

Statement at the OSCE Human Dimension Implementation Meeting, Warsaw, October 5th, 2009

On behalf of The International Civil Liberties Alliance

Session 10, October 5th 2009: Tolerance and Non-discrimination II

(This is the short version of the ICLA statement given in the OSCE plenary on October 5th, 2009, within in the 2-minute speakers limit in the session. An elaborated version follows below.)

Distinguished Delegates,

The International Civil Liberties Alliance notes with concern that hate crime and anti-discrimination laws are worded much too broadly and often enforced with excessive zeal, becoming in effect tools for repression rather than vehicles for freedom.

Further, exaggerating the problems and exploiting singular cases to create draconian legislation would be counterproductive to the OSCE goals and intentions.

In order to properly further the OSCE goals, we need to ensure that legislation is well-defined. Ideally, the problems addressed here should be handled through ordinary criminal laws, as hate crimes usually constitute libel and implied threats against certain groups. The classical target is the Jewish community, the recent 'organ harvesting' article in the Swedish daily Aftonbladet being a case in point.

Additionally, blasphemy laws and the like, which are still on the books in Denmark and elsewhere, only serve to cover up the problems, not to solve them. These laws need to be repealed, also in order that political extremism disguised as religion can be freely criticized.

Thank you.

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Elaborated version of the above statement:

Distinguished Delegates,

The International Civil Liberties Alliance is watching closely the implementation of hate speech and anti-discrimination laws, including unintended side effects. We are noticing that these side effects are extensive, and tends to stigmatize individuals and groups presenting controversial views. This is possible because laws (as well as precursors to law such as the European Union “Framework Decision for Combating Racism and Xenophobia”), are worded much too broadly, and thus have an inherent risk of abuse. Over-zealous enforcement by government officials, as well as exploitation by radical groups to silence their opponents and critics. Thus, legislation with the noble intention of combating racism and similar forms of intimidation themselves become tools for repression, not vehicles to protect our freedom.

Exaggerating the problems and exploiting unique cases to create draconian legislation is counterproductive to the OSCE goals and intentions, and should be avoided. Ordinary crime occurs, targeting people of all faiths and ethnicities. It is widely accepted throughout the OSCE area that racism is foolish and pointless. The core problem of 'hate crimes' is that they are in effect 'message crimes', sending a message to adherents of a particular faith (or, in some cases, non-adherents of a particular faith) that they are inferior and should fear the groups committing the crimes. This is an issue that needs to be dealt with in a way that does not compromise our fundamental freedoms.

To further the OSCE goals, we need to ensure that the scope of relevant legislation is well-defined. Ideally, the problems we address in this conference should be handled by ordinary criminal laws, noting that threats and libel are already punishable under the law. Enforcing existing laws more effectively, and equally for all, will go a long way towards addressing the issues at stake. Libel and threats have classically been directed towards Jewish groups, a recent case in point being the 'organ harvesting' article in Swedish daily Aftonbladet, and should be dealt with under ordinary law.

It has been suggested by several speakers today that registration of hate crimes against certain ethnic and religious groups, Muslims in particular, should be more effective and systematic. ICLA suggests that as a complementary measure, hate crimes executed by specific groups against non-members of this group should be systematically registered as well, paying particular attention to any use of religious justification for the crimes, that the element of intimidation in the crime can be determined. Religious leaders who denigrate adherents of other faiths are a particular cause for concern, as such statements from a religious authority may lead to not just to a single crime, but to an entire series of hate crimes at a later time.

Finally, blasphemy and defamations laws, which remains on the books in Denmark and many other OSCE participant countries, do not serve to address and resolve the problems we are facing. We need to be able to discuss religious tenets openly, without the fear of arbitrary persecution and punishment. Truth obviously constitutes an absolute defence against any charges of libel and denigration. Europe has a long and healthy tradition for standing up against religious dogmatism. This tradition is vital to defend, so that we may also freely criticize political extremism promoted in the guise of religion.

OSCE has as its fundamental purpose to ensure freedom and democracy, as these freedoms are prerequisites for society dealing intelligently with any challenges that arise.