

**Working Session 7: Fundamental freedoms I, including:**

- **freedom of thought, conscience, religion or belief**

**No. of statements: 53****Delegations: 13****Civil Society: 40****OSCE Institutions: -****International Organizations: -****Media: -****Rights of reply: 10****Rapporteur: Olga Rakic, Political Adviser, Permanent Mission of Switzerland to the OSCE, the United Nations and to the International Organizations in Vienna.**

Working Session 7 offered the opportunity for participating States and representatives of civil society to reflect on the scope of freedom of religion or belief and how to deal with challenges that participating States face in meeting their commitments related to the issues at hand. The discussion focused especially on the question how to advance freedom of religion or belief for all, while ensuring security, as well as on the state-imposed limitations on freedom of religion or belief in the OSCE region. The participating States and representatives of civil society shared their views on the current situation on freedom of religion or belief in the OSCE area, brought concrete examples and best practices and made their recommendations for improvement. The range of views and opinions expressed was often divergent.

The first introducer, Mr. Marco Ventura, Professor and member of ODIHR Panel of Experts on Freedom of Religion or Belief stressed that freedom of religion or belief is crucial to security and cooperation in Europe and belief minorities are of crucial value to the region and should be acknowledged as such. Moreover, he pointed out the 25<sup>th</sup> anniversary of the European Court of Human Rights *Kokkinaki* case decision and in that regard underlined that freedom of thought, conscience and religion is one of the foundations of a democratic society. As a consequence, minority believers need to be understood as an indispensable part of Europe. He stressed that the value of minorities is linked to the value of majorities and mutual learning and exchange is of great importance and contributes to the harmony of society. In conclusion Mr. Marco Ventura reminded the plenary that in international law, “national security” poses no permissible ground for restricting the manifestation of religion or belief. Where minority religion or belief is discriminated the very essence of being European is at risk.

The second introducer, Ms. Mariam Gavatdze, Head of Legal Programs and Member of the Board of Directors of the Tolerance and Diversity Institute in Georgia, focused in her presentation on recent trends of impermissible restrictions to freedom of religion or belief in the OSCE region. She stressed that in some participating States dominant religious organizations enjoy special status while minority religious groups face discriminations created by the State. States often seek support by the dominant religious institutions for political purposes and legitimacy, in return those institutions enjoy special status and privileges (e.g. tax exemptions, state funding). Furthermore, the classification in traditional or non-traditional religious organizations can deepen discrimination.

Further Ms. Mariam Gavatdze explained that under international law it is not mandatory to register, but due to the fact, that various States give privileges to the registered institutions, it becomes important for the religious communities to have a legal status. Complicated registration criteria is often used in order to restrict or marginalize “undesirable” religious communities. Another common instrument used by some OSCE participating States is the denial to issue building permits for construction of new houses of worship. Such practice constitutes arbitrary interference by the State. Additionally, it is visible in the region that dominant religious groups negatively influence the public educational system and are spreading narratives of religious nationalism, while religious minorities are not properly represented in text books. She underlined also the problem that States use security as a tool to restrict some religious organizations (e.g. by adopting special

legislation on terrorism). In conclusion she underlined that in those countries where civil society manages to mobilize and to exercise the freedom of expression, assembly and association despite restrictions, in those countries also freedom of religion or belief and minority rights seem to be more protected.

In the subsequent discussions, many speakers referred to the existing OSCE principles and commitments in the area of freedom of religion or belief and many interventions from the floor underlined the importance of the OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religious or Belief Communities as a benchmark document and the Toledo Guiding Principles. A vast majority of speakers noted that despite the existing commitments there are many state imposed limitations and violations of the right of freedom of religion or belief across the OSCE region.

A number of interventions pointed out that new anti-terrorism and security related legislation was being used in some participating States as a pretext to proscribe the activities of certain minority religious organizations or ban them, such as for example the Jehovah's Witnesses. Furthermore, they highlighted the link between respecting the right to freedom of religion or belief and security as acknowledged by OSCE States in Kyiv in 2013. The respect for freedom of belief would further strengthen security and enhance stability.

Some speakers were worried about the resurgence of anti-Semitism and underlined that immediate action is needed, in that context the ODIHR Words into Action program with its practical tools for implementation was mentioned and welcomed. Several interventions emphasized the crucial role that education in general plays in fostering respect of fundamental freedoms and in particular freedom of religion and belief.

Several speakers mentioned that participating States had decided in recent times to restrict by law the wearing of particular forms of faith apparel by women in public places, this poses according to the speakers a discrimination of the freedom of religion or belief.

Some interventions called upon States to return confiscated property and to abstain from national or local government interference in the internal governance of religious organizations and therefore also refrain from impeding election processes of leaders. A speaker noted the importance of equality bodies that should be set up to better promote and protect rights of religious communities.

**Recommendations** made by participants during this session include (non-exhaustive list):

**Recommendations to the OSCE participating States:**

- Ensure the full implementation of OSCE commitments and international standards on freedom of religion or belief
- Respect the principle of autonomy of religious or belief communities
- Monitor and analyze in concrete terms violations of everyone's freedom of religion or belief and interlinked freedoms of expression, assembly and association – including the targeting by some States of women exercising these freedoms
- Mainstream freedom of religion or belief work within an all human rights for all perspective, stressing implementation of all fundamental freedoms.
- Insist that the most effective step to ensure security is to fully respect and implement fundamental freedom commitments and challenge the misuse of concepts such as “anti-terrorism”, “extremism” to disguise human dimension commitment violations
- Use existing *OSCE/Venice Commission Joint Guidelines on the Legal Personality of Religion or Belief Communities*, *the Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools* the *OSCE Guidelines on Freedom of Peaceful Assembly*, and *on the Protection of Human Rights Defenders*.
- Refrain from impeding the election process of leaders of religious or belief communities

- OSCE participating States that have not yet set up equality bodies should consider doing so in order to contribute to better promotion and protection of the rights of religious communities and to tackle discrimination based on religion and belief
- OSCE participating States that have already set up national equality bodies should ensure that their mandate covers religion and belief in all fields of life and that there are sufficient guarantees of their independence and effectiveness including staff and financial resources, in line with standards set out by the European Commission and the Council of Europe
- Promote the creation of national human rights institutes, or reinforce existing ones, providing adequate resources and training on religious literacy and FoRB for government officials and civil servants
- Encourage interfaith and interreligious dialogue among churches and faith-based groups and set up regular government-sponsored platforms where religious leaders and civil society can share their privileged view of society and their unique contributions
- Consider hosting regional conferences on the topic of FoRB

### **Recommendations to the OSCE and its Institutions:**

- Deploy special observers to regions with inter/intrareligious conflicts
- Extend the ODIHR Words into Action project
- Point out to participating States that laws should protect the right to FoRB for all
- Strengthen the scrutiny of legislation against the background of international standards
- Ensure the full implementation of OSCE commitments and international standards on freedom of religion or belief
- Respect the principle of autonomy of religious or belief communities
- Monitor and analyze in concrete terms violations of everyone's freedom of religion or belief and interlinked freedoms of expression, assembly and association – including the targeting by some States of women exercising these freedoms
- Mainstream freedom of religion or belief work within an all human rights for all perspective, stressing implementation of all fundamental freedoms.
- Insist that the most effective step to ensure security is to fully respect and implement fundamental freedom commitments and challenge the misuse of concepts such as “anti-terrorism”, “extremism” to disguise human dimension commitment violations.