

**OSCE – ODIHR SUPPLEMENTARY HUMAN DIMENSION MEETING
FREEDOM OF RELIGION OR BELIEF**

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Keynote Speech by Prof. Ombretta Fumagalli Carulli

**“The way towards religious freedom: a success of religions, a success of the
OSCE, for security and democracy”**

Mister Chairman, Distinguished Participants,

I'm honoured for the invitation by the ODIHR Director, Ambassador Lenarčič, to deliver a keynote speech in this Supplementary Human Dimension Meeting on Freedom of Religion or Belief. I had the chance to deal with this subject in several contexts, both academic and political.

Nearly thirty-five years ago, at the end of the Helsinki Conference, European peoples included the respect of human rights and fundamental freedoms amongst the ten Principles Guiding Relations between Participating States. Religious freedom was granted a particular prominence.

Since then, during the Helsinki Process religious freedom was negotiated. You all know very well the milestones of this process: first, the Follow-up Meeting of Madrid (1980-83), then, more importantly, the Follow-up Meeting of Vienna (1986-89), which was a significant follow-up to the '85 Ottawa Conference, then Meeting in Copenhagen of the Conference on the Human Dimension (1990) and finally the Bucharest Summit (1994).

So when the Organization for Security and Cooperation in Europe was born, it received as dowry the entire *acquis* of religious freedom, which is the most extensive and complete international standard in this matter: religious freedom is recognized and protected in all its three aspects: individual, communitarian and institutional. In other words, not only it recognises the right of the individual, alone or in a community, to believe and express his belief, but also the religious communities as such are protected and promoted.

To date, freedom of religion or belief is taken into account and protected within the OSCE also in the framework of the Programme on Tolerance and Non-Discrimination. In this respect I would highlight that “tolerated cults” belong to an old era, which was not fully respectful of religious freedom; in addition, tolerance should be linked with and preceded by religious freedom, to foster a climate of mutual respect between believers.

Notwithstanding the various international commitments entered into by the Participating States and the relevant provisions of the national constitutions, the freedom of religion or belief is still violated daily in the OSCE Area, both East and West of Vienna.

First of all we have to point out the episodes of violence, against things (especially places of worship and cemeteries) and people, including murders. In these cases is not sufficient that violence does not derive from the States, since public authorities have the duty to actively support and protect the freedom of religion or belief of its citizens and, therefore, to protect their places of worship. There also other kinds of attacks, also from police or other public authorities: illegal and arbitrary arrests, detentions, searches, impoundings; denial or unjustified complications about visas for religious or volunteers; undue restrictions against the importation and distribution of religious material.

The registration of religious communities – which is not *per se* at odds with religious freedom – should take into account *inter alia* whether these communities respect the human dignity of their members and, in particular, the right to change religion. Sometimes the arbitrary exercise of the power of registration by the public authorities originates discriminations between religious communities, since only a few of them – those which obtained registration – are entitled to a number of rights. On the other hand, a fundamental point is that a religious community may enjoy a particular *status* due to historical or cultural reasons – or because it is widely diffused amongst the population – provided that it does not limit the religious freedom of other communities. The principle of substantive, not formal equality tells us that as it is unfair to treat in a different manner equal situations, it is equally unfair to impose an equal treatment to different situations.

I also find it appropriate to remember that OSCE commitments protect minority religions as well as majority religions. Also majority religions suffer violations of the religious freedom. It is therefore necessary to avoid an improper “ranking”, implying that violations against

minority religions are more serious than those against majority religions: the human dignity is violated exactly in the same way in both cases.

I would also like to point out that the violations of the freedom of religion or belief I mentioned earlier occur predominantly where there are recurring episodes of violation of several human rights. In these Countries religious freedom constitutes a sort of litmus paper to test the respect of all others human rights. *Inter alia*, religious freedom is connected to other human rights, such as – for instance – freedom of opinion, of expression, of association and of assembly.

In this perspective, as regards the relationship between religious freedom and other human rights, when it comes to the balancing of rights, religious freedom should not be considered less important than other rights; on the other hand, we should reject the trend which downplays violations against religious freedom and register them as violations of others freedoms – such as association or expression.

But also the Countries where democracy and rule of law are more well-established are not exempt form risks and violations of freedom of religion or belief.

For example, it is more and more widespread the false idea that religions are a negative fact, a fact that should be fought against, instead of an element of progress and well-being of our societies. It emerges clearly from the OSCE commitments that religion is a real legal asset to be protected. Therefore, if the freedom of religion or belief rightly protects also the non-believers an anti-religious atheism which preaches the need to remove the religion form public and private life of the citizens should not be welcomed. A similar approach would be at odds with the very concept of religious freedom, which protects the religious phenomenon as such.

Quite the opposite, it is necessary to promote the participation of religious communities in public dialogue, even through the mass media, and welcome the interventions of the representatives of the religious communities. Based on their moral convictions deriving from religion, such representatives may give their view about everyday's life and, in particular, on legislative and administrative provisions of their Countries.

Here there is one of the profiles of the delicate relation between freedom of religion or belief and freedom of expression. There is no contrast between each other in so far as is not promoted a supposed right “not to feel offended” and – conversely – the freedom of expression is not abused to offend and vilify the religions, their representatives, symbols and teachings.

The scenario I just pictured renders no service to pluralism and democracy because the dialogue is prevented and people who have different opinion are violently repulsed. In order to promote the dialogue and the pluralism, it is necessary that the information about religious communities is true and well-balanced. This will allow the public opinion to develop in a correct, mature way and it will foster a climate of mutual confidence and respect between religious communities as well as between believers and non-believers.

The recognition of the public role of the religious communities also implies a dialogue between public authorities and these communities. This aspect was repeatedly underlined in the OSCE commitments – let me just mention in this respect the Madrid and Vienna Final Documents – but it was also dealt with in recent meetings on the religious freedom. Accordingly, also the Lisbon Treaty provides for an open, transparent and regular dialogue with the Churches, the religious communities and philosophical and non-confessional organizations. Such dialogue is not strictly limited to the requirements of the religious freedom.

This dialogue should respect the specificity of religious communities in respect of other social groups and, among religious communities, it should take into account the historical, cultural and numeric relevance of each community. Moreover, this dialogue should also take place in a bilateral way, with each of the relevant communities, in relation to specific circumstances and subjects.

The rejection of the importance of religion for the private and social life has also led to a the more and more widespread prohibition for the individual to act, and even to express, his/her opinion in accordance with his/her convictions, a right which was recognised already by the Helsinki Final Document.

The conscientious objection to the compulsory military service on the ground of religious conviction is recognized by the OSCE commitments. The protection of religious freedom requires that the same occurs for all ethical sensitive questions pertaining family and human life. Blacklists of the objectors that expose them to discriminations or vexations are equally not acceptable.

The fundamental right, and primary responsibility, of the parents to assure the religious and moral education of their children should also be respected and protected in relation with the role of the State in the education field. Accordingly, it should be possible to be exempted from those teachings which may be contrary to the religious and moral views of the parents. On the other side, we should bear in mind that the raising multiculturalism is in no way contrary to a facultative confessional religious teaching in public schools. On the contrary – as was highlighted by a well-known judgment of the Italian Constitutional Court (n. 203/89) – this kind of teaching is consistent with a positive *laïcité* of the State.

Finally, I wish to invite the Participating States to make efforts in all international *fora* to promote reciprocally in every Country and in the different contexts the effective and full exercise of the freedom of religion or belief. This exercise requires, *inter alia*, the availability of place of worship in obedience of the zoning laws and ordinances (naturally if provided on general way) which keep into account the demand of an equilibrated and correct land use, of its artistic, cultural, religious and environmental features. Of course, when a building is not used only as place of worship, is legitimate that, in regard of the other activities *de facto* undertaken, this building is subject to the consistent legislation, not exclude the police one.

Those which I mentioned are just a few of the current challenges for the freedom of religion or belief. I'm confident that the debate which will start shortly will contribute to enrich the awareness of the present challenges and to find new ideas, on the basis of the commitments and the foundational principles of the OSCE. The religion – I said above – is a positive element for our societies, a factor for the security and democracy, which the OSCE largely contributed to defend and promote.

Thank you!