

Session 3: Fundamental freedoms II (freedom of assembly and association)

As delivered by Paul Coleman

*ODIHR-OSCE: 2011 Human Dimension Implementation Meeting
Warsaw, Poland: September 27, 2011*

Freedom of association is rightly considered a fundamental right in a democratic society. The European Court of Human Rights has said that it is one of the foundations of such a society with only convincing and compelling reasons being able to justify restrictions on it. With regard to specifically *religious* associations, it is clear that these should be able to function peacefully, free from unjustified and arbitrary State interference, as the autonomous existence of religious communities is indispensable for true pluralism.

In light of this, it is vitally important that religious organizations are able to manage their own affairs, including having control over their employment practices. However, in the UK, non-discrimination laws have been used to limit the freedom of churches and religious organizations. For example, a diocese in the Church of England has been successfully sued nearly £50,000 because the Bishop of the Diocese refused to employ a homosexual youth worker. In the opinion of the Bishop, the youth worker did not believe in, or uphold, the Christian belief and ideal of marriage. Nevertheless, the Church was successfully sued for refusing to employ someone who did not uphold the Church's doctrinal position.

Churches are also facing increasing pressure to allow same-sex civil ceremonies in religious premises and some Christian organizations have been forced to remove their Christian ethos in order to obtain public funding. It is important that in these difficult economic times, religious organizations are not just seen as an extension of the State—who do important public work for free—but are seen as independent, autonomous organizations, free from arbitrary State interference.

Finally, I would like to address the issue of national human rights institutions. Such organizations should not take sides over which human rights they choose to protect, and which they choose to ignore. In the UK, our national human rights institution is the Equality and Human Rights Commission. In the last twelve months, the Commission has intervened in a court case against faith-based adoption agencies and forced them to close; the Commission has intervened in a court case against Christian foster carers and prevented them from fostering children, and the Commission took legal action against Christian guest house owners and forced them to pay out thousands of pounds in damages. Given that the Commission has a duty to protect the rights of Christians as much as anyone else; it is highly questionable as to why it chose to take legal action against Christians, who simply wished to uphold their Christian beliefs in public.

Therefore, the CLC urges member states of the OSCE to protect and promote the freedom of association of churches and religious organizations, and ensure that national human rights institutions do not take sides when it comes to protecting and promoting human rights.