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EUROPEAN UNION: OSCE Review Conference

EU Statement – Session 2: Fundamental Freedoms I (1)

Warsaw, 1 October 2010

Dear Mrs. / Mr. Moderator

I am honoured to speak on behalf of the European Union.

Dutch Representation - HRWF (07.10.2010) - Website: <http://www.hrwf.net> - Since the Vienna Review Conference in 1999, many OSCE participating States have made great strides in implementing their commitment to protect the Freedom of Religion or Belief. As this right is at the core of the foundation of the EU, all EU member States are unequivocally devoted to continue promoting and protecting the Freedom of Religion or Belief. Implementation of OSCE commitments in this field, as well as eliminating all forms of intolerance and discrimination based on religion or belief remain a key priority for the EU.

The EU commends the advances made in protecting the Freedom of Religion or Belief since the 1999 Review Conference. Even though OSCE participating States have made important steps since 1999, violations of the Freedom of Religion or Belief and the associated right of individuals to freely practice their faith continue to be violated in countries in the OSCE area.

One of the most persistent problems in some OSCE participating states is the curtailment of the freedoms of religion or belief in light of security concerns. Though these concerns in themselves are often legitimate and countering extremism continues to be a challenge for all countries within the OSCE area, the EU recalls that restrictions on the Freedom of Religion or Belief – as on any fundamental human right – must be narrowly defined and extremely limited, in accordance with article 9 of the ECHR and articles 4 and 18 of the ICCPR, which all clearly outline the very specific cases of restriction of the freedom of religion or belief. Article 4 of the ICCPR excludes specifically the Freedom of Religion or Belief from the exceptional decisions that can be adopted in case of public emergency. The EU recalls the commitment of OSCE participating states in the Charter for European security “that respect for human rights and fundamental freedoms, democracy and the rule of law is at the core of the OSCE’s comprehensive concept of security”

A further challenge regarding the Freedom of Religion or Belief in the OSCE area remains the protection of the basic human right to manifest one’s religion or belief. That is why the EU reiterates that the freedom to express one’s religion or belief is an integral part of this

freedom, and that the Freedom of Religion or Belief and the Freedom of Expression are indeed complementary and not competing rights. Respecting the Freedom of Religion or Belief means allowing for individuals to express their views on religion or belief, while at the same time leaving ample opportunity for criticism and questioning of one another's values.

The EU strongly rejects any hierarchy among religions and beliefs. We regret that despite many OSCE participating States having asked attention for this ongoing problem, since the Vienna Review Conference, there has unfortunately been limited progress made by certain States to guarantee the Freedom of Religion or Belief for specific communities of faith or belief, especially with regard to minority, non-traditional religions. The EU is concerned that authorities in some participating States continue to control and exert pressure on such communities, particularly by registration procedures that often seem to be introduced and implemented with the goal of controlling religious groups. Some States even go so far as to work against religious groups seeking to achieve a status of registration, and repress any religious activity that has not been registered. Civil society organizations seeking equal rights for all religious groups are not always heard and sometimes even obstructed in some participating States.

By doing so, these States do not act in line with the Guidelines for Review of Legislation Pertaining to Freedom of Religion or Belief. No limits can be put on the number of adherents of a religion or whether a religion has traditionally been observed in a certain country or region or not. The EU further deplores that some participating States do not take enough responsibility to protect those who are particularly vulnerable as regards their religion or belief, and calls on those States to provide them adequate protection. States must also prosecute and try those responsible for attacks on places of worship, and abstain from arbitrary detention for reasons of religion or belief.

The EU would like to recall the excellent results achieved by the successful Supplementary Human Dimension Meeting on the Freedom of Religion or Belief in 2009. The EU is looking forward to the upcoming SHDM due in December 2010. Though this meeting is scheduled after this Review Conference, the EU encourages the recommendations of both States and civil society gathered at this SHDM to be taken into account in the work of the OSCE on further implementation of the Freedom of Religion or Belief.

Notwithstanding the remaining challenges in this field, the EU commends the advances made in protecting the Freedom of Religion or Belief since the 1999 Review Conference. The close cooperation of the OSCE with other international organisations has been essential in the advances made in protecting the Freedom of Religion and Belief. The joint work on legislative review of the OSCE's Advisory Council of Experts on Freedom of Religion or Belief and the Venice Commission of the Council of Europe has been particularly fruitful. The EU would also like to express its warm appreciation of the cooperation with the ODIHR and its Panel of Experts on Freedom of Religion or Belief, as well as with the UN Special Rapporteur on Freedom of Religion or Belief.

In conclusion, the EU reiterates the continued need to fully implement the Vienna Concluding Document's commitment that all participating States "will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion." The EU will continue to take action in support of implementing this commitment in the OSCE area.

Thank you for your attention. The candidate countries TURKEY, CROATIA*, the FORMER YUGOSLAV REPUBLIC OF MACEDONIA* and ICELAND**, the countries of the Stabilisation and Association Process and potential candidate countries ALBANIA, BOSNIA AND

HERZEGOVINA, MONTENEGRO and SERBIA, the European Free Trade Association countries and members of the European Economic Area LIECHTENSTEIN and NORWAY, as well as UKRAINE, the REPUBLIC OF MOLDOVA, GEORGIA and SAN MARINO align themselves with this statement.

*Croatia and the Former Yugoslav Republic of Macedonia continue to be part of the Stabilization and Association Process.

**Iceland continues to be a member of the EFTA and the European Economic Area

State of affairs of the human rights in Bulgaria in relation to the Muslim minority

Infringements on the religious freedom of the Muslim community-uncertainty of the status of the office fo the chief Mufti

Statement of Muslim community (chief Mufti's office) in the Republic of Bulgaria

Muslim Community in the Republic of Bulgaria (30.09.2010) - HRWF (05.10.2010) - <http://www.hrwf.net> - Office of the Chief Mufti, which is the legitimate and legal representative of the 1 million strong Muslim community in Bulgaria, has been beset by a legal struggle in the last 20 years. The Law On Denominations enacted in 2002 stipulates that decisions of the conferences by which Chief Mufti and members of the Supreme Holy Council are elected by the delegates representing the Muslim community, be registered at the Sofia City Court. This requirement paved the way for the legal and political manipulation of the official authorities. For, in total disregard of the will of the Muslim community, court rulings imposed the annulment of the Office of the Chief Mufti by the judiciary and registration of another religious administration which purports to represent the Muslim community. Thus, free will of the Muslim community in Bulgaria to elect their legitimate representatives was compromised by political considerations under the pretext of "legal action". This amounted to denial of basic human rights the norms and principles of which have been cherished and upheld by various international institutions, chief among them is the OSCE.

Besides, these acts constitute a manifest violation of the European Court of Human Rights (ECHR) jurisprudence in an EU member country (judgment delivered by the ECHR on 26 October 2000, on the case of "Hasan and Chaush versus Bulgaria", application no : 30985/96 and judgment delivered by the ECHR on 16 December 2004, final on 16 March 2005, on the case of "Supreme Holy Council of the Muslim Community versus Bulgaria", Application no: 39023/97 whereby ECHR has found Bulgaria in violation of Article 9 governing the freedom of religion of the European Convention on Human Rights and Fundamental Freedoms due to the fact that it has interfered with the internal organization of the Muslim religious community) and contravene the commitments of Bulgaria which has undertaken to protect human rights and minority rights as well as religious freedom.

The situation described above renders the revocation of the discriminatory provisions of the Law On Religious Denominations a necessity.

The latest judicial dispositions arising from the discriminatory clauses of the Law On Religious Denominations have put the Muslim community under dire strait. Bulgarian Higher Court of Administration declared in its ruling of 12 May 2010 null and void the Conference of

the Bulgarian Muslims held on 19 April 2008 by which Mustafa Alish Hadzi was elected as Chief Mufti. Thus the status of the Office of the Chief Mufti was once again descended into imbroglio. Then Sofia City Court nullified on 31 May 2010 the decisions of the National Conference held on 31 October 2009 and declared Nedim Genchev, in his capacity as the Chairman of the so called Supreme Muslim Council, as the leader of the Muslim Community. Judicial decisions taken in total disregard of the will of the Muslim community and in contravention to the rulings of the European Court of Human Rights (ECHR) are being utilized as a cover to introduce the mufti of the "Revival Process" as the religious leader of the Muslims under the guise of the "independent judiciary" rhetoric. In fact, the legal process initiated by the state imposed leader, former Chief Mufti of the Revival Process, Nedim Genchev, is tantamount to another form of pressure exercised on the Office of the Chief Mufti. For, Genchev has been the appointed Chief Mufti of the communist regime of Bulgaria from 1988 to 1992. As the incumbent Chief Mufti he collaborated with the communist regime which imposed the assimilation policy against the Muslim minority between 1984-1989. Instead of resisting the forcible name changing campaign carried out against the Muslims during the "Renewal Process", he has given his consent to the atrocities committed by the communist regime. Therefore, Genchev has been associated with the repressive policies of the communist regime against the Muslim minority in Bulgaria. Having regard to the above, he does not have the moral authority to stand for the Office of the Chief Mufti and he has no legitimacy whatsoever among the Muslim minority in Bulgaria. In sum, having been a functionary of the communist regime in the past, Genchev at present assumed a mission to prevent the will of the Muslim community from being manifested. In an attempt to divide the Muslim community, he challenged the decisions of the conferences held by the Office of the Chief Mufti in 2005, 2008 and 2009.

Although the Office of the Chief Mufti has appealed against the ruling of the Sofia City Court regarding its refusal to register the 2009 conference, Nedim Genchev embarked on a vicious thrust to seize the Office of the Chief Mufti's Office. He attempted to replace the local Muslim Board of Trustees and regional muftis with his own supporters. (To that end, he has forwarded to the respective municipalities, entrusted with registering those officials, petitions wherein he utilized forged signatures of the members of the so called Higher Muslim Denomination Council). Upon the requests of the municipalities, Directorate General For Religious Affairs, which reports directly to the Prime Minister, gave instructions to the municipalities that they should proceed with the request for cancelling the regional muftis and Muslim Board of Trustees and registering new ones. Moreover, Genchev's henchmen went as far as to use physical force against the imam of the Djumaya Mosque in Plovdiv to extort the keys of the Mosque as well as offices of the Regional Mufti and local Muslim Board located in the annex therein on 6 August 2010. The police, the judiciary and local administrators have turned a blind eye during the seizure of the Djumaya Mosque by the supporters of Nedim Genchev. Currently supporters of Genchev have exclusive access to the Mosque and the premises. This blatant act of usurpation contradicts with the rhetoric of those who claim to be the genuine representative of the Muslim confession in Bulgaria and lay bare their lack of legitimacy among the Muslims. Supporters of Genchev also attempted to break in offices of the regional muftis in Razgrad and Dobrich.

Despite being afflicted with legal hurdles and political pressures, Office of the Chief Mufti has the unequivocal legitimacy emanating from the strong will of the Muslims of Bulgaria. Muslims in Bulgaria chose their lawful representatives at the conference held on 31 October 2009. More than 1000 delegates who attended the conference indicated their collective choice with one voice. Whereas, Genchev, who purports to be the leader of the Muslim community could not dare to participate in any conference organized by the Muslims in Bulgaria. At a time when Bulgaria is trying to shed all traces of the past, which are associated with the communist period, it is anachronistic that the ominous figure Nedim

Genchev is insistently imposed as the leader of the Muslim community irrespective of categorical disapproval and disavowal of the latter.

We believe that convocation of a transparent conference within the shortest time period to be held under the supervision of the observers from the respective international organizations by which Muslims in Bulgaria will exercise their free will to elect their religious leaders constitute the most democratic and reasonable course to solve the problem.

Having regard to the above, we call upon the member states of the OSCE to take note of the legitimate concerns of the Muslim community voiced by the Office of the Chief Mufti and that to act on their commitments to ensure that long cherished democratic values and human rights norms enshrined in the founding documents of OSCE are fully observed in Bulgaria.

GROWING ACTS OF HATE CRIMES AGAINST THE MUSLIMS

Notwithstanding the progress made since the advent of democracy in Bulgaria 1990, discrimination, ethnic hatred and prejudice against the Turkish-Muslim minority persists in the country. Ethnically and religiously motivated offensive acts against the Turkish-Muslim minority and its institutions continue unabatedly. Unfettered dissemination of negative stereotypes about the Muslim community is reflected on the increasing trend of desecration and vandalization of mosques. The cases of encroachment on mosques in the form of desecration and vandalization of mosques over 20 years exceed 100. Acts of torching mosques, smashing windows, inscribing offensive and vulgar words and drawing swastikas on the walls and injuring worshippers have been taking place not as an exception, but as a norm of conduct with impunity. The fact that none of the perpetrators and culprits was brought to justice renders the situation more alarming for the Muslim community. In many cases Muslim community was unable to receive consideration and professional commitment from the authorities of the Ministry of Interior whose investigations proved inconclusive since all the files are closed file by invoking the cliché expression "offender unknown and unrevealed". Instead of pursuing the culprits, Bulgarian authorities dilute the severity of the events describing them as "not an organized expression of xenophobic sentiment or religious intolerance, rather an act of hooliganism committed by young people". This further provokes distrust and apathy in the Muslim community. The list of the hate motivated crimes committed against the Muslim minority in Bulgaria in the recent past is enclosed for your perusal. I would appreciate it very much if hate motivated crimes perpetrated against the Muslims in Bulgaria are duly reflected in the OSCE documents.

In addition to desecration of mosques, Muslim community of Bulgaria is subjected to the discriminatory acts of the extreme segments of the Bulgarian public and indifference of the state officials. Discriminatory and prejudicial behavioral patterns prevail against the Muslim community in the Bulgarian public opinion. Political parties and formations in Bulgaria explicitly display hostility against the Turkish and the Muslim community in the country. The letter and spirit of these statements intend to usurp fundamental freedoms accorded to the Muslim community during the transition period after 1990. Racist/xenophobic ATAKA party continues to openly incite hatred against Turks-Muslims in Bulgaria by a persistent defamation campaign through its newspaper and television channel which it owned until recently. SKAT TV, owned by a former ATAKA member still continues to use inflammatory rhetoric against Turks-Muslims. Unfortunately, Council For Electronic Media, entrusted with the task of controlling the content of TV broadcasts and internet coverage, is ineffective in combating with this explicit form of racism committed through media and internet. Thomas Hammarberg, Commissioner For Human Rights of the Council of Europe, has cited in his report, released on 9 February 2010, based on his observations made during his visit to Bulgaria in November 2009, the apathy of the Council For Electronic Media in addressing the

problems arising from circulation of racist rhetoric through media and internet. Having noted with concern a tendency of Islamophobia in Bulgaria, Mr. Hammarberg also recommended in his report that serious acts of intolerance should be publicly condemned and promptly investigated to ensure that perpetrators are prosecuted.

European Commission Against Racism and Intolerance (ECRI) has diagnosed the following in its previous reports: "Provisions of the Bulgarian Penal Code regarding crimes with racist motivation have been implemented rarely. In accordance with the Penal Code racist crimes should be punished in due manner. Measures should be taken against those political personalities whose remarks incite racism and xenophobia. Media members who stoke racist hatred should be punished. In order to combat racist discrimination Bulgaria should ratify immediately the Protocol no:12 to the European Convention on Human Rights and Fundamental Freedoms which was devised as a mechanism for protection from racial discrimination. A phrase should be inserted into the Penal Code to the effect that in case a crime is committed with a racial motivation it will be considered as an aggravating factor.

Having regard to the above, Bulgaria is expected to combat with racist and religious intolerance with all its manifestations. Hence, it should streamline its legislation so that attempts and actions of this nature will not be treated as "hooligan activities", but will be considered as acts "threatening ethnic and religious peace" in the country and be punished strictly and uncompromisingly, regardless of ethnic and religious affiliation of the perpetrator and to whom they are directed.

LIST OF HATE CRIMES COMMITTED AGAINST THE MUSLIM COMMUNITY

- In 1990-1991 a hand made incendiary bomb was thrown into the mosque in Yakoruda.
- In 1991 "Charshi Camiya" in Haskovo was set on fire.
- In 1992 the mosque in Tsar Kaloyan was set on fire.
- In 1993 a stone was thrown into the mosque in Aydos in the holy month of Ramadan
- In 1993 the mosque in Jeglartzi village of Razgrad province was set on fire.
- In 1996 an explosive bomb was thrown into the mosque in Kazanlık causing extensive damage.
- In 1997 a group of citizens threw a home made bomb in the mosque in Hisarya causing serious damage.
- In 1999 windows of the mosque in Smolyan were broken.
- In 2000 a combastible cocktail was thrown into the mosque in Kazanlık causing extensive damage.
- In 2001 the door of the mosque in Krumovgrad was broken and some objects in the mosque were stolen.
- In 2002 the entrance door of the mosque in Kazanlık was set on fire.
- In 2002 the wall of the "Tombul Djamiya" in Shumen was covered with expressions and inscriptions offending Muslims.

-In 2003 the windows of the mosque in Kazanlık were broken.

-In 2004 the windows of the mosque in Kazanlık were broken.

-In 2004 the windows of "Kalak Djamiya" in Shumen were broken and its walls were covered with inscriptions.

-In 2004 the door of the mosque in Krumovgrad was broken and the windows of the mosque were broken.

-In 2005 19 windows of the mosque in Kazanlık were broken.

-In 2005 during the parliamentary elections the mosque in Aydos suffered damage. The walls were spilled with black and red paints, unpleasant inscriptions were written on the walls, windows were broken.

-In 2005 the doors and windows of the mosque in Targovishte were broken, the walls were covered with insulting descriptions.

-In June 2006 in 3 successive weeks representatives of the extreme right political party ATAKA gathered in front of the "Banya Bashi Djamiya" in Sofia and played tape recording through loudspeaker so that it would suppress the sound of ezan (call for prayer) during prayer. They also called on bystanders to affix their signatures in a subscription list with a view to forbidding ezan from the mosque.

-19 July 2006 a window of the Banyabashi Mosque was broken.

-On 19 July 2006 the door and walls of the mosque in Aydos were painted with red color.

-In 2006, the walls of the mosque in Yambol were inscribed with offensive signs and the windows were broken.

-On 3 December 2006 offending graffiti were inscribed on the walls of the Higher Islamic Institute in Sofia.

-On 23 July 2006 offensive phrases were inscribed on the walls of the mosque in Varna.

-On 26 July 2006 the mosque in the town of Kazanlık was torched once again. Panelworks, woodworks and carpets were burned down.

-On 19 July 2006 a window of the Central Sofia Mosque Banyabashi was broken.

-On 1 January 2007 the sound system of Tekke Mosque in Dobrich and the equipment of the Office of the District Mufti were stolen.

-In 2007, the windows of the District Mufti's Office in Gotse Delchev were broken.

-On 27 January 2007 Hanife Musa, a student at the Higher Islamic Institute was subjected to verbal attack in Sofia. The perpetrator used the expressions such as "a dirty Turkish girl", "we will kill all of you here", "I am Petko Voyvoda (Bulgarian rebel leader fought against the Ottoman rule)", "take off your headscarf", "why did you put on it". He also uttered threats

about the Higher Islamic Institute. The perpetrator took away the headscarf of the girl at issue with the explicit aim of humiliating her

-On 3 March 2007 offensive signs were inscribed on the walls of the mosque in Varna.

-On 11 May 2007 the mosque in Silistra was desecrated by hanging pig heads on its walls

-In June 2007 the windows of the mosque in Aytos were broken.

-On 24 October 2007 a window of the Higher Islamic Institute was smashed by a stone thrown from outside.

-On 24 December 2007 offensive signs were drawn on the walls of the mosque in Varna.

-On 31 December 2007 the windows of the mosque in Varna were broken.

-In 2007, offensive signs were inscribed on the walls of the mosque in the town of Pazardzhik.

-On 3 March 2008 the windows of the mosque in Silistra were broken.

-In April 2008 the windows of the Higher Islamic Institute in Sofia were smashed.

-On 24 May 2008 offensive signs were inscribed on the walls of the mosque in Varna.

-In the beginning of 2008 the walls of the mosque in Karnobat were painted and the windows were smashed.

-In July 2008 the doors and the window-glasses of the mosque in Blagoevgrad were broken.

-Every month the windows are broken and the walls of the mosque in the city of Pleven are inscribed.

-On the night of 15-16 February 2008 the main entrance of the Chief Mufti`s Office was inscribed with the threatening remarks "Turks die".

-In August 2008 insulting remarks were inscribed on the walls of the Spiritual High School and of the mosque in Ruse.

-On 8 September 2008 a cross was drawn on the walls of the mosque in Lovech.

-On 11 September 2008 a Muslim worshipper, who was walking for the Morning Prayer to the "Cumaja (Muradiye) Mosque in Plovdiv, was attacked and cruelly beaten. Two days later, a group of children and women who were having iftar dinner, were attacked and pelted with stones, as a result a four-year child received injuries in the head. The same morning swastika was painted on the walls of the Cumaja Mosque.

-On 15 October 2008 the windows of the mosque in Krichim were smashed.

-On 19 October 2008 offensive signs were inscribed at the front door of the mosque in Pleven.

-On 28 October 2008 Fikriye Tefvik and Hanife Chauseva, students of the Higher Islamic Institute were subjected to verbal attack. Accordingly, while they were waiting for bus

no:78, a 30 year old man threatened to take off their headscarf. Later the same person spotted wearing a uniform of a security guard.

-On 7 January 2009 the windows of the recently restored and renovated Central Dzhumaya Mosque in the city of Plovdiv were smashed.

-12 July 2009 windows of the mosque in Haskovo were smashed.

-In October 2009 the mayor of Draganovo Village of Gorna Oryahovitza Municipality prevented the imam a few times from reading ezan (call for prayer) through loud speakers.

-The only mosque in Blagoevgrad was set on fire on 5 October 2009. The ceiling of the mosque was destroyed.

-On October 6 2009, the mosque in Nicopol was subjected to an arson attack which left the mosque completely destroyed.

-The mosque in Karlovo was burned down completely on 10 April 2010. ?

-Racist and derogatory signs and words with a view to insulting Muslims were inscribed on the walls of the Tombul Mosque in Shumen in June 2010. Similar words are inscribed on the walls of the Clock Tower in Shumen.

FAILURE TO RETURN THE WAKF (MUSLIM FOUNDATION) PROPERTY CONFISCATED DURING THE COMMUNIST REGIME

Systemic hindrance applies to the restoration of expropriated property as well. Dozens of buildings and lots owned by the members of the Turkish minority or in possession of the foundations established by the Muslim community, were confiscated unlawfully during the communist era. In the aftermath of the regime change, Muslim community began to challenge the legality of the aforementioned actions and resorted to legal means to restore the ownership of these confiscated properties. However, the litigations lodged by the Office of the Chief Mufti gave modest results at best. The fact that the relevant law stipulates advance payment of % 4 of the value of the land or the building for the return of which a petition will be lodged at the court constitutes an unmistakable deterrent factor for remuneration demands. Lawyers involved in these lawsuits are often discouraged and intimidated at times by unknown circles. Lengthy trials abound deterring prospective applications. There are about 290 non-reinstated wakf properties of the Muslim community. Non reinstated farmlands amount to 17.000 decares. Below is the short list of wakf properties which were not returned to its rightful owners:

-Turkish Primary School (TPS) "Medrese" in Kardzhali. It was built on a land owned by the Muslim community of Kardzhali from 1921 to 1933 to provide religious education for the Muslims. The school was built entirely by means of the Muslim community and with the support of the Office of the Chief Mufti. Records which date back 1947 show "Medrese" among the assets of Kardzhali Muslim denomination. "Medrese" was declared as state property in 1950 in accordance with article 1 and 2 of the Law on State Property of 1949. In 1977, National Institute for Monuments of Culture, the building was declared a cultural monument. On that basis, the second Act of state property was issued in 1994.

Muslim community lodged restitution claims for the "Medrese" since 1992. However, with the ruling of the Supreme Administrative Court in 1993 the request was rejected. Office of the Chief Mufti sent a letter to the Regional Governor of Kardzhali in 2001 requesting the restoration of the ownership of "Medrese". Regional Governor also responded in negative

citing numerous groundless allegations for his decision. The Office Of the Chief Mufti urges justice be meted out and the "Medrese" be returned as wakf property to the Muslim community which has expressed its willingness for the use of the building as a museum on the basis of a contract to be signed with the due state institution. -Tash Kopru Mosque in Plovdiv. The title of deed dated 1939 indicates the ownership of the building by the Muslim community. Its yard was sold the same year. Heirs of the yard acquired the ownership of the mosque proper in 1992. Currently the mosque is used as a restaurant.

The Bedesten in Yambol,

- Ibrahim Pasha Mosque in Razgrad, state property since 1996.
- Fetih Mehmed Mosque in Kiustendil, state property since 1996.
- Bayrakli Mosque in Samakov, declared a cultural monument in 1928. It functions as a museum since 1964 museum. No act of state property, but the mosque is not used by the denomination.
- Eski Mosque in Stara Zagora, declared a cultural monument in 1954. No act of state property, but it is not used by the denomination. The Ministry of Culture embarked on a project in a bid to transform the mosque into museum of religions in total disregard of the will of the Muslim community.
- Kurshunlu Mosque, Karlovo, museum since 1964. No act of state property, but it is not used by the denomination.
- Eski Mosque in Vratsa, cultural monument since 1972. No act of state property enacted, however it is not used by the denomination.
- Buyuk Mosque in Sofia, currently used as National Archeological Museum.
- Kara Mosque (Black Mosque), which is currently used as an Orthodox Church.
- Mosque in Dupnitsa
- Kurshunlu Mosque, Silistra
- Karadzha Pasha Mosque in Gotse Delchev
- The Mosque in Ihtiman
- Ahmet Bey Mosque in Kiustendil
- Historical Turkish Bath in Plovdiv
- Bedesten (vaulted bazaar) in Shumen

ANTI-MUSLIM PUBLIC DISCOURSE

Unfettered dissemination of negative stereotypes about the Muslim community has repercussions in the Bulgarian society. A case in point for this trend is the recent uproar of negative reactions in the Bulgarian media about the proposed facility, consisting of Higher Islamic Institute, dormitories, recreation center and a small mosque for the theology students therein, to be built in Sofia by the Office of the Chief Mufti. The nationalist media has already engaged in a brutal campaign of misinformation against the construction of this facility by presenting it as merely a mosque. (Currently there exists only 1 mosque open to worshipping in Sofia and it is not enough to accommodate the 30.000 strong Muslim population residing in Sofia is another matter of discussion) The Project of the complex submitted by the Office of the Chief Mufti to the Municipality of Sofia in November 2008 was returned with the request that it be devised so as not to include a mosque. Once the Office of the Chief Mufti handed over another project which did not include the mosque, Office of the Chief Prosecutor launched an investigation to determine the financial source with which the lot was purchased in the first place. Whereas no tangible result was achieved at the end of the investigation, it was decided that the lot was not fit to build an Islamic Center thereupon.

In the same vein, Bourgas Municipality revoked in March 2009 the permission it has given for the construction of a mosque in the city citing incomprehensible technical arguments for its decision. Bourgas Municipality has also retaken the lot it has granted to the Muslim dwellers of the city with a view to constructing a mosque on the grounds that it was necessary to stem the surging nationalist wave in the city.

While the Bulgarian authorities create artificial impediments to deter the Muslim community to claim expropriated wakf property, they embarked upon changing the status of wakf properties. "Hamzabey Mosque" in Stara Zagora is a case in point. Minister of Culture of the Republic of Bulgaria, Mr. Vecdi Rasidov and Deputy Regional Development and Public Works Minister, Ms. Lilyana Pavlova, in her capacity as head of the "EU Operational Programme Regional Development" Managing Authority", signed a contract on 12 November 2009. The contract stipulates that a total of 2.368.381 Leva be granted from the "Operational Programme Regional Development" for the restoration and transformation of "Hamzabey Mosque" into a "museum of religions".

In doing so, Bulgarian authorities simply disregarded the historical background of the case. For, Hamzabey Mosque was built in 1409 and used as a mosque since then. It is the oldest Muslim shrine in Bulgaria. It was denominated as a "cultural monument of national and world significance" in 1954. It is one of the numerous mosques systematically appropriated by the Bulgarian authorities from the Muslim community in the country and at present is the only mosque intact in Stara Zagora. However, the Bulgarian state insistently refused the petitions filed by the local Muslim community to open the mosque for prayer.

As the authoritative representative of the Muslim community in Bulgaria, Office of the Chief Mufti vehemently opposed to the plan which will deprive the local Muslim community of only mosque and will distort its character by converting it into a museum without the consent of the Muslim community. Involvement of the EU in this project does not correspond to its objectives and priorities, the most leading of which is to keep alive diverse cultures, beliefs and traditions. It is evident that this contract has been a result of an ill informed and ill advised process which will ultimately lead to the usurpation of the mosque from its rightful owners, i.e., 5.000, strong Muslim community living therein. Any unilateral action to change the status of the mosque would be a flagrant violation of a fundamental human right to exercise one's religious beliefs, which is enshrined in article 9 of the European Convention on Human Rights and Fundamental Freedoms. Office of the Chief Mufti has called on Bulgarian authorities to abort this unjustified and illegitimate initiative which is a flagrant violation of basic human rights. However, the appeal proved inconclusive.

RECOMMENDATIONS FOR BULGARIAN AUTHORITIES:

To create conditions for convocation of a transparent congress (elections) within the shortest time period to be held under the supervision of the observers from the respective international organisations by which Muslims in Bulgaria will exercise their free will to elect their religious leaders constitute the most democratic and reasonable course to solve the problems;

Muslim Denomination to have the legal right to register its congresses (elections) in the Religious Affairs Directorate to the Council of Ministries as it was before 2002. As well as to be removed the discriminatory clauses from the Law on Religious Denominations according which the Muslim religion is to be recognized as a traditional religion in the country.

The Criminal Code legislation to be streamlined so that attempts and actions of this nature against religious and ethnic objects will not be treated as "hooligan activities", but will be

considered as acts "threatening ethnic and religious peace" in the country and be punished strictly and uncompromisingly, regardless of ethnic and religious affiliation of the perpetrator and to whom they are directed;

To undertake measures, the Council for Electronic Media and the Law of Media to be effective in controlling and combating with the explicit form of racism and discrimination committed through media and internet.

To be introduced amendments into the relevant law about the foundation properties of the Religious Denominations, which facilitate the restitution of the properties.

Bulgarian authorities to submit periodically the annual hate crime list to ODIHR.

To be suggested acceptable solutions regarding the issues and to be observed the fundamental human rights.

RECOMMENDATIONS TO ODIHR/OSCE:

ODIHR's Panel of Advisers on Freedom of Religion or Belief to observe whether Bulgarian authorities are implementing the Religious rights of Muslims in the country, as well to recommend and advise Bulgarian government on the issue of Religious freedom and Fundamental rights;

In March this year, by demand of Office of Chief Mufti in Bulgaria, experts from ODIHR made an assessment visit to Bulgaria. In a meeting during their visit, we stated our request to participate in the hate crime training courses for NGO's in Bulgaria, conducted by ODIHR experts. We expect the training courses to start very soon, in order to attend the representatives of the other denominations as Christians, Jews, and different NGOs' representatives like Roma organizations, organizations for disabled people, gender organizations and etc.

Bulgaria ratified the International Convention for abolition of all kind of discriminations. Passed a special law for Protection from discrimination. In actual fact, discriminatory actions against religious and ethnical minorities happen very often. ODIHR should suggest specific measures of surmounting of the intolerance, xenophobia and hate crimes.

ODIHR to observe closely the process of Freedom of Religion of Muslim minorities in non-Muslim countries.

Undiplomatic behavior of the Holy See

OSCE Review Conference 2010 - Session 2: Fundamental freedoms I: Freedom of thought, conscience, religion or belief (28.09.2010) - HRWF (04.10.2010) - <http://www.hrwf.net> - One of the most basic principles the OSCE should be concerned to defend is the rule of law, as in the legal maxim "Be you never so high, the law is above you."

Another is the principle of non-interference in the internal affairs of sovereign states. This was defined when in October 1970 the General Assembly of the United Nations adopted the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations which says that:

No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State.

It also declares that

States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all.

More directly, the Vienna Convention on Diplomatic Relations of 1961 declares in Article 41(1):

Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State. They also have a duty not to interfere in the internal affairs of that State.

Sadly one of the members of OSCE - one that adopts the moral high ground, claiming that its role in "the community of nations is to be the voice that the human conscience is waiting for" - is in constant breach of all these principles.

- It actively frustrates the application of the law in other member states of OSCE.
 - It deliberately and as a matter of policy ensures that serious criminal offences of which it has knowledge are not reported to the police.
 - It shelters criminals from prosecution, sometimes helping remove them from the jurisdiction of the state where they offended.
 - It fails to take any effective action to protect the human rights of those abused by these criminals.
 - It interferes in the internal decision-making of sovereign governments.
- That OSCE member state is the Holy See, and its failures relate principally but not only to the problem of persistent sexual violence by priests against children.

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Now I am not today going to talk of the Holy See's utter failure to comply with the Convention on the Rights of the Child, which has been adequately denounced by the International Humanist and Ethical Union in the UN Human Rights Council. Nor am I going to talk about those offences themselves: they have been fully and horrifically described in the press. Instead, I want to focus on how the Holy See has dealt with the scandal.

It may be doubted how much of a surprise the Holy See got from the first public reports from the USA in 2002 since the Irish hierarchy had taken out insurance against the cost of defending possible compensation claims as long ago as 1987. Moreover, the Holy See had first adopted a law against child sex abuse by priests in the year 306 AD. In modern times it set out procedures to follow in 1922, and it revised them in 1962, in the instruction *Crimen Sollicitationis*.

This instruction was so secret (until it leaked in 2003) that the penalty for revealing its existence was excommunication - the most severe penalty the Church can impose (and far more severe than the penalties for sexual assaults on children).

Thus, when an investigation was started everyone - including the complainant - was to be sworn to the utmost secrecy from the start on pain of excommunication. So a victim who chose out of piety to complain first to the church would find that he or she was immediately prevented on pain of excommunication from going to the police, however unsatisfactory the Church investigation was. And unsatisfactory it invariably was: under the Canon Law procedure

- there is no forensic investigation - no search of the home or possessions of the alleged offender, no medical examination of the putative victims
- the defendant must not be sworn to tell the truth
- the enquiry is largely a matter of weighing character witnesses for the complainant and the defendant
- all the official participants are to be priests
- the presiding bishop, whose relationship with the defendant priest is analogous to that of a father to a son, has no training in conducting a trial fairly or thoroughly
- the punishment in cases where a guilty verdict is reached - if for example an offender confesses - are minimal: the 1962 instruction itself said that they should be "chiefly spiritual exercises to be made for a certain number of days in some religious house" during which the priest should not be allowed to celebrate mass. The worst penalty is laicisation - defrocking. Even that is subject to the agreement of the Vatican which is not by any means always given.

The rationale for this manner of proceeding is that what is being dealt with is a sin by the priest, for which repentance is the best outcome. There is no notion of a crime, child rape, with a victim to be cared for and an offender in need of punishment. Priests can repent in prison cells as well as on a religious retreat, but the Holy See's procedure under Crimen Sollicitationis has no idea of priests going to prison because it is plainly designed to ensure that the police never hear of the allegations.

In fact the Holy See's overwhelming priority has always been to prevent a public scandal that would be damaging to the reputation of the Roman Catholic Church.

And this was not altered when a supplementary instruction was issued in 2001 - Sacramentorum sanctitatis tutela. This again was emphatic that cases were to be dealt with in the utmost secrecy from the moment they were reported - so making any reporting to the police impossible. It again treated public crimes against children as private sins against religion by priests - on a par with sacrilegious treatment of the Eucharistic wafer or wine. And it made matters worse by delaying all procedures while the allegations were reported to the Vatican for a decision whether the case should be referred to Rome or dealt with locally - a decision that sometimes took years. Meantime the offending priest could continue offending.

The rationale of this procedure was stated in a reply from the Vatican to the American bishops who suggested cooperation with the civil authorities - the police. The reply from the Vatican - from the Congregation for the Doctrine of the Faith - rejected the idea and said:

The Church reaffirms her right to enact legislation binding on all her members concerning the ecclesiastical dimensions of the delict of sexual abuse of minors.

Similarly, when the United Kingdom bishops went ahead with a rather more acceptable but far from perfect procedure that was based on the normal principle of giving paramountcy to the interests of the child victims, they asked the Holy See for a dispensation from the aspects of Canon Law with which this principle was in manifest conflict. Years later, the Vatican has still not agreed.

The emphasis on secrecy is pervasive. An American bishop who was also a lawyer advised that embarrassing paperwork should be sent to the Papal Nuncio because it would then enjoy diplomatic immunity from legal orders of discovery.

After a so-called trial the paperwork is to be kept secret for ever. And if a penalty under Canon Law (Canon 1352(2)) cannot be imposed "without danger of grave scandal or infamy" the penalty is to be suspended. The Murphy Commission in Ireland even discovered that under Canons 1395 and 1321 priests cannot be found guilty if they are addicted paedophiles since there would in that case be no "malice or culpability".

A Canadian bishop wrote to the Papal Nuncio suggesting an offending priest be moved out of Canada to avoid the embarrassment of a prosecution. He was not moved - and was later found guilty in a civil court. But many others have been moved from parish to parish and even from country to country - often to Africa - to avoid scandal: anything to keep cases out of the hands of the police. In France the Bishop of Bayeux failed to report an offending priest to the police - this was not a case of secrets of the confessional but of information from a private conversation - and the priest was later sentenced to 18 years in prison for sexual assaults on ten boys. As a result the bishop was given a suspended sentence of three months in jail. Amazingly, in 2001 this bishop received a letter of congratulation from the Vatican praising him as a "model father" for "not denouncing a priest to the civil administration" - a letter that with the approval of the then Pope, John Paul II, was copied to all bishops throughout the world.

In April this year there were reports that a new procedure had been adopted. A press statement from the Vatican said that "Civil law concerning reporting of crimes to the appropriate authorities should always be followed." But this was deceptive. Not only do many states have no civil law requiring reporting of crimes - it is just good practice - but there was in fact no new procedure, only a clever bit of public relations. This was made clear when a new instruction was published in July - *De gravioribus delictis* - when the Vatican spokesman, Father Lombardi, confessed that a requirement to report alleged offences to the police had been discussed but rejected. The new instruction actually extended the procedure for sexual assaults on children to other sex offences by priests, including possession of child pornography and sexual abuse of mentally handicapped adults.

The only sensible way to understand this reaction and the whole pattern of the Holy See's behaviour in this matter is that it believes it has the right to run a parallel legal system to that of states across the world where it has priests, ignoring the laws and the courts of these states - members of the OSCE and other members of the UN - as if they did not apply to Roman Catholic priests. The Holy See not only perceives itself as a nation with its own legal system - Canon Law, albeit it addresses only sins, not crimes - but unlike any other state in

the world it claims the right to apply that domestic law to its employees across the world regardless of their foreign nationality and foreign residence. What if Russia, what if Italy or any other normal state were to claim the right to try secretly under its domestic law foreign citizens it employed in third countries and to impose sanctions on anyone who reported offences by these employees to the local police? It would be seen as grotesque. It is no less grotesque when it is done by the Holy See, but the engrained habit of suspending normal standards in favour of a deferential cringe to religion still prevents some people from seeing it.

Sadly this is not the end of the Holy See's abuse of its so-called statehood - itself highly questionable for a palace, garden and basilica in Rome with no permanent population and no border controls, no independent currency and no adherence to international rules on money laundering, reliant on Italy for all services except religious ones. That statehood depends on the so-called Lateran Treaty - misnamed, as treaties are between states and at the time of this squalid political deal between an anti-socialist Pope and the fascist leader Mussolini the Vatican was certainly not a state, as an Italian court found in 1938.

However, under Article 24 of this non-Treaty, the Holy See undertook to stay outside all "temporal disputes between states" and "always and in every case" to be "neutral". If nothing else, this underlines the rule that states should not interfere in the internal affairs of others states. Yet the Holy See rarely ceases to interfere, and not just to frustrate criminal justice - though it does that in other areas than sexual violence against children: for one example, it hid a Rwandan priest for years in Italy under a false name who was later discovered and convicted of genocide.

Earlier this year the Pope urged his English bishops to oppose a new law on equality. More seriously the Holy See monitors the behaviour of Catholic politicians through the local Papal Nuncio and threatens them with excommunication if they vote for policies of which it disapproves - say, on family planning or abortion or gay rights. (It constantly invokes its mediaeval religious doctrine of "natural law" to attack laws in progressive states that allow some liberty in matters of sexual behaviour, with which it has a puerile obsession.) This policy of interference in the government of other states is made explicit in a Doctrinal Note from the Congregation for the Doctrine of the Faith on The Participation of Catholics in Public Life which places a "grave and clear obligation" on them, enforceable by excommunication, to vote according to the Church's moral dictates. Just last year bishops were instructed to refuse communion to politicians who "sin gravely" by voting in the wrong way.

Thus in El Salvador the Holy See induced politicians to pass a law requiring all packets of condoms to carry the lying warning that they offered no protection against AIDS. In Brazil similarly the Holy See got a law passed that forces doctors to report to the police any woman who comes to hospital to save her life after a botched illegal abortion. So, the Holy See favours putting the police onto women in desperate need of hospital treatment but not onto priests who rape children.

Using the same political influence the Holy See, having gate-crashed the United Nations to gain an undeserved position as a non-member state with all the privileges of membership except voting, has used its influence to try and often to succeed in wrecking initiatives on population control and on improving the position of women (the Cairo and Beijing conferences of 1995). It has attacked anyone and everyone that disregards its narrow views on sex, which most of its own congregations in many countries disown and disregard: UNICEF, for example, whose sin was to produce a booklet on family planning for women in refugee camps.

A state that interferes so consistently in the internal affairs of other states - in their politics and in the rule of law - is in breach of the Vienna Convention and the UN Declaration which I quoted at the start. Its membership of international organisations such as this should make it vulnerable to pressure rather than offering it a platform to assume a posture of moral superiority and preach to others.

An organisation that sees sexual violence against children more as a cause of concern for the souls of the priestly perpetrators than as a dire injury to the child is not fit to be heeded when it sets itself up as moral arbitrator to the world.

The European Humanist Federation urges Governments of other member states to use their diplomatic relations with the Holy See to warn it off from interference in criminal investigations and the rule of law in their countries and in political decision-making in their polities. What Government would allow such interference by any other state?

Offending priests found guilty under Canon Law are often sentenced to a period of retreat and contemplation on their sins. It would befit the Holy See to enter a period of silence and withdrawal from the world stage while it contemplates its moral defects, manifest to all but itself, and while it rethinks not just its priorities but also the position it occupies in the comity of nations which renders it subject to the commitments stated in the international instruments that I quote above.

At the same time it behoves to OSCE and its member states to produce a clear and strict definition of freedom of religion or belief, to review the obligations placed on members of the organisation and to reaffirm the paramount importance of legality and of the rule of law. This would be welcome not only to Humanists like myself but to a probable majority of lay Roman Catholics in European countries who are equally disgusted and scandalised by the recent record of the Catholic church. We sincerely hope OSCE will not disappoint our expectations.

Call for information on hate crimes

HRWF urges religious groups to send their reports about cases of violence against persons, hate speech against groups and violence against buildings

HRWF (04.02.2010) - Website: <http://www.hrwf.net> - Email: info@hrwf.net - The Office for Democratic Institutions and Human Rights (ODIHR) is now preparing the 2009 annual report on hate crimes. The report provides an overview of data collected on hate crimes as well as of responses to combat hate crimes. It will be launched on the International Tolerance Day on 16 November 2010.

As in past years, ODIHR encourages submission from non-governmental organizations. Frequent Questions and Answers available at http://tandis.odihr.pl/content/documents/hcr2009_cs_subm_en.pdf provide an overview of information which should be submitted to ODIHR.

Information submitted should be, to the greatest possible extent, brief and concise. ODIHR is aware that submission of individual cases can be lengthy and time-consuming. Therefore, we encourage you to submit already available reports.

Information should be submitted in January-March to the following email address:

tndinfo@odihr.pl indicating in the subject line "HCR 2009 _ NAME OF YOUR ORGANIZATION".

We look forward to our continued co-operation with you.

Yours Sincerely,

Tolerance and Non-Discrimination Department
Matilde Fruncillo (Advisor on Civil Society Relations)
Azra Junuzovic (Hate Crime Reporting Officer)
