

Associazione culturale "Giuseppe Dossetti: i Valori" TUTELA E SVILUPPO DEI DIRITTI

Osservatorio per la Tolleranza e la Libertà Religiosa Observatory for Religious Tolerance and Freedom PC.SHDM.NGO/18/12 8 November 2012

ENGLISH only

## OSCE Supplementary Human Dimension Meeting Freedom of Assembly and Association Vienna, 8-9 November 2012

## Session I: Freedom of Association: obstacles to the full realization of this right and ways to overcome them

Statement by Dr. Mattia F. Ferrero Coordinator of the Observatory for Religious Tolerance and Freedom Associazione "Dossetti: i Valori" (Italy)

I would focus my attention on a new challenge regarding freedom of association: the potential clash between this freedom and right to equality and non-discrimination.

Such clash may occur when equality and non-discrimination laws and rules are strictly applied to associations, requesting them to adopt by-laws that should permit every people to join and become leader of an association, without any discrimination (based, for example, on people's religious beliefs).

At this regard let me say that the concept of association is discriminatory *per se*. In an association, people join with others in order to pursue certain goals and according certain ideals. Such goals and ideals are different from one association to another and constitute the peculiarity of each association.

This happens not only in ideologically orientated associations (such as religious or political associations) but in every kind of association (a football player or team cannot join a basketball association and *vice versa*).

Under this point of view right of association implies the right of every association to preserve its own identity. In particular, freedom of religion or belief – as provided in OSCE commitments – encompasses the right of religious organizations to organize themselves according to their beliefs and to choose their members and appoint their leaders in accordance with their requirements and standards.

Let me give an example. In a well known case, the US Supreme Court upheld the right of a college to prohibit any discrimination in membership by student groups, in the face of students'



Associazione "Dossetti: i Valori" Observatory for Religious Freedom and Tolerance

desire for equal access. In the specific case Christian Legal Society wanted to require members to sign a Statement of Faith and to conduct their lives according with prescribed principles, including a ban on sex outside marriage between a man and a woman. The college considered Christian Legal Society's rules incompatible with its non-discrimination policy and refused the recognition of Christian Legal Society.

But if associations should fulfill such non-discriminatory policies, there is a danger of people joining an association to undermine it from within, changing in a radical way its identity. Allowing this, States concur to limit a real freedom of association.

**Dr. Mattia F. Ferrero** Coordinator Associazione "Dossetti: i Valori" - Observatory for Religious Freedom and Tolerance

Corso Monforte, 2 I-20122 MILANO ITALIA - ITALY e-mail: mattia.ferrero@unicatt.it Phone: +39-02-89452122 Fax: +39-02-89452125