

PC.SHDM.NGO/27/12 9 November 2012

ENGLISH only

OSCE SUPPLEMENTARY HUMAN DIMENSIONS MEETING: FREEDOM OF ASSEMBLY AND ASSOCIATION 8-9 November 2012

SESSION I: Freedom of Association: obstacles to the full realization of this right and ways to overcome them

Both freedom of religion and freedom of assembly are fundamental and substantive rights universally protected by international human rights documents and guaranteed under the domestic legislation of all OSCE Participating States. The European Court of Human Rights, giving us guidance on the importance of religious assembly, has noted that "religious communities...abide by rules which are often seen by followers as being of divine origin." Thus, freedom of religion stands alone in that it is the only fundamental right which recognizes the relationship between the individual and the transcendent. It therefore protects the most profound and deeply held conscience and faith-based beliefs.

The rights of freedom of assembly and association are also fundamental to a democratic society, they are not to be restrictively interpreted.² International law protects against the interference of the state in enjoying the right to form an association.³ Furthermore, the ability to establish a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of freedom of association.

Despite the lofty protections guaranteed under the law in the OSCE region, far too many Participating States continue to put undue burdens on the ability of faith communities to enjoy their freedom of association.

Zoning regulations creating impossible obstacles towards building houses of worship coupled with Association Statute's proscriptions of activities related to worship have in some participating states an unlawful chilling effect on freedom of thought, conscience and religion and on freedom of assembly. We have also seen Participating States positively amend their Association laws to meet international standards but have nonetheless maintained impermissive administrative provisions which have made in impossible for minority religions to freely and legally operate. Turkey, for example, has made great strides in liberally amending its association and zoning laws but have not done enough to remove oppressive provisions in their administrative law. The result has been that no new Christian houses of worship, save one, have been established by the Christian minority in Turkey since the 2003 amendment of Public Works Statute 3194 allowing for the building of houses of worship.

¹ ECHR, 26 October 2000, Hasan & Chaush v. Bulgaria (Appl. No. 30985/96), § 62.

² ECHR, G. v. Germany, application no. 13079/87, Commission decision of 6 March 1989, Decisions and Reports (DR) 60, p. 256.

³ ECHR, Gorzelik and Others v. Poland, [GC], no. 44158/98, § 65, 17 February 2004).

⁴ The following religious associations have all been recently denied applications for building houses of worship: Kurtuluş Church, Izmir Karataş İsevi Fellowship, Işık Church, Manisa Yeni Doğuş Fellowship, Kuşadası Fellowship, Batıkent Protestant Church, Istanbul Agape Church, Diyarbakır Protestant Church, and the Beşiktaş

While Participating States should enjoy a certain margin of appreciation in organizing their laws regarding religious assembly because of the complex and diverse nature of church/state relations within the OSCE region, certain minimum standards must be respected. Sadly, we continue to see nations where the majority religion is so safeguarded and privileged under the law that minority religions are left without any cover to engage in their own activities. We also see secular states and those which lean towards socialist traditions continue to unduly interfere with the internal workings and organization of churches.

The Alliance Defending Freedom therefore calls upon the OSCE to promote greater liberality in the day-to-day administrative law of Participating States which has acted to encumber freedom of religious assembly. We also call on Participating States to minimize restrictions on zoning, the ability to gain legal personality, and the right to form religious associations or denominations and to bring them into harmonization with other segments of society. People of faith should enjoy the same rights as every other citizen. Religious communities should not be discriminated against in the enjoyment of their freedom of assembly simply because they have a religious ethos.