

## Amnesty International

### Statement for Working session 14 – Tolerance and non discrimination II

Although OSCE Participating States have made some progress in complying with international human rights standards on non-discrimination and people across Participating States continue to suffer discrimination on many grounds including sexual orientation, gender identity, ethnicity and religion or belief.

National laws aimed at counteracting discrimination remain in many instances limited in their scope; victims are thus left without effective opportunities to seek redress. In many OSCE Participating States data and statistics on discrimination are not comprehensively collected and maintained. For example **Switzerland** has still not adopted a comprehensive anti-discrimination legislation although several recommendations have been made in this respect by human rights monitoring bodies. **Spain** recently failed to enhance its discrimination standards in order to protect individuals from discrimination on grounds of sexual orientation, disability, age and religion or belief in areas such as health, education and access to good and services.

In several countries across the region the protection against discrimination on grounds of sexual orientation and gender identity is limited or non-existent. In **Turkey** these forms of discrimination are for instance not explicitly prohibited by any legislative instrument. The Law on Ensuring Equality recently adopted by **Moldova** failed to comprehensively protect lesbian, gay, bisexual, transgender and intersex (LGBTI) people against discrimination.

Legislation aimed at “counteracting propaganda of homosexuality to minors” has been adopted or is being currently discussed in several countries including **Lithuania, Russia, Ukraine and Moldova**. These laws are likely to directly discriminate LGBTI people in the enjoyment of their rights to freedom of expression and to freedom of assembly.

Amnesty International’s research has found that some governments across the region are failing to protect Muslims against discrimination on grounds of their religion or belief. In countries such as **France, Belgium** and the **Netherlands**, Muslims are denied employment just because they wear visible religious or cultural symbols or dress which, according to some employers, are likely to smear their corporate image or to annoy clients. This is contrary to both international and European anti-discrimination standards. Furthermore, laws or regulation adopted in countries such as **Turkey, France and Belgium**, and aimed at forbidding pupils, but also adult students, to wear religious and cultural symbols and dress, are likely to disproportionately restrict the rights to freedom of expression and to freedom of religion or belief of Muslims. Moreover, Muslims’ associations experience barriers when they wish to build or to open a place or worship, which is a fundamental

component of the right to freedom of religion or belief. In **Switzerland**, a discriminatory provision forbidding the building of minarets was included in the Constitution as an aftermath of the referendum held in November 2009. In Catalonia (**Spain**), permits to open Muslim places of worship were denied by public authorities following protests staged by neighbours' associations and supported in some instances by political parties.

Although states across the region have committed to combating hate crime and the OSCE plays a positive role in collecting data and in providing training in this area to law enforcement and judicial authorities, legislative measures are still often inadequate and investigation and prosecution of hate crimes is often flawed. Hate crimes represent a very serious form of discrimination. Any domestic legislation should comprehensively address hate crime by explicitly acknowledging that victims can be targeted for many identity-related aspects including ethnicity and religion or belief, but also real or perceived sexual orientation and gender identity. If anti-hate crime legislation fails to do so, the alleged hate motive behind crimes perpetrated against LGBTI people is neither registered nor investigated. In **Bulgaria**, for example, legislation does not define hate crime with a homophobic or transphobic motive and LGBTI individuals often do not report such crimes as they have little trust in the police. Even in contexts where there is a strong legal basis for combating hate crime, problems persist in the investigation and prosecution phases, sometimes because of the lack of awareness or prejudice held by law enforcement officials. For instance, In **Croatia** homophobic hate crimes have not consistently been registered and defined by the police. In **Hungary**, hate crimes perpetrated against Roma people have not been appropriately investigated and prosecuted largely as a result of the lack of guidelines ensuring the implementation of the relevant legislation and the lack of expertise within the police, who often also hold prejudice against the Roma.

To conclude, Amnesty International calls on the OSCE to enhance its role in combating discrimination by:

- Providing support to Participating States to collect and maintain data and statistics on discrimination including on grounds of ethnicity, religion or belief, sexual orientation and gender identity;
- Addressing thoroughly forms of discrimination other than hate crime experienced by religious and ethnic minorities as well as LGBTI people in key areas of life such as employment, education and access to goods and services;
- Further combating stereotypes and prejudice against vulnerable groups including Muslims, Roma and LGBTI people.

Furthermore, in order to respect, protect and fulfil the right to be free from discrimination, Amnesty International calls on Participating States to:

- Adopt and implement comprehensive anti-discrimination legislation providing protection to victims of all forms of discrimination including on grounds of sexual orientation and gender identity;
- Ensure that religious and ethnic minorities, including Muslims, are not discriminated against in the area of employment simply because they wear religious or cultural symbols and dress;
- Refrain from adopting legislation that is disproportionately restricting the rights to freedom of association, assembly and expression of LGBTI people;
- Ensuring that religious minorities, including Muslims, are not discriminated against in the enjoyment of their right to freedom of religion or belief when they wish to open or build places of worship;
- Ensure that Criminal legislation includes provisions for the prosecution of hate crimes, including on prohibited grounds of discrimination, including ethnicity, religion, sexual orientation and gender identity;
- Ensure that hate crimes against ethnic or religious minorities and LGBTI people are fully investigated and prosecuted.