

OSCE

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In order to ensure the freedom of the individual to profess and practise religion or belief, the participating States will, *inter alia*, respect the right of these religious communities ***to establish and maintain freely accessible places of worship or assembly*** (Concluding Document of the Vienna Meeting of the CSCE 1989, Principles, para. 16).

Full exercise of this right requires the state to consider at least two following circumstances:

- Hieratic, hierarchical, and institutional variety of religious communities;
- Close relationship between this right and other individual and civil rights and freedoms.

The first one has significant importance in a multi-confessional society. The right to establish and maintain places of worship or assembly is commonly understood as the right to own or rent buildings or premises constructed or adjusted (re-constructed) for the purposes of worship, assemblies, or other religious ceremonies. Relationships between the state and believers should be solely determined and regulated by the existing civil legislation (agrarian laws, town-planning laws etc.). In order to avoid discrimination on the grounds of religious affiliation, the state should not set certain requirements towards believers if the same requirements are not set forth towards other building owners or lessees. Example could be a special permission or consent from other religious communities, or local civil community, or local representative body.

The state usually allows holding worships and religious ceremonies in places with limited accessibility (hospitals, military units, places of detention etc.). Limitations related to the special function and regimes of these places are largely understandable. However, it is inadmissible that state bodies regulate the access to such places based on religious affiliation.

In my opinion, construction of religious buildings in the places of detention and in military units should be approached with a great care. Within such isolated communities there always be minority believers who will then suffer from discrimination, being among the overall majority of other believers.

Certain religious communities hold their ceremonies and events outside of buildings and premises, given the great number of participants (congresses, processions etc.). Many states refer such cases to the legislation on meetings and demonstrations, which oftentimes carry more substantial limitations than the laws on religion.

Small religious communities that are common in countries with low density of population and that do not have sufficient funds for purchasing, building or leasing the places of worship should have an opportunity to assemble without hindrance in private homes to worship or carry

out religious ceremonies. It is not prohibited by a customary law. Sometimes it is even directly guaranteed by the customary law. However, despite the existing legal safeguards, the states oftentimes exercise excessive control or set certain limitations on such assemblies, or even intervene into the process of worship.

Finally, there are religions that do not require fixed buildings or premises. People may worship water, fire, Sun, burial grounds of respected people etc. It is understood that general requirements towards the observance of common order are valid for all people, both believers and non-believers. However, a secular state has no right to tag these people as “separatists” or “sectarians”, neither has it the right to limit or prohibit their access to places that they consider as holy.

Full exercise of the right to establish and maintain freely accessible places of worship or assembly depends on the level of respect towards other human rights regardless of religious affiliation.

I already gave an example of such “indirect” limitation through setting harsher laws towards meetings, processions, and demonstrations.

I believe that those speaking at this discussion will give a number of examples when disrespect towards the fundamental individual and civil rights has a rebound effect on religious rights.