nature between the State and traditional religions, and between religious communities and the mass media, can be very advantageous for a variety of different purposes. In fact, OSCE commitments require participating States to engage in consultations with religious faiths, institutions and organizations³¹ and to “favourably consider the interest of religious communities to participate in public dialogue, including through the mass media.”³² In this context, it is noted that such co-operation should always be voluntary, and that a particular community’s lack of willingness to enter into dialogue with the State or other actors should not be held against that community or its members.
39. The European Court of Human Rights accords a certain margin of appreciation when it comes to the conclusion of agreements between the State and religious communities which establish a special regime in favour of the latter, but the Court has also noted that there needs to be an “objective and reasonable justification for the difference in treatment”.³³ In addition, it should be possible for similar agreements to be entered into by other religious communities wishing to do so.³⁴ In light of these considerations, and as a matter of good practice and the principle of secularism professed in the Concept Paper itself, a more broad-based system of voluntary co-operation and consultation could be considered.

²⁹ United Nations Human Rights Committee General Comment 22, par 9.

³⁰ See *Kokkinakis v. Greece*, ECtHR judgment of 25 May 1993, appl. no. [14307/88](#), par 33; *Metropolitan Church of Bessarabia and Others*, ECtHR judgment of 13 December 2001, appl. no. [45701/99](#), par 123 and *Hasan and Chaush v. Bulgaria*, ECtHR judgment of 26 October 2000, appl. no. [30985/96](#), par 78.

³¹ 1989 Vienna Document, par 16.5.

³² 1989 Vienna Document, par 16.11.

³³ See *Savez crkava “Riječ života” and Others v. Croatia*, ECtHR judgment of 9 December 2010, appl. no. [7798/08](#), par 85.

³⁴ *Ibid.*

40. It is therefore recommended to reconsider the focus on co-operation only with traditional religions, and to broaden the scope of such co-operation to include voluntary co-operation and consultative mechanisms between the State and other religious or belief communities as well. It is also recommended that the reference to “the maintenance of the integrity and unity among Muslims and the Orthodox, the traditional Islamic and Orthodox doctrines” as well as all other references to measures aimed at actively promoting particular religions, be removed from the text.

6. Other Issues

41. The introduction defines religion as “creed and corresponding behaviour and specific acts based on theistic views”. As pointed out in the Freedom of Religion or Belief Guidelines, a belief in God is not a necessary element in the concept of religion (the most obvious counterexample being classical Buddhism, which is not theistic).³⁵ It is therefore recommended to change the definition of religion to include non-theistic religions as well. Also, the Concept Paper sometimes refers to religious communities or religious associations as “confessions”; since not all religions or beliefs are of a confessional nature, it is recommended to avoid this term, and to use the term ‘religious communities’ or ‘religious associations’ instead.
42. Section II suggests that “religious associations shall not interfere in the activities of governmental bodies, participate in the activities of political parties and political movements, or offer them material or any other kind of support”. This provision appears to preclude the participation of religious associations in political affairs entirely. It is noted that the exercise of civil and political rights, such as the freedom of association and expression, may only be restricted where necessary and proportionate to a legitimate aim contained in international instruments.³⁶ It is normal practice in many participating States of the OSCE for political parties to operate on the basis of or inspired by religious beliefs, or with the participation and support of religious communities. A wholesale ban of this kind is therefore clearly disproportionate. It is recommended to remove the statement in Section II banning the participation of religious associations in the political sphere.
43. Section II also contemplates a prohibition of the involvement of minors in religious associations. International standards recognize both the right of the child to freedom of religion or belief³⁷ and the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions.³⁸ This right should be seen in light of the evolving capacity of the child.³⁹ These rights 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.⁴⁰

³⁵ Freedom of Religion or Belief Guidelines, Section II (A) (2).

³⁶ ICCPR, Articles 18 & 19; ECHR, Articles 9 & 10.

³⁷ International Convention on the Rights of the Child, Article 14 (1).

³⁸ International Convention on the Rights of the Child, Article 14 (2); Vienna 1989, par 16.7; 1981 Declaration, Article 5.

³⁹ International Convention on the Rights of the Child, Article 14 (2); Freedom of Religion or Belief Guidelines, par B 6.

⁴⁰ International Convention on the Rights of the Child, Article 14 (2); ICCPR, Article 18; ECHR, Article 9.

44. A blanket ban, as appears to be contemplated by the Concept Paper, would potentially reduce the ability of children from participating in the religious life (religious meetings, events etc.) of the religious community to which they and their parents belong very significantly. This is particularly the case for events such as the various rites of passage and ceremonies in which they would normally participate. Such a general prohibition constitutes an unnecessary interference with the freedom of religion or belief of both parents and their children. It is therefore recommended to remove the prohibition of the involvement of minors in religious associations from Section II of the Concept Paper.
45. Section III calls on the State to “adopt normative legal acts to manage and prevent uncontrolled construction and opening of religious facilities”. It is noted here that the right of religious or belief communities to establish and maintain freely accessible places of worship or assembly is protected in international standards.⁴¹ As such, this right may only be restricted by law, and then only where it is necessary and proportionate for an enumerated purpose contained in international instruments. It is understandable that the State should wish to exercise legitimate control over the construction of religious edifices to take account, for example, of the fundamental rights of others. The Concept Paper, however, does not state explicitly that the building and maintenance of freely accessible places of worship is part of the freedom of religion or belief.⁴² As the Freedom of Religion or Belief Guidelines note, it is important that laws in this area be drafted and applied neutrally, and that they are enforced with a genuinely legitimate purpose.⁴³ As such, the State should not seek to suppress, but rather to respect and to facilitate the exercise of this right. It is recommended that the text of the Concept Paper be changed so as to clarify that the construction and use of freely accessible places of worship is part of the freedom of religion or belief, and that the construction of religious edifices, or the use for religious purposes of existing edifices, should be facilitated and should only be restricted by law where necessary and proportionate to a purpose enumerated in international instruments.
46. Section V describes the relationship between the state education system and religious affairs. It does not mention, however, the right to establish religious schools. Under international standards, parents should be able to educate their children in private religious schools.⁴⁴ It is recommended that the Concept Paper explicitly mention this right.
47. Section VI calls for State support of charitable organizations established by religious organizations “provided that the activities are socially important and do not pursue religious goals”. Charity is considered an integral part of many religions, and the religious purpose of charitable giving may be difficult to disentangle from its social or other aspects. The limitation mentioned in the Concept Paper could thus significantly reduce the scope for State co-operation with religious communities in this area. It is therefore recommended to reconsider the reference to the lack of a religious purpose of charity in Section VI.

⁴¹ United Nations Human Rights Committee General Comment 22, par 4; Vienna 1989, par 16.4; 1981 UN Declaration, Article 6 (a); UN Human Rights Council resolution 6/37, Article 9 (g).

⁴² Vienna 1989, para. 16.4; *UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief*, par 6 (a).

⁴³ Freedom of Religion or Belief Guidelines, Section C.

⁴⁴ Human Rights Committee General Comment 22, par 6; ECHR Protocol 2, Article 2; 1981 UN Declaration, Article 5; Vienna Concluding Document, par 16.7; Freedom of Religion or Belief Guidelines, par II (C) (4).

48. Finally, since many of the measures contemplated in the Concept Paper will have a significant impact on religious or belief communities, it is recalled that participating States should include religious and belief communities, in a timely fashion, in public discussions on pertinent legislative initiatives.⁴⁵ It is recommended to discuss both the Concept Paper itself, and any ensuing legislation, in an inclusive and voluntary process with representatives of all religious and belief communities, including women and men, in order to ensure their views are heard and taken into account in the conceptualization and implementation of legislation and government policy in the religious sphere.

[END OF TEXT]

⁴⁵ Kyiv 2013, MC Decision 3/13, Freedom of Thought, Conscience, Religion or Belief.

Annex 1: The Concept Paper on State Policy in the Sphere of Religion of the Kyrgyz Republic (unofficial translation)

Approved by

Decree №324 of the Government

of the Kyrgyz Republic

of May 6, 2006

CONCEPT

of State Policy in the Sphere of Religion

of the Kyrgyz Republic

Introduction

Overview of Religious Situation in the Kyrgyz Republic

- I. The Status of Relations between the State and Religious Associations in the Kyrgyz Republic
- II. Main Goals and Principles of the State Policy for Relations with Religious Associations
- III. Primary Objectives of the State Policy for Relations with Religious Associations
- IV. Relations between the State and Traditional (Historical) Religious Organizations
- V. Relations between the State and Religious Associations in the Sphere of Education
- VI. Relations between the State and Religious Associations in the Spheres of Charity and Social Services
- VII. Main Activities of the State to Prevent and Combat Religious Extremism and Instigation of Religious Hatred
- VIII. Forms of Implementation of the State Policy for Relations with Religious Organizations

Introduction

The State policy on religions and religious organizations in the Kyrgyz Republic is based on the Constitution of the Kyrgyz Republic, principles and norms of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the European Convention for the Protection of Human Rights and Fundamental Freedoms, OSCE commitments and standards in the sphere of freedom of religion and other international documents, ratified by the Kyrgyz Republic and pertaining to the fundamental rights to freedom of

religion and expression. The documents underpin the State's commitment to ensure protection of freedom of conscience and form the basis on which governmental bodies should build their relations with religious associations.

The terms and notions used in the Concept are as follows:

creed– affiliation with a religion;

confession – a notion, coinciding with religious trends and determined by a religious doctrine;

religious building (structure) – a site intended for worship services, prayer and religious meetings, religious veneration (pilgrimage);

missionary activities – preaching and dissemination of a religious doctrine through religious enlightenment activities;

non-traditional cults (religions) – a collective term defining new religious movements and cults that have emerged since 1960's-1970's and continue to emerge;

religion – creed and corresponding behaviour and specific acts based on theistic views;

religious conflict – confrontation of individuals, groups or communities having different stances on a religious doctrine, religious activity, cult, religious organization framework, etc.;

religious extremism – adherence to extreme religious views and actions aimed at unconstitutional change of the existing order, undermining integrity and security of a state, fostering social, racial, national, religious, class and tribal hatred, destroying human personality and threatening human health and life;

religious education – corresponding education received in different educational institutions, providing professional training for ecclesiastics and engaged in religious and enlightening activities;

secular state – non-confessional state that does not accept any religion as an official ideology in principle and gives its citizens freedom to choose their creed;

freedom of conscience – a fundamental inherent human right to free choice of creed, entailing no restriction or forfeit of other civil rights and freedoms. Freedom of conscience includes the right to profess, individually or together with others, any religion, or not to profess any, also the right to freely choose and maintain religious or other views and to act in compliance with these unless violating freedoms or personal dignity of others;

freedom of religion – an essential and inherent element of freedom of conscience, including: human right to profess any religion or change religious views; the opportunity for all, regardless of religious affiliation, to enjoy all political and civil rights and freedoms;

relations between the State and religious associations (church-state relations) – a set of historical and changing forms of interconnections and relationships between state institutions on the one hand and confessional institutions (religious associations, spiritual-administrative centres, religious establishments) on the other. The confessional policy of a state is implemented in its relationship with religious associations.

State policy on religions and religious organizations shall be implemented as an integral and specific part of internal and foreign policy of the Kyrgyz Republic that largely determines moral and psychological climate and stability in the country as well as its international image of a state committed to principles of democracy and rule of law.

During the years of independence, religious activities have been liberalized in the Republic, all groundless restrictions of religious, social, industrial, economic and other non-religious activities of religious organizations have been removed.

A foundation has been laid for civilized church-state relationship and the establishment of constructive relations between the state and religious organizations is under way. The experience of the Kyrgyz Republic is being studied by many states, including those with developed democracy, and many experts consider measures taken by the Kyrgyz Republic in the sphere of religious policy the most successful.

The Concept of the State Policy in the Sphere of Religion of the Kyrgyz Republic (hereinafter – the Concept) reflects a set of official views on the status, aims, principles and primary objectives in the sphere of the relationship between the governmental bodies of the Kyrgyz Republic and religious associations operating in the Republic.

The Concept capitalizes on the need for ensuring a single cultural space, sovereignty of the Kyrgyz Republic, human and civil rights and freedoms, including freedom of religion, as well as balance of interests of citizens, society and the state.

Overview of the religious situation in the Kyrgyz Republic

Background

Relationship between the State and religious organizations has been developed in several stages that have significantly influenced the post-conflict environment in the Kyrgyz Republic.

The first stage marked the beginning of democratic changes and democratic state-building in the Republic. It involved adoption of the Law of the Kyrgyz Republic on Freedom of Religion and Religious Organizations in 1991. For the first time, freedom of religion was legally proclaimed and enshrined in law.

The second stage involved the establishment of the regulatory framework of the state policy on religions and religious organizations and the adoption of the Constitution of the Kyrgyz Republic on May 5, 1993.

The third stage included the development of state-church relationship, approval of measures for protection of the interests of all citizens, believers and non-believers, the beginning of active influence of the state policy in the religious sphere. This period was marked by the adoption of the Decree of the President of the Kyrgyz Republic on Measures Exercising the Rights of Kyrgyz Citizens to Freedom of Conscience and Religion on November 14, 1996.

The fourth stage revealed the need for developing a common understanding of the essence of church-state relations, a set of views on the status, aims, principles and primary objectives in the sphere of relations between the governmental bodies and religious associations while ensuring the balance of interests of religious and non-religious communities. The need for bridging legislative gaps to address the issues impeding post-conflict society development came to the forefront.

Analysis of religious situation

Citizens of the Kyrgyz Republic, with its multi-confessional society, hold different religious views. A large majority of the population professes religions that have become historically rooted on the territory of the Republic over centuries and have played a certain historical role in the establishment of Kyrgyz statehood. Thanks in large part to the uniting role of Islam and Orthodoxy, the nations populating the Kyrgyz Republic have preserved a unique identity and diversity of their cultures.

The wave of public interest in religion as a social and cultural phenomenon and the reassessment of the historical and contemporary role of religion and religious organizations have contributed to the growth of their prestige and level of public confidence. This propelled certain expectations, partially justified and partially exaggerated, regarding the capacity of religious organizations to help overcome the crisis and have a beneficial effect on various processes causing public concern.

The growth of religiosity among the population in 1990's became an important indicator of the changing public

attitude towards religion and religious organizations. The indicator consists at least of three components: first – people who feared to openly profess their religion in the previous years; second – those who turned to religion in recent years, including many young people; and third – those non-religious people, who identify their nationality with a certain religious tradition.

The process of democratization of the state and public system in the Kyrgyz Republic furthered the natural development of religions in the Republic and resulted in the formation of a new religious situation. The state atheistic policy has been replaced with a democratic solution of the religious issue that opened opportunities for free choice and dissemination of creeds and religions. As a result, the number of religious organizations has increased dramatically.

The creation of favourable conditions for the protection of human rights and freedoms, including freedom of conscience and the rule of law, during the period of independence and democratization in the Kyrgyz Republic, furthered the development of religions and religious organizations. The structure of the confessional environment of the Kyrgyz Republic has significantly changed over one decade.

By the early 1990's there were two religions in the Republic: Sunni Islam and Orthodox Christianity (there were also other religious movements active on the territory of the former Soviet republic, including: Lutherans, Catholics, Evangelical Christian Baptists, Seventh-Day Adventists, Pentecostals, and Jehovah's Witnesses).

At present the Kyrgyz Republic is a multi-confessional country and home to up to 30 religions and religious movements. Such confessional diversity has been formed thanks to Islam and Orthodoxy; legalization and resumption of activities of different religious movements that earlier had no official status and were persecuted by the State; and the spread of "new" religions unconventional for the Kyrgyz Republic.

Forming of the new religious situation in the Republic has furthered free and comprehensive development of different religious organizations and the establishment of a multi-confessional environment, including representatives of all world religions and "new" organizations, movements and groups that were not present in the country before.

A new tide of development of religions and religious organizations is in progress in the Kyrgyz Republic. Mosques, temples, churches, prayer houses not only of traditional Islamic and Orthodox religions, but also of Catholic, Protestant and Presbyterian movements of Christianity and new "world" religions and religious organizations unconventional for Kyrgyz Islam have been opening throughout the country.

By 1991, there were 39 mosques (about 1000 mosques functioned without an official status) and 25 churches and parishes of the Russian Orthodox Church in the Kyrgyz Republic. At present Islam is the Republic's largest religion, represented by the Spiritual Administration of the Muslims of the Kyrgyz Republic, uniting over 1725 religious entities, including 7 regional kazyats, the kazyats in the cities of Osh and Bishkek, 1 university, 6 institutes, 45 madrassas and Koran classes, 3 missions of foreign confessions, 26 centres, funds and associations, 1619 mosques, etc.

The Christian religious movements are represented by up to 343 entities: 46 churches and parishes of the Russian Orthodox Church, including 1 nunnery, 1 Orthodox parish school, 2 Orthodox religious organizations (Old Believer churches), 3 Catholic communities, 292 Protestant organizations, including 48 Baptist, 20 Lutheran, 45 Pentecostal, 30 Adventist, 18 Presbyterian, 16 Charismatic, 41 Jehovah's Witnesses, 22 non-denominational Protestant organizations, 21 new religious movements, including 12 Baha'i communities. There are also 21 missions of foreign confessions, 13 educational institutions, 7 centres, funds and associations, 1 Jewish community, and 1 Buddhist community.

Since 1996, there are more than 1137 registered/reregistered foreign citizens who arrived in the Republic from 54 countries, including the CIS, to carry out religious activity on the territory of the Kyrgyz Republic.

The volume of religious literature and periodicals (magazines, newspapers, etc.) published and imported by different religious associations has increased significantly lately. Almost all confessions and religious organizations have stepped up their activities in the sphere of printed propaganda.

Most religions and religious organizations are engaged in socially important philanthropic activity, which some

of them consider as a means to increase the number of their followers.

Ministers of religious organizations and foreign missions that are “new” for the Kyrgyz Republic play an active role in this process, taking advantage of temporary socio-economic difficulties in the country and campaigning in order to win more followers.

It should be noted that the religious situation is directly connected with and determined by the general socio-political and economic situation in the Kyrgyz Republic.

A number of alarming trends in the sphere of religion are likely to disappear with economic stabilization and further democratization, while the worsening of the situation in this sphere can propel inter-religious tension, radicalization and religious extremism.

Against the backdrop of a complicated religious situation, the governmental bodies have to address new challenges related to the State policy in the sphere of state-church relations.

Main Conclusions

Up to the present there has been no unified Concept of the State Policy in the Sphere of Religion in the Kyrgyz Republic. The development of a Concept is of particular importance given that the new religious situation entails the need for development of state-church relations at a new, higher-quality level.

The Concept serves as a methodological basis for improvement of normative and legal regulations of relations between governmental bodies and religious associations. It aims to ensure a balance of interests of citizens, society and the state and respect for human rights and the freedoms of religion and religious views.

The Concept is aimed at promoting inter-religious dialogue, developing relations between the State and religious associations in the sphere of spiritual and moral education of the public, forming tolerance of perception, and preventing different manifestations of religious extremism, fundamentalism and destructive religious movements. The Concept shall become the basis for the further development of a mechanism of state-church relations.

The Purpose and Aims of the Concept:

The purpose of the Concept consists of the harmonization of inter-confessional relations and public consolidation, the observance of principles defining the relationship between the secular state and religious associations, creation of conditions for the exercise of fundamental rights of citizens to freedom of religion, expression and choice of creed.

The aims of the concept consist of the implementation of state-church relations, excluding any forms of religious discrimination, promoting inter-religious and inter-ethnic dialogue and respect for generally recognized principles of tolerance.

I. The Status of Relations between the State and Religious Associations in the Kyrgyz Republic

The status of relations between the State and religious associations in the Kyrgyz Republic is defined by democratic, secular state principles, based on generally recognized principles and norms of international law in the sphere of fundamental human rights, including freedom of conscience and religion, that gave rise to the development of a multi-confessional space in the Kyrgyz Republic.

Pursuant to the Constitution of the Kyrgyz Republic, the State shall guarantee each individual, legally staying on the territory of the country, freedom of religion, the freedom to choose, hold and disseminate religious and other views and act in accordance with these. With that, these rights shall be exercised without damaging or threatening the foundations of the constitutional order, morals, health, rights and legal interests of other individuals and security of the state. The exercise of the mentioned rights and freedoms in the Kyrgyz Republic shall be based on the principle of separation of religious associations from the state and underpinned by the Law of the Kyrgyz Republic on Freedom of Religion and Religious Organizations, the Constitution of the Kyrgyz

Republic, the Decree of the President of the Kyrgyz Republic on Measures for Exercising the Rights of Kyrgyz Citizens to Freedom of Conscience and Religion.

The following factors influence the status of relationship between the State and religious associations in the Republic:

- in the context of intensifying extremist religious manifestations, particularly in the Central Asian countries, dissemination of ideas of extremism and fundamentalism as well as activities of different religious and terrorist groups trigger particular concerns;
- a fusion of destructive trends and movements in Islam can become a factor fostering religious extremist ideas;
- activities of certain foreign religious organizations and foundations that seek to introduce their inadequate ideas and views, conflicting with traditional religions in the Republic, can threaten intra- and inter-confessional peace and accord;
- The spread and penetration of destructive groups and doctrines, harming health, morals, rights and legal interests of citizens give rise to serious public concern.

The above factors cause a set of problems that are being solved by the State through the following measures, based on Kyrgyz law:

- drafting of a new version of the Kyrgyz Law on Freedom of Religion and Religious Organizations;
- development of additional measures to ensure the exercise of rights of Kyrgyz citizens to freedom of conscience and religion in the changing religious situation.

This will promote conditions for activities of religious associations and the exercise of citizens' rights to freedom of religion. Yet, it is necessary to further improve legal regulation of activities of religious associations and their relationship with the State in order to address problems that emerge as the religious situation changes.

Creation of a corresponding legal framework will help to improve relations of governmental bodies and local authorities with public and religious organizations and to prevent devaluation of the system of spiritual and moral values, spreading of religious extremism, undermining security, health, morals, and interests of individuals, the public and the State.

II. Main Goals and Principles of the State Policy for Relations with Religious Associations

Goals, principles and content of the state policy for relations with religious associations are determined by the State's obligations to provide guarantees of the freedom of religion, as well as to create conditions for the maintenance and development of the spiritual and moral potential and cultural heritage of the Kyrgyz people.

Main goals of the State policy for relations with religious associations include:

- maintaining and strengthening the spiritual and moral potential of the society of the Kyrgyz Republic;
- ensuring guarantees of the freedom of religion and equal human and civil rights and freedoms, regardless of religion;
- supporting social stability, peaceful co-existence of religious associations, promoting mutual understanding, manifestation of tolerance and respect between Kyrgyz citizens on issues pertaining to the freedom of religion;
- ensuring guarantees of the free functioning of religious associations in compliance with Kyrgyz law.

The main principles of the state policy for relations with religious associations in the Kyrgyz Republic include:

- the principle of separation of religious associations from the state, principle of the secular state, envisaging compliance with the following conditions by the state:
 - no religion shall be declared as national or mandatory religion;
 - religious associations shall not interfere in the activities of governmental bodies, participate in the activities of political parties and political movements, or offer them material or any other kind of support;
 - The state shall not fund the religious activities of the religious associations, yet it shall promote the development of charity, cultural, educational or any other socially important activities by traditional religious organizations;
- the principle of freedom of conscience and freedom of religion implying the right to profess, individually or

together with others, any religion, or not to profess any, also the right to freely choose and maintain religious or other views and to act in compliance with these.

Pursuant to Kyrgyz law, the state guarantees the freedom of religion to anyone, including the following principles:

- equality of human and civil rights and freedoms regardless of one's attitude to religion or affiliation with any religious or public associations;
- citizen's rights for the freedom of religion may be limited only by laws and normative legal acts of the Kyrgyz Republic and only to the extent necessary to protect the foundations of the constitutional arrangement, morals, health, human and civil rights and lawful interests, and to ensure national security;
- prohibition of the involvement of minors in religious associations, or the teaching of religion to minors against their wishes and without the consent of their parents or their guardians;
- equal protection of the law for religious associations, with Kyrgyz law envisaging equal legal foundations and guarantees of the freedom of religion and religious activities for all religious associations;
- non-interference of the state into the internal matters of religious associations, including non-interference in the content of the beliefs, canonical dogmas, rites, cult and other forms of religious activities, also in the internal governance of religious associations, except for cases when they violate Kyrgyz law;
- State control over religious associations' compliance with Kyrgyz law as long as the governmental bodies show respect to the religious feelings of the believers;
- co-operation of the state with religious associations, reflected in state promotion of socially useful activities of religious associations, maintenance of the spiritual and cultural heritage of historically established traditional religious organizations in compliance with Kyrgyz law.

III. Primary Objectives of the State Policy in Relations with Religious Associations

In relations with religious associations of the Kyrgyz Republic, measures shall be taken to address the following key objectives:

1. In the State Policy regulating legislation in the field of religion:

- ensure legal guarantees of the freedom of religion;
- improve legal regulation of relations between the State and religious associations;
- ensure State guarantees of equal rights and freedoms to citizens regardless of their attitude to religion or their affiliation with any religion;
- create conditions promoting the peaceful co-existence of religious associations and inter-ethnic accord through co-operation of public authorities with religious associations and other civil society institutions;
- promote the environment of mutual respect and dialogue in the society in relations between different confessions, also between believers and non-believers;
- promote restoration and maintenance of the traditional spiritual and moral values of society;
- create effective legal organizational mechanisms for the prohibition and termination of activities of religious associations causing harm or a threat to health, morals, the laws and lawful interest of citizens, to the foundations of the constitutional order and to national security;
- improve laws envisaging measures by the state to prevent and terminate manifestations of religious extremism, religious hatred or insult to the religious feelings of believers;
- improve mechanisms for state control over religious associations' compliance with Kyrgyz law, over the legal protection of the rights and lawful interests of believers in the field of education, health care, employment as well as other spheres of public life;
- adopt normative legal acts to manage and prevent uncontrolled construction and opening of religious facilities.

2. In the field of education and culture:

- ensure the secular character of the activities of governmental educational institutions in the Kyrgyz Republic;
- ensure legal guarantees for the implementation of the right of citizens to religious education;
- promote dissemination of knowledge about the history of religions in state educational institutions;
- promote protection of cultural heritage sites with a religious purpose (monuments of history and culture) of the Kyrgyz people, create an atmosphere of respect for cultural values in society;
- ensure co-operation between the state and religious organizations to address issues of spiritual, moral, legal and patriotic education of children and youth as well as other socially important issues.

3. In the field of charity and social services:

- as envisaged by Kyrgyz law, ensure state support for the activities of religious associations in the field of

charity and social services;

- create legal conditions supporting social service institutions and charitable organizations established by religious organizations for providing assistance to citizens in difficult situations, also supporting activities for the prevention of child and juvenile crime and neglect, strengthening of the institution of the family, prevention of drug and alcohol abuse, social rehabilitation of prisoners and ex-prisoners.

In order to cardinaly improve the situation that still remains ambiguous, a set of measures need to be implemented, primarily:

- increasing the effectiveness of and strengthening the coordination between respective ministries and agencies, local public authorities;
- mobilizing and fully using the resources and capacity of local communities;
- developing a special program for the conservation of centuries-old traditions and habits, aesthetic principles for moral education and shaping a world outlook of the young generation in view of centuries-old historical and cultural origins.

IV. Relations between the State and Traditional (Historical) Religious Organizations

Ensuring equal legal treatment of religious associations, the state chooses and regulates forms and frameworks of co-operation with religious organizations, in compliance with Kyrgyz law and in view of the number of Kyrgyz citizens who claim affiliation with or preferential attitude to certain traditional religious organizations.

Following from the above, also taking into account historical traditions and modern realities, as well as the global experience of relations between the state and religious associations, striving for effective protection of human and civil rights and freedoms, the maintenance and development of the spiritual and moral potential of society, better implementation of interests of the Kyrgyz citizens in the spiritual sphere, there are traditional religious organizations defined in the Kyrgyz Republic.

Traditional religious organizations are identified for the following purposes:

- maintenance and strengthening of traditional spiritual and moral values of the people of the Kyrgyz Republic as one of the necessary conditions for the maintenance, restoration and development of the country's society;
- consideration of interests of the majority of the country's citizens;
- promotion of the atmosphere of mutual respect and dialogue in society on issues of religious freedom.

Traditional religious organizations in the Kyrgyz republic are centralized religious organizations of the Kyrgyz Republic that:

- have influenced the establishment and development of the Kyrgyz statehood;
- have promoted the shaping and development of the traditional spirituality and culture of the people of the Kyrgyz Republic and have become a part of the spiritual and cultural heritage of the country;
- are religious associations, affiliation with or preferential attitude to which is claimed by a significant part of Kyrgyz citizens;
- act as a creative and uniting spiritual force for the society, aiming at sustaining peace and stability in the Kyrgyz Republic.

Spheres of co-operation between the state and traditional religious organizations include:

- promotion of mutual understanding and co-operation between the society and the state, sustaining public morals;
- support and strengthening of the institution of the family, maternity and childhood;
- spiritual, moral, patriotic and legal education of children and youth, the field of education;
- co-operation in the field of crime prevention, rehabilitation of prisoners and those released from prison;
- science, including humanitarian studies;
- health care and social services;
- activities of the mass media, carried out with the participation of the State and traditional religious organizations;
- charitable activity.

Most of the Kyrgyz population are followers of Islam (Sunnism) and Orthodoxy. Islam and Orthodoxy in the Kyrgyz Republic are deeply rooted in history and currently are religious organizations that are followed and preferred by the majority of the Kyrgyz citizens. Therefore inter-religious relations as well as relations between the state and confessions in the Kyrgyz Republic mainly depend on the State's relations with these religious organizations.

The Russian Orthodox Church, which is an indispensable part of the Kyrgyz historical heritage, also makes a worthy contribution to the creation of the new statehood, based on the values of freedom, inter-ethnic and inter-confessional peace.

It is necessary to support the maintenance of the integrity and unity among Muslims and the Orthodox, the traditional Islamic and Orthodox doctrines.

V. Relations between the State and religious associations in the Sphere of Education

In the Kyrgyz Republic education is secular, which means that no religion is defined by the state as a curriculum subject or mandatory standard for teaching in state educational institutions, nor does the state support the propaganda of anti-religious ideas and doctrines.

Religions and all cults are separated from the State and the state education system. The state education system shall not impose views and beliefs of a certain type as mandatory for everyone and shall not persecute or oppress a religion or belief unless the religion or belief contradicts the Constitution or laws of the Kyrgyz Republic.

State educational institutions may co-operate with traditional religious organizations in compliance with Kyrgyz law.

In order to support state educational institutions in effectively addressing the tasks of upbringing and education of children and youth, and taking into account the spiritual interests of citizens, the State shall:

- co-operate with religious organizations, in compliance with Kyrgyz law, in the field of spiritual, moral, patriotic and legal education of children and youth, in the field of education, including religious education;
- ensure that religious organizations have legal possibilities to conduct activities that promote the rights of citizens to religious education;
- co-operate with religious organizations to protect the rights and interests of children and their parents in the educational process conducted in educational institutions, including the right to normal physical, intellectual, moral, spiritual development of children in compliance with beliefs, including religious beliefs and those of their parents, provided that these beliefs do not entail actions contradictory to national laws;
- religious institutions of general education shall comply with State education standards for main education programs that are mandatory for all types of educational organizations regardless of the form of education, in compliance with Kyrgyz law;
- separate the state education system from religions. Religious or atheistic education shall not be allowed in state comprehensive schools, secondary and high education facilities;
- study international experience in the field of religious education for research and educational exchange, as well as for the training and re-training of personnel.

This provision does not mean that spiritual values and religion have no place in the system of state education.

In educational institutions, it is not prohibited to express one's religiousness, to conduct classes in spirituality and morals, introduce basics of world religions to pupils and students, teach as subjects the History of Religions and Religious Studies, if presented in a neutral and objective form.

In order to fully ensure the freedom of belief and respect for the rights of parents and their guardians for the upbringing of their children in compliance with their own attitudes to religion, it is declared that the state education system may not impose views and beliefs of one certain type as mandatory or all, and shall not persecute and oppress anyone on the basis of their religion or belief.

VI. Relations between the State and Religious Associations in the Sphere of Charity and Social Services

The State recognizes the social importance of activities of religious associations in the field of charity and social services where they can offer effective support to citizens who find themselves in difficult life situations (disability, illness, orphanage, neglect, unemployment, inability to care for themselves because of old age, lack of a place of residence), address the issues of strengthening the institution of the family, the prevention of child and juvenile crime, drug and alcohol abuse, prostitution, social rehabilitation of prisoners and ex-prisoners.

The State supports the activities of religious associations in the field of charity and social services, including those conducted by:

- charitable organizations established by religious organizations provided that the activities are socially important and do not pursue religious goals;
- efforts aimed at creating conditions and carrying out events for youth to improve physical culture and other forms of cultural and healthy lifestyle, promoting comprehensive personal development yet not pursuing religious goals;
- institutions providing social services to citizens, founded by religious organizations to offer social support to citizens in difficult life situations (orphan-asylums, nursing homes for the elderly, etc.) provided that these organizations obtain relevant licenses as established by Kyrgyz law.

In order to support the activities of religious organizations in the field of charity and social services, public authorities may support social service institutions and charitable organizations founded by religious organizations as envisaged by Kyrgyz law.

VII. Main Activities of the State to Prevent and Combat Religious Extremism and Instigation of Religious Hatred

The tendency to disseminate ideas of religious extremism and fundamentalism recently continue in the country, there are active manifestations of religious extremism, especially those by the pro-Islamic organization Hizb ut-Tahrir al Islami and the “Akramia” Society in the Kyrgyz Republic.

Purposeful missionary activities of a number of Islamic centers lay grounds for a schism of the traditional Islamic religion and for dissemination of extremist movements in Islam.

Activities of a whole number of sects and new religious movements cause serious concerns. Under the guise of different foundations and public organizations, they have founded illegal religious missionary centers. Using big foreign finances, they conduct active propaganda to communicate reactionary and occult doctrines to the youth in regions of the country. Analysis of literature they disseminate shows that uncontrolled activities of these groups that are utterly expansionist by their character, cause irreparable harm to human health, violate fundamental human rights, endanger the family, the society, and the State.

In order to strengthen and protect the constitutional arrangement and maintain social stability and peace between religions, the State shall:

- ban, prevent and terminate on the territory of the Kyrgyz Republic the activities of religious associations which are aimed against the foundations of the constitutional order and the security of the state and its citizens;
- ban any instigation to religious extremism, including involvement of individuals in religious activities using violence or threats of violence;
- take all necessary measures to prevent and eliminate manifestations of religious extremism;
- prohibit instigation of religious hatred, insult of religious feelings of believers, as well as acts of violence or instigation to acts directed against any group of individuals on account of their attitude to religion, as well as the provision of any support to unlawful activity;
- promote peaceful cohabitation of religious associations, decrease social tension in society, support respectful relations between believers of different confessions, as well as between believers and non-believers.

VIII. Forms of Implementation of the State Policy for Relations with Religious Organizations

The governmental policy for relations with religious associations is implemented by the President of the Kyrgyz Republic, the Jogorku Kenesh of the Kyrgyz Republic, by the Government of the of the Kyrgyz Republic, the State Agency for Religious Affairs under the Kyrgyz Government, and other public authorities within their jurisdiction and competence.

The governmental policies for relations between the State and religious associations are implemented by means of:

- improving legal regulation of the activity of religious associations and relations between the State and religious associations;
- improving forms of interaction between the State and religious associations;
- supporting public initiatives of citizens, religious and public organizations in achieving goals compliant with the objectives of governmental policy regulating relations between the state and religious associations;
- developing and implementing targeted governmental programs in the field of education, culture and social protection, permitting their implementation with participation of traditional religious organizations;
- ensuring co-operation between public authorities and religious organizations in the fields of education, upbringing of children and youth, culture, science, health care, social services, etc.;
- ensuring informational support for the implementation of governmental policies regulating the relations between the state and religious associations, promoting the dissemination of knowledge about the history and culture of historically established traditional religions in the Kyrgyz Republic;
- ensuring co-operation between television and radio broadcasters and periodicals founded by public authorities with traditional religious organizations for the production of television and radio programs highlighting issues of history, cultural heritage, lifestyles, spiritual and moral values of the peoples of the Kyrgyz Republic;
- other activities for implementation of this Concept.

State monitoring of relations with religious associations includes:

- conduct of social studies of the role of religious association in the life of society and the attitude of citizens to religion and religious associations, also public polls on issues pertaining to the maintenance and development of the spiritual and moral potential of the society, also other sociological studies of relations between the State and religious organizations, legal implementation of human rights for freedom of conscience and beliefs;
- study foreign experiences in the prevention and resolution of religious conflicts and take this into consideration when developing relevant programs.

A priority for the implementation of the Concept of the governmental policy of the Kyrgyz Republic for relations with religious associations is improvement of the Kyrgyz law.

Relations between the public authorities and religious associations are based on respective action plans, envisaging analysis of problems in a respective field, identification of rational methods to address them in co-operation with religious associations, drafting legal acts when necessary.