

SOVA Center for Information and Analysis

Intervention for Working Session 2 - "Fundamental freedoms I"

Dear Chairman, dear conference participants.

1. OSCE does not have uniform rules concerning authorities responsible for government's treatment of religion. There is no doubt, however, that legal provisions regulating such authorities and their practices should respect the autonomy of religious associations guaranteed by domestic and international law, and should not violate the freedom of conscience.

Specifically, no government authority is in a position to judge whether the beliefs and practices of a certain religious group are consistent with the beliefs and practices announced by the same group earlier.

2. The specific nature of religious associations and activities should not be interpreted to mean that religious groups are subject to tougher restrictions than everyone else. In reality, however, we often see that investigation and prosecution of actual or alleged offenses differ from the normal law enforcement practices whenever religion is involved.

For example, the Russian authorities are now trying to prohibit one brochure of Falun Gong for criticizing the Chinese government and Communist Party, even though everyone else is free to do so. Or whenever a court bans an organization for extremism, only in cases involving religious organizations may the court refuse to publicize the reason for the judgment, as it was the case when the Russian Supreme Court banned Tablighi Jamaat this July.

Evidently, intergovernmental relations, let alone measures to counteract terrorism and extremism are very important, but minimum standards of equality and human rights of everyone, including members of religious associations, should be respected.

3. This July, I had the honor of attending a meeting in Vienna on the freedom of conscience, where the participating NGOs devoted a large part of their discussion to mutual accusations of attacks against freedom of expression and freedom of conscience, respectively, voiced by NGOs which could be roughly described as proponents and opponents of secularism.

Such arguments rarely lead to consensus, but they can be made much less dramatic by relying primarily on the freedom of expression principle. It would make sense to refrain from attempts to restrict criticism of religion and religiously motivated behavior (the so-called defamation of religion), on the one hand, and to restrict criticism of certain views and behaviors from the religious perspective, on the other. We feel that such mutual restraint could benefit everyone.

In this context, I invite you to support the Athens Declaration signed in December 2008, including by representatives of the UN and OSCE. It reads, specifically, that restrictions on freedom of expression should be limited in scope to the protection of overriding individual rights, and in particular, restrictions on freedom of expression to prevent intolerance should be limited in scope to advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

4. The Athens Declaration should also be supported in its recommendations concerning anti-

terrorist legislation.

Recommendations:

To OSCE:

1. Support the Athens Declaration at the level of the Parliamentary Assembly and the Council of Ministers.

To OSCE member states:

1. Refer all decisions to ban certain theological texts or certain religious organizations and groups to the Supreme Court. Ensure maximum publicity of such proceedings due to their particular sensitivity and implications for the freedom of conscience.
2. Eliminate selective enforcement of laws against incitement to hatred with respect of religiously motivated statements.
3. Review and update domestic laws against incitement to hatred in order to ensure freedom of expression related to religion.