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**STATEMENT OF THE HOLY SEE
AS DELIVERED BY MSGR. MARINKO ANTOLOVIĆ
AT THE HIGH-LEVEL CONFERENCE ON
TOLERANCE AND NON-DISCRIMINATION
(INCLUDING HUMAN RIGHTS YOUTH EDUCATION)**

Tirana, Albania
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Plenary session 6: The role of political leadership, legislation, law enforcement, data collection, and civil society in combating and preventing intolerance and discrimination, including hate crimes

Mr. Chairman,

The basic role of political leadership and legislation in preventing intolerance and discrimination, including “hate crimes”, is to set up a legal and institutional framework dealing with this agenda.

In establishing such a framework the fundamental criterion and the motivation for a politician must not be personal or party success, partiality, and certainly not material gain. Politics must be a striving for justice, and hence it has to establish the fundamental preconditions for peace. Naturally a politician will seek success, without which he would have no opportunity for effective political action at all. Yet success is subordinated to the criterion of justice, to the will to do what is right, and to the understanding of what is right. Success can also be beguiling and thus can open up the path towards the falsification of what is right, towards the destruction of justice.

There is, however, a secondary role for political leadership, and that is creating an environment or an atmosphere of tolerance and non-discrimination. There tends to be a false perception among the political elites that all “evils” in society are easily eliminated by new laws. Nothing can be further from reality. Functioning families, an education system that is in coherence with the philosophical or religious convictions of the parents, and the mass media are all critical factors in creating an environment of tolerance. It is in these areas that the political elites play an important role in shaping the opinions of society.

As far as legislation on hate crimes is concerned two main types have to be considered. One type of “hate crimes” involves violent crimes, where the motive of bias towards other persons increases the level of punishment. This type of “hate crime” legislation is appropriate as it sends a message of zero tolerance to violent offenders motivated by their hatred towards a certain racial, ethnic, cultural, linguistic and religious group.

A very different situation, both factual and legal, arises when “hate crimes” tend to cover offensive speech only. The political elites and law enforcement bodies need to be very cautious in expanding the area of criminal law to the expression of opinions. One of the most important freedoms in the constitutional system of any democratic country is freedom of speech. Without free speech there is no discussion and without discussion there is no democracy. Therefore the right balance between this freedom and the rights of those who might seriously be affected by someone’s claim to freedom of speech or expression must be the final aim.

Mr. Chairman,

Criminal procedure and criminal sanctions represent the most heavy-weight means by which the government intrudes into individual freedoms. Criminal prohibitions are categorical – by resorting to criminal legislation, government intends not just to put a price on conduct but to proscribe it altogether. That is the reason why criminal law sanctioning speech should be used very cautiously by the legislation and law enforcement bodies.

As far as data collection is concerned, its use can prove to be instrumental in shaping policies for combating and preventing intolerance. However, any type of data collection should follow traditional statistical methods, and not rely on random surveys. The conclusions taken from data surveys should also provide for variables and follow well established mathematical models.

Last but not least, the role of civil society in combating and preventing intolerance and discrimination is irreplaceable. Its contribution is especially valuable when it is motivated by a sincere wish to promote and protect the common good and not just some partial interests and agendas.

Thank you, Mr. Chairman!