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ENGLISH only

The right to believe, to worship and witness

The right to change one's belief or religion

The right to join together and express one's belief

Session II - Freedom of thought, conscience or belief - Status of religion or belief communities

The status and autonomy of religion or belief communities, and the ability of individuals - on their own or in community with others - to act on their religion or belief is an issue that has been with the OSCE from its beginning. From the Helsinki Final Act onwards, participating States have committed themselves to implementing freedom of religion or belief for all - irrespective of whether or not the people concerned have state permission for their religious activity, such as meeting for worship.

Yet despite this, some participating States insist on state registration as a precondition for exercising freedom of religion or belief. Uzbekistan, for example, makes all non-state registered religious activity a criminal offence and has banned in the country's north-west all religious activity that is not either state-controlled (as against independent) Muslim or Russian Orthodox Christian. This kind of restriction is an attempt - which as Forum 18 has documented has failed - to make the very existence of a group of people exercising a fundamental freedom dependent on state permission. Moldova, Belarus, Azerbaijan, Kyrgyzstan and Turkmenistan are amongst the other participating States which make such attempts. Related attempts to make fundamental freedoms dependent on state permission are violations such as Tajikistan's bans on Jehovah's Witness and Protestant organisations. Such attempts are inherently absurd, precisely because they attempt to deny the insight that fundamental freedoms are not gifts of the state, but - as the Helsinki Final Act puts it - "derive from the inherent dignity of the human person and are essential for his *[sic]* free and full development."

Religious or belief community registration systems are not of themselves a violation of the human dimension commitments. But as with any legal tool, it's worth asking the question: Is this needed at all? Some participating States, such as Ireland and the UK, see no need for them. Instead, all civil society groups - including all religious or belief communities - have access to simple, quick mechanisms to enable them to gain legal status, as well as tax and charitable benefits. But these mechanisms are neither compulsory, nor doctrine tests, nor preconditions for meeting together, worshipping, and carrying out other peaceful religious activity. Their role is to enable and not restrict fundamental freedom - a fundamental part of implementing the human dimension commitments.

However, some participating States attempt to stop all unregistered religious activity, place obstacles in the way of those communities who do want to register, and interfere with their autonomy - breaking their human dimension commitments and ignoring the suggestions in the *Guidelines for Review of Legislation Pertaining to Freedom of Religion or Belief*. The most recent example of this has been Azerbaijan, which last month brought into force the first of two sets of repressive changes to its Religion Law. To register, a community must now provide: "information on the citizenship, residence, and date of birth of people founding the religious society, a copy of their identity cards, the basis of their religious doctrine, information on the date of establishment of the religion and society, its form and methods, traditions, attitude to the family, marriage and education, information on limitations on rights and duties of the members of the society. Other documents demanded by the Law 'on State Registration of the Juridical Person' shall also be submitted with the application."

There is no indication by what authority, standards, or competence state officials will decide registration applications or appeals against their decisions - or a timescale for this. In stark contrast, only 20 days are allowed for appeals to be lodged, or changes demanded by state officials to be made.

If state officials do not find enough grounds in the doctrinal tests or documents demanded to refuse registration, it can also be refused if "the activity of the religious organisations, their aim, or sense of the religious doctrines, and their main principles contradict the Constitution and laws", or if "the presented charter (regulation) or other documents contradict the requirements of legislation or the

information is wrong." Officials can also apply for registered communities to be banned for reasons - often undefined - such as: "violating social order or social rules"; "inciting people to refuse to execute duties required by the law"; - and "not observing the requirements of an executive body on submitting information on changes made in the information or documents necessary for state registration." For the third time in 20 years, all registered communities must apply for re-registration. Many fear they will not be re-registered, as happened earlier.

Registered organisations in some participating States face excessive state interference in their autonomy - a key reason why some communities refuse to apply for registration. For example, Azerbaijan - like Belarus - uses its Religion Law to restrict the activity of registered communities to the geographic location they are registered in. It also denies Muslim communities the right to appoint their own leaders. Unwritten conditions are also applied by some participating States. In Turkmenistan, for example, Forum 18 has been told by religious communities that an unwritten condition of registration is agreement to co-operate closely with the MSS secret police.

"Legal" restrictions applied by Belarus on registered communities also include: barring meetings for worship or other religious activity in private homes that are either regular or large scale; requiring all places of worship to be state-approved; and routinely expelling both Catholic and Protestant foreign religious workers. As a Protestant commented to Forum 18, "they have created conditions so you can't live by the law. We would need to close half our churches in order to operate technically in accordance with the law." In practice, disfavoured communities like Minsk's New Life Church find it impossible to get state permission for their activities. By attempting to reduce religious communities' aspirations, the authorities hope to give the appearance that little action is taken against them. The authorities hope to contain them within an invisible ghetto of regulation.

But as Belarus and other participating States are finding, attempts to combine an appearance of freedom of religion or belief with the reality of restriction are increasingly difficult to maintain. During the collection in Belarus of a 50,000 signature petition against the Religion Law, officials fined and dismissed from their work petition organisers. This underlined the connection between freedom of religion or belief and other fundamental freedoms. As human rights defenders stated, the Law "violates the rights of all people, even atheists." Yet the chair of the parliamentary Human Rights, Ethnic Relations and Media Committee, Yuri Kulakovsky, defended the authorities' refusal to consider the petition, repeatedly claiming to Forum 18 that "there is a procedure for such initiatives in any democratic society, and they [petition organisers] didn't follow it." Yet however much the authorities might want to ignore civil society initiatives, in Belarus they show no signs of being halted.

Why are some participating States hostile to their commitment to respect the status and autonomy of religion or belief communities? In the case of Belarus, the authorities have crushed independent political, business and social organisations inside the country, and fear the potential of the largest remaining internal group of independent organisations - churches. This fear is reinforced by the fact that a number of key figures in the opposition are also committed Christians. Fear of legally recognised, autonomous civil society groups appears to be a strong motive for many participating States to deny recognition and autonomy to religion or belief communities.

So what can be done? Among the points indicated by previous OSCE meetings have been that:

- violations of human rights should be seen as not only attacks on particular people or communities, but also attacks on the fundamental rights and freedoms of all people.
- politically binding human dimension commitments are for implementation;
- regulation should be a tool to facilitate and not to control the practice of religion or belief;
- OSCE field operations should pro-actively assist in implementing all human dimension commitments, including those relating to freedom of religion or belief;
- and that the implementation of commitments affecting recognition and autonomy should be addressed with the assistance of the Advisory Panel and Council of Experts on Freedom of Religion or Belief, along with bodies such as the UN and the Council of Europe.

In these ways, we can support those who struggle to move "from commitments to implementation".

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