



SUPPLEMENTARY HUMAN DIMENSION MEETING

FREEDOM OF RELIGION OR BELIEF

9-10 July 2009
Hofburg, Vienna

ANNOTATED AGENDA

Freedom of religion or belief is one of the most central and longstanding of OSCE human dimension commitments. Principle VII of the 1975 Helsinki Final Act commits participating States to “recognize[ing] and respect[ing] the right of the individual to profess and practice, alone and in community with others, religion or belief in accordance with the dictates of his own conscience.” During the CSCE process, this basic commitment to freedom of religion or belief was further elaborated and developed to become one of the most detailed and complete provision pertaining to religion of any international human rights instrument (see, e.g., 1983 Concluding Document of the Madrid Follow-up Meeting, 1989 Concluding Document of the Vienna Meeting, 1990 Document of the Copenhagen Meeting). Recent Ministerial Council decisions, MC Decisions 4/03 (Maastricht), 12/04 (Sofia), 10/05 (Ljubljana), 13/06 (Brussels), 10/07 (Madrid), have reiterated the importance and actuality of the commitments to freedom of religion or belief.

These decisions have also mandated the ODIHR to provide support and expert assistance to the participating States through its Advisory Panel of Experts on Freedom of Religion or Belief (hereinafter: Advisory Panel), a consultative body established in 1997. Since its institution, the Advisory Panel has been particularly active in providing assistance to those participating States requesting expertise in the legislative sphere, utilizing the 2004 *Guidelines for Review of Legislation Pertaining to Freedom of Religion or Belief*.

The implementation of OSCE commitments in the area of freedom of religion or belief concerns mainly the area of the manifestation of a religion or a belief, a right that is spelled out in detail in Principle 16 of the Concluding Document of the Vienna Meeting as well as in other international instruments such as the 1981 UN Declaration on the Elimination of Intolerance and Discrimination Based on Religion or Belief. The right to profess and practice freedom of religion or belief entails and raises a complex spectrum of issues related for instance to the status of religious or belief communities, the relationship between religious or belief communities and states, the autonomy of religious or belief communities, and the transformation of international norms and standards into state legal and administrative frameworks. It affects individuals holding religious and non-religious beliefs, majority and minority

communities, although OSCE commitments and other international standards pay specific attention to the right to non-discrimination based on religion or belief.

These questions are discussed yearly in the framework of the activities of the Advisory Panel, in the setting of the Human Dimension Implementation Meeting (HDIM) and have also been debated in the context of recent high level conferences on tolerance and non-discrimination held in the past years. A Supplementary Human Dimension Meeting (SHDM) on freedom of religion or belief will offer the possibility to explore more in detail the implementation of this well established OSCE commitment and to discuss the progress made since the last SHDM on freedom of religion or belief was held in 2003.

In this context, the recommendations formulated during past events have been taken into consideration, inter alia, to select the topics of discussion for this event and will also be referred to in the discussion

Session I: From Commitments to Implementation: Freedom of Religion or Belief in the OSCE Area

This first session will offer the opportunity for a broad exchange of views on the status of freedom of religion or belief in the OSCE region. Proceeding from the existing commitments in the area of freedom of religion or belief, speakers and participants will be asked to engage in a review of commitments and to elaborate on general developments, recent challenges and positive examples in the protection and promotion of freedom of religion or belief.

The discussion will focus on a broad range of specific topics related to OSCE commitments on freedom of religion or belief such as religious education; the right to freedom of religion or belief and permissible limitations; the right to express and disseminate religious beliefs; the relationship between freedom of expression and freedom of religion or belief; the issue of religious symbols; and the participation of persons belonging to religious or belief communities in public life. Attention will also be devoted to the rights of non-believers.

In this context, the importance and actuality of freedom of religion or belief in the human rights discourse as well as its interdependency with other human rights should be taken into consideration.

Issues to be discussed:

- To what extent are OSCE participating States fulfilling their commitments to ensure and promote freedom of religion or belief? What developments have taken place since the 2003 Supplementary Human Dimension Meeting on freedom of religion or belief?
- What are the main issues or obstacles arising when implementing the commitments?

- What measures can be undertaken to further support participating States to implement their commitments? How can the ODIHR and the Advisory Panel assist participating States?
- What are the main issues arising when developing legislation on freedom of religion or belief?
- What are the main difficulties encountered when implementing relevant legislation?

Session II: Status of Religious or Belief Communities

The OSCE has long been concerned with the status of religious or belief communities in participating States. The Helsinki Final Act acknowledges the rights of “religious faiths, institutions and organizations”. In the Concluding Document of the Madrid Follow-up Meeting, the participating States expressly stated that “they [would] favourably consider applications by religious communities of believers practising or prepared to practice their faith within the constitutional framework of their States, to be granted the status provided for in their respective countries for religious faiths, institutions and organizations”. The Concluding Document of the Vienna Meeting reaffirmed and strengthened this principle by adding that participating States *would* respect the rights of religious or belief communities to organize themselves according to their own hierarchical and institutional structure and to select and appoint and replace their personnel.

Across the OSCE region, all participating States have association or incorporation laws that govern the creation, operation and dissolution of religious or belief entities. As a formal matter, these laws have similar features: they spell out how a group of people can create an organization that will be recognized as a legal person for purposes of carrying out collective activities. It is typical for OSCE participating States to recognize that religious or belief groups are distinctive and exist independently of and prior to recognition by the state. These rules often interact with rules governing tax exempt status and other financial benefits available to nonprofit organizations in general and religious organizations in particular, which can have significant implications for religious and associational freedom. Legal adjustments in this area are a recurrent feature of the legal landscape throughout the OSCE region.

Participating States have many different practices regarding autonomy of religious and belief groups. These range from situations where the State formally has authority over the doctrines or matters of the ecclesiastical structure of established religious communities to situations where States are constitutionally barred from intervening in the “internal,” “doctrinal” or other structural matters of a religious organization, including intervention or resolution of religious disputes. In recent years, autonomy issues are also arising in the context of bankruptcy proceedings. The financial downturn, and also major litigation against churches, have resulted in bankruptcy of religious organizations, subjecting the assets of the organization to receivership that is often insufficiently sensitive to religious autonomy issues.

Recognition of religious or belief communities and the question of their autonomy are two major aspects of the issue of the status of religious or belief communities. The institutional structures that emerge from the implementation of OSCE commitments inevitably reflect the history of the country involved, the nature and degree of diversity of religious or belief communities in the country, and typical patterns for dealing with other types of groups and organizations in the country.

This session will explore the consequences of these different approaches to laws and practices related to the status for religious or belief communities, focusing on recognition and autonomy.

Issues to be discussed:

- What are the main challenges met by participating States in fulfilling their commitments regarding the status of religious or belief communities?
- What are the different models of recognition of religious or belief communities in the OSCE area? What is the role of specialized committees and ministries?
- How is the autonomy of religious or belief communities best respected? What are the main challenges encountered in respecting this commitment?
- What measures are necessary to assure that recognition rules and general legal issues arising in connection with such rules are consistent with and facilitate protection of religious autonomy?

Session III: Places of Worship

As recognized by Article 6 of the UN Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, freedom of religion or belief includes the freedom “[t]o worship or assemble in connexion with a religion or belief, and to establish and maintain places for these purposes.” The Vienna Concluding Document commits participating States to respect the right of religious or belief communities to “establish and maintain freely accessible places of worship”.

The availability of places of worship is an inherent part of the right to religious freedom and therefore is covered by the legal guarantees that protect it. This entails a wide variety of issues. These include, among others, the definition of the concept of place of worship: who is entitled to have a place of worship and how is this identified. Questions such as the permissible limitations that can restrict the manifestation of this right, and the legitimate interests of the residents of the area where the place of worship is located have to be considered. The protection of places of worship in light of acts of intolerance is another aspect that requires attention. Finally, the subject of burial grounds is another important matter that has to be considered when discussing places of worship.

These problems arise and deserve attention in all OSCE countries. They are always challenging because they inevitably raise local issues and affect local sensitivities.

This session will focus on these and other aspects of the right to worship, and the associated right to have access to suitable places of worship, with a view to shedding light on the practice and understanding of different OSCE participating States and religious communities.

Issues to be discussed:

- What are the main challenges met by participating States in fulfilling their commitments related to places of worship?
- How is the concept of places of worship defined across the OSCE area, who is entitled to define it and how can places of worship be identified?
- Are there specific policies in place that focus on accommodation of religious or belief needs? And how is the relationship between rights to places of worship and permissible limitations reconciled?
- How best is the right to places of worship applied in a non-discriminatory manner?
- How best are places of worship protected from acts of intolerance?