



STATEMENT OF THE HOLY SEE

2019 Human Dimension Implementation Meeting

Working Sessions 14 (specifically selected topic): Hate crime

Warsaw, 25 September 2019

Mr./Mme Moderator,

Since the Dipoli consultations in 1973, the Holy See has always insisted – and continues to insist – on the respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion, as an essential factor for peace, justice and welfare, necessary to ensure the development of friendly relations and cooperation between the participating States. Its participation in the OSCE and its active presence and engagement in the human dimension are expressions of the Holy See's continued desire to affirm and defend the inherent dignity of every human person, from which derive all human rights and fundamental freedoms.

Therefore, the Holy See deplors hate crimes, acts of intolerance, discrimination and violence against any human person, and has repeatedly and decisively condemned violence against people and every sign of unjust discrimination. In fact, the Catholic Church, at every moment of history and in ever-new ways, is challenged by the message of love committed to her by her Divine Founder, Jesus Christ. It is a love that sees the individual man or woman in need and does not allow itself to be distracted by other considerations. Such was the attitude of the Good Samaritan in the Gospel: he brought help to the wounded stranger, abandoned at the side of the road and ignored by passers-by.

Our Delegation has to note with profound concern and consternation that in the whole OSCE area – both East and West of Vienna – many persons and communities continue to be subject to threats or acts of hostility or violence because of their racial, ethnic or religious identity, or become victims of other acts of intolerance and discrimination. Acts of intolerance and discrimination pose a threat to social cohesion within the participating States, affecting not only the victim, but also the wider community. However, not all acts of discrimination pose a direct threat to the stability in the international community or are likely to trigger violence and conflict on a wider-scale, putting in danger the peaceful relations among the States¹.

¹ For example, some years ago a Board of Equal Treatment of a participating State fined a hair salon because a woman with short hair was charged more than would a man for an identical haircut (Denmark: Ligebehandlingsnævnets afgørelse nr. 258/2013, truffet den 18. december 2013) and a supranational Court ruled – in a case involving a man who was terminated from his work due to his weight – that obesity might be a potential disability (Court of Justice of the European Union, 18 December 2014, Judgment in Case C-354/13).

It is well known that there is no universal definition of the notion of hate crime and, in particular, no universal agreement on which characteristics of persons should be protected by specific legislation and policies. In its hate crime reporting, the ODIHR covers hate crimes motivated by different biases, despite the lacking official mandate – recognized by the ODIHR itself² – to include certain categories as a “bias ground”. However, the participating States consciously and correctly agreed by consensus to limit the OSCE’s specific interest in the area of tolerance and non-discrimination to those phenomena that could threaten the security and stability of the Region.³ The reason for this circumscribed scope of the OSCE’s interest was not a desire to ignore certain groups, but rather to reflect the Organization’s nature as a security organization.

With regard to the relevant national legislation, the participating States committed themselves to “enact, where appropriate, specific, tailored legislation to combat hate crimes”⁴ and it was recently observed that “most states have adequate legal frameworks for addressing hate crimes but these criminal law provisions are often under-used or unused”⁵. In particular, race, ethnicity, nationality or similar characteristics are commonly understood as being characteristics that should be protected under hate crime laws⁶, but otherwise there is a divergence of opinion among States and policy makers on other protected characteristics. Thus, we can say that there is a broad consensus in the OSCE area that considers race, ethnicity, nationality, religion or belief as protected categories in national hate crime laws, in line with the relevant UN human rights instruments and standards. On the other hand, there is no such consensus about other categories, which are more or less frequently protected.

In this regard, it may be noted that hate crimes statutes sometimes arise under pressure from lobbying on the part of particular interest groups. As Pope Francis pointed out, “over the years, particularly in the wake of the social upheaval of the 1960’s, the interpretation of some rights has progressively changed, with the inclusion of a number of “new rights” that not infrequently conflict with one another ... Debatable notions of human rights have been advanced that are at odds with the culture of many countries; the latter feel that they are not respected in their social and cultural traditions, and instead neglected with regard to the real needs they have to face. Somewhat paradoxically, there is a risk that, in the very name of human rights, we will see the rise of modern forms of ideological colonization by the stronger and the wealthier, to the detriment of the poorer and the most vulnerable”⁷.

Therefore, the Holy See remains confident that the OSCE, in accordance with its nature as a security organization, while condemning all hate crimes and acts of violent intolerance and unjust discrimination, will develop a specific response to

² OSCE/ODIHR, *Hate Crimes in the OSCE Region – Incidents and Responses. Annual Report for 2007, 2008*, p. 5, fn. 4; OSCE/ODIHR, *Hate Crimes in the OSCE Region – Incidents and Responses. Annual Report for 2008, 2009*, p. 55.

³ US Delegation to the OSCE, HDIM 2008, Session 10 (6 October 2008), HDIM.DEL/346/08.

⁴ OSCE Ministerial Council Decision No. 9/09.

⁵ *Report on Tenth Annual Meeting of the National Points of Contact on Hate Crimes*, ODIHR.GAL/6/2019.

⁶ OSCE/ODIHR, *Hate Crimes in the OSCE Region – Incidents and Responses. Annual Report for 2008, 2009*, *ibidem*.

⁷ Pope Francis, *Address to the members of the Diplomatic Corps accredited to the Holy See*, 8 January 2018.

those phenomena that can undermine the peace and stability of the Euro-Atlantic and Eurasian Region. Our Delegation continues to stress that the activities of the ODIHR should be “based on existing commitments”⁸, refraining from affirmations or proposals regarding hate crime laws that are not based on OSCE commitments or international law.

Thank you, Mr./Mme Moderator!

⁸ OSCE Ministerial Council Decision No. 13/06.