

Osservatorio per la Tolleranza e la Libertà Religiosa “ <i>Giuseppe Dossetti</i> ” Observatory for Religious Tolerance and Freedom
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First of all let me note with satisfaction that the adoption of the Ministerial Council Decision No. 3/13 represents another success story in the longstanding commitment of the OSCE and its participating States on the protection of freedom of religion or belief. But despite recent and less recent commitments, violations of religious communities’ rights are a sadly reality in the whole OSCE area.

Especially East of Vienna undue restrictions remain against the registration of religious communities: civil authorities arbitrarily do not recognize the legal personality of religious communities and these are therefore subjected to a number of limitations stemming from the lack of legal personality (such as acquiring property for a place of worship or establishing educational institutions for training clergy and so forth). In this regard the Guidelines on the Legal Personality of Religious or Belief Communities are an important tool for the participating States in order to draft and review legislation pertaining to registration of religious communities in a way consistent with the OSCE commitments.

Places of worship and other religious properties are illegitimately expropriated or that confiscated properties are not returned to the original owner but assigned for different use than original. In the same way undue restrictions persist against the importation and distribution of religious material as well as against visas for missionaries or volunteers, so that legitimate proselytism is strongly constrained.

The autonomy of religious communities is equally violated. They are prevented to freely select, appoint and replace their leaders due to interference of civil authorities or are not allowed to hire and retain people in accordance to their view and interests because certain anti-discrimination laws.

Both East and West of Vienna individuals are prevented to live and act in accordance with the dictates of their conscience (a right recognised already by the Helsinki Final Act). Especially West of Vienna it is more and more widespread the tendency to deny the public role of religion and according to such trend religiously inspired behaviours should have no room in our societies, such as in case of circumcision, ritual slaughter or conscientious objection.

In the same way the right of everybody to identify him/herself through religious symbols and attire is not fully guaranteed. The UN Human Rights Committee has repeatedly sustained – by arguing from the article 18 of the International Covenant on Civil and Political Rights – that freedom of religion or belief encompasses the right to display religious symbols and wear religious attire in public space. We should always bear in mind that, according to the VII Principle of the Helsinki Final Act, in the field of human rights and fundamental freedoms participating States should fulfil their obligations as set forth in the International Covenants on Human Rights.

Legal measures that forbid *tout court* to wear religious wearing in public space or on the workplace not only violate freedom of religion but are also seriously discriminatory. The fact that they affect in the same manner the believers of all religious communities is not sufficient to exclude their discriminatory nature. In this case, in fact, discrimination does not take place between believers of different religious communities, but between those who wish manifest publicly their religious beliefs and those who manifest through their wearing or symbols other kinds of beliefs (such as political ideas or trade unionist affiliation and so on).

The right of parents to ensure the religious and moral education of their children in conformity with their own convictions, even if this is doubtless encompassed in the right to religious freedom, it is called into question. Many participating States provide – or intend to provide – in public school compulsory teachings on ethical or religious subjects, promoting values that may conflict with moral or religious convictions. Such teachings are appreciable but it should be bear in mind that States cannot pursue an aim of indoctrination and children cannot be forced to a teaching that is not consistent with the convictions of their parents. Therefore it is preferable that such teachings are facultative, but when they are compulsory participating States should provide non-punitive and non-discriminatory opt-out possibilities.

Finally it should be noted that if freedom of religion or belief rightly protects also the non-believers, an anti-religious atheism which preaches the need to remove the religion from public life should not be welcomed. In this respect I find appropriate to remember that during the CSCE Follow-up Meeting of Vienna it was not reached the *consensus* on the proposal WT.78 that would put the right of practicing religion on the same footing of the preaching of atheism that asks to eradicate and prevent the propagation of religion. A similar approach would be at odds with the very concept of religious freedom provided by the OSCE commitments, which protect the religious phenomenon as such.

Freedom of religion or belief derives from the inherent dignity of human persons and protects their transcendent dimension. Only the full respect of this freedom could guarantee the free and full development of our democratic societies.