



## **Soteria International Contribution to Working Session 14**

### **RULE OF LAW**

Compliance with the right to a fair trial in the OSCE member states has been substantially aided by ODIHR's efforts in this area.

Trial monitoring tools helped our organization in its court assignments and to concretely point elements of violation of the right to a fair trial, rather than providing a broad description, which made observations be refuted by authorities.

However, observations lead us to the supposition that the right to a fair trial cannot be limited strictly to the area of the judiciary. Our analysis concludes, in corroboration with other sociological research, that the level of interconnectedness in modern societies, reached unprecedented heights.

The boom of classic and social media has made that media becomes an influential element, not to be omitted also when addressing the impartiality of judges.

We briefly mention here the case of Romanian social and spiritual activist, Gregorian Bivolaru, whose court case was intensely mediatized, or mediabolized, as stated in the Human Rights without Frontiers report, to the level that the court was first releasing decisions and information to media and only after to the lawyers in the case. To note that Bivolaru received in 2005 political asylum in Sweden, not least due to the biased media campaign against him.

Strong currents of opinion makers and broad dissemination of these opinions, sometimes of doubtful expertise, is another factor influencing proceedings in the courts of law. Again, from the examples we follow, it was reported that so called anti-sect movements participate as experts in unlawful prosecution of

spiritual movements, and often the so called expertises are the only evidences provided. Cases of Arkeon and Dhamanur associations in Italy are particular, but not the only examples when spiritual activity is incriminated by the anti-sect squad of the Italian police in close collaboration with anti-sect interest groups, both catholic and under the umbrella of FECRIS.

So is the case reported at the HDIM last week – of the Italian association Atman, accused solely based on the allegations of anti-sect campaigners.

The example we present are given by the specifics of our organization, however the situation is not such only in the case of spiritual and new religious movements. In the HDI meetings we constantly hear about human rights activists and political opponents convicted in court based on little substantial evidences. All these cases are preceded and accompanied by aggressive/ domineering media and public opinion campaigns denigrating the defendants and stigmatizing groups they belong to.

Coming back to the general provisions, we would like to note the considerable achievements of the OSCE's election observation practices, specifically on media monitoring. Multi-partiality and rightness of media is a crucial factor for elections to be recognized democratic and correct. We suggest that similar model should also be considered in respect to the right to a fair trial. Just as we cannot speak of free and fair elections when media one-sidedly and extensively covers election campaigns, same we cannot claim that free and fair trials are possible when media coverage is not balanced.

**Thus our recommendation to OSCE/ODIHR** is to consider to provide stipulations, indicators and guidelines on media coverage of court cases and to prepare provisions for trial monitoring and for recognition of the court decisions, based on criteria pertaining to media coverage.