

International Religious Freedom Advocacy
A Guide to Organizations, Law, and NGOs

H. Knox Thames
Chris Seiple
Amy Rowe

ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE

The Organization for Security and Cooperation in Europe (OSCE) is an important institution for advocacy in Europe and Eurasia. Encompassing North America, Europe, Russia, and the successor states emerging from the former Soviet Union, the fifty-six-member OSCE is the largest regional security organization in the world. Religious freedom has been an integral part of the OSCE process, which over the past thirty years has developed some of the most sophisticated commitments on religious freedom at the international level. From the Helsinki Final Act, to the Vienna and Copenhagen Concluding Documents, OSCE participating States have repeatedly affirmed the freedom of thought, conscience, religion, or belief as a fundamental human right.

OSCE participating states

Albania, Andorra, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Kingdom, United States of America, Uzbekistan

The body originated in 1975 with the signing of the Helsinki Final Act, a politically binding agreement between NATO, Warsaw Pact, and neutral and non-aligned nations that focused on three “baskets” of issues—security matters, economic concerns, and the “human dimension.” The human dimension is OSCE parlance for human rights, and under this rubric falls religious freedom.

During the Cold War era, the OSCE (then known as the Conference on Security and Cooperation in Europe) provided a valuable forum for dialogue between adversaries, as well as a place to discuss human rights issues. With the end of the Cold War and the emergence of new countries from the

remains of the Soviet Union, the geographic scope of the OSCE shifted east and now reaches into Central Asia. All of the countries formerly under communist governments have acceded to the Helsinki Final Act and subsequent OSCE agreements. Importantly, unlike with other international systems, no reservations may be taken in the OSCE system, so these new members completely accepted all previous commitments.

Nongovernmental Involvement

The OSCE is perhaps the most open to NGO involvement of any of the international organizations discussed. Unlike the UN system, the OSCE maintains no accreditation process for nongovernmental organizations. For advocates to participate in public OSCE meetings, they must simply submit the registration form before the announced deadline. Registration will entitle them to speak during plenary sessions, provide documents, and convene side events. NGOs will only be prohibited from participating if they have been involved with or promoted acts of violence.

RELIGIOUS FREEDOM COMMITMENTS

OSCE participating States are not legally obligated to uphold their Helsinki commitments, but are rather politically committed. Consequently, these commitments are not actionable domestically like other international legal conventions. Nations have nevertheless politically promised to uphold these rights, and the OSCE provides several forums to review the performance of member countries. The eleven OSCE partner countries from the Mediterranean basin and Asia have not pledged to uphold OSCE commitments and only participate as observers.

OSCE commitments on religious freedom are very specific. Below are the key themes that are central to the protection of religious freedom in the OSCE system:

- freedom to profess and practice a religion alone or in community with others
- freedom to change one's religion
- freedom to meet with and exchange information with coreligionists regardless of frontiers
- freedom to present freely to others and discuss religious views
- elimination and prevention of discrimination based on religious grounds in all fields of civil, political, economic, social, and cultural life

- noninterference in the affairs of religious communities, such as selection of personnel
- right of parents to ensure religious education of their children in line with their own convictions.

The limitation clause follows customary international standards.

There are three key OSCE documents regarding religious freedom—the founding Helsinki Final Act, the Vienna Concluding Document, and the Copenhagen Concluding Document. The relevant portions of each are presented below.

Basket I Section VII Respect for human rights and fundamental freedoms, including the freedom of thought, conscience and religion or belief

The 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.

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

Helsinki Final Act

(16) In order to ensure the freedom of the individual to profess and practice religion or belief, the participating State will, inter alia,

(16.1) –take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers;

(16.2) –foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers;

(16.3) –grant upon their request to communities of believers, practicing or prepared to practice their faith within the constitutional framework of their States, recognition of the status provided for them in the respective countries;

(16.4) –respect the right of these religious communities to

- establish and maintain freely accessible places of worship or assembly
- organize themselves according to their own hierarchical and institutional structure

Continued from page 77

- select, appoint and replace their personnel in accordance with their respective requirements and standards as well as with any freely accepted arrangement between them and their States
- solicit and receive voluntary financial and other contributions.

(16.5) –engage in consultation with religious faiths, institutions and organizations in order to achieve a better understanding of the requirements of religious freedom;

(16.6) –respect the right of everyone to give and receive religious education in the language of his choice, whether individually or in association with others;

(16.7) –in this context respect, inter alia, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions;

(16.8) –allow the training of religious personnel in appropriate institutions;

(16.9) –respect the right of individual believers and communities of believers to acquire, possess, and use sacred books, religious publications in the language of their choice and other articles and materials related to the practice of religion or belief;

(16.10) –allow religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials;

(16.11) –favorably consider the interest of religious communities to participate in public dialogue, including through the mass media.

(17) The participating States recognize that the exercise of the above mentioned rights relating to the freedom of religion or belief may be subject only to such limitations as are provided by law and consistent with their obligations under international law and with their international commitments. They will ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience, religion or belief.

(32) They will allow believers, religious faiths and their representatives, in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, inter alia, through travel, pilgrimages and participation in assemblies and other religious events. In this context and commensurate with such contacts and events, those concerned will be allowed to acquire, receive and carry with them religious publications and objects related to the practice of their religion or belief.

(68) They will ensure that persons belonging to national minorities or regional cultures on their territories can give and receive instruction on

their own culture, including instruction through parental transmission of language, religion and cultural identity to their children.

Vienna Concluding Document

(9.1) [The participating States reaffirm that] everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards.

(9.4) [The participating States reaffirm that] everyone will have the right to freedom of thought, conscience, and religion. This right includes freedom to change one's religion or belief and freedom to manifest one's religion or belief, either alone or in community with others, in public or in private, through worship, teaching, practice and observance. The exercise of these rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards.

Copenhagen Concluding Document

CHAIRMAN-IN-OFFICE AND THE PERMANENT COUNCIL

Policymakers

The OSCE is headquartered in Vienna, Austria, where each participating State has accredited diplomats. Leadership comes from the Chairman-in-Office position, which is held by a different participating State each year. When a country assumes the Chairmanship, its foreign minister is the nominal head of the OSCE. In addition to speaking for the OSCE, during the standard year term the Chairman-in-Office can shape OSCE policies and visit OSCE countries to raise human rights concerns.

The Chairman also oversees the main meeting of the year, the Ministerial Council, where foreign ministers convene to discuss the political priorities of the OSCE, as well as the Human Dimension Implementation Meeting and the three Supplementary Human Dimension Meetings. The Chairman can also select the topics of the three Supplementary meetings, in consultation with other OSCE members. For instance, the Dutch Chairmanship in 2003 convened a special Supplementary Human Dimension Meeting specifically on religious freedom.

On a daily basis, the Chairman-in-Office works with the Permanent Council, also seated in Vienna, where accredited ambassadors meet weekly in

private plenary sessions to discuss various issues facing the region. Considering that the OSCE's primary focus is human rights, these issues are often raised at the Permanent Council. There is also a special committee of the Permanent Council that handles human rights questions.

The OSCE also has a Secretary General, who leads the OSCE Secretariat. Appointed for three years and also based in Vienna, the Secretary General is not analogous to the UN Secretary General. The position has fewer powers and cannot speak for the Organization, but rather represents the Chairman-in-Office and is the chief administrative officer of the OSCE. While some human rights functions are under the supervision of the Secretary General, none relate to religious freedom.

Advocacy Actions

Both the Permanent Council and the human rights committee are closed to the public and nongovernmental organizations. However, advocates should send information to the office of the Chairman-in-Office, as well as to sympathetic delegations, and ask that serious situations be raised formally during Permanent Council or human rights committee meetings. In addition, should the Chairman visit a country with a problematic religious freedom record, advocates should facilitate a meeting between the Chairman and victims.

CONTACT INFORMATION

Chairman-in-Office

<http://www.osce.org/>

Organization for Security and Cooperation in Europe

Wallnerstrasse 6

1010 Vienna

Austria

Tel: + 43 1 514 36 60 00

Fax: +43 1 514 36 69 96

OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS

Monitoring Body

The Office for Democratic Institutions and Human Rights (ODIHR) is the special arm of the Organization, concentrating solely on human rights and democracy building. Headquartered in Warsaw, Poland, ODIHR is

led by a Director, who is usually an ambassador appointed from an OSCE country for a term of five years. ODIHR assists participating States in carrying out and consolidating their democratic systems, through election monitoring, technical assistance on the drafting of laws, and convening regional meetings to discuss various human rights topics. For instance, ODIHR has held two meetings in Central Asia on religious freedom-related issues and has provided critiques of draft religion laws. ODIHR is also responsible for organizing the annual human rights review conference, which is discussed later.

Process

ODIHR has broken its work down into distinct units that focus on a range of issues—Democratization, Elections, Gender Equality, Human Rights, Roma and Sinti, and Tolerance and Non-Discrimination. Under the current organization of responsibilities, religious freedom matters are dealt with by the Tolerance and Nondiscrimination Unit and not the Human Rights Unit. Established in 2004, the Tolerance and Nondiscrimination Unit has limited monitoring capacities and so mainly works with religious communities and nongovernmental organizations.

The unit approaches religious freedom from two angles: first, the more traditional rights view, examining whether individuals or communities are prevented from exercising their fundamental rights; and second, whether groups or individuals are being discriminated against because of their religious beliefs. OSCE countries have agreed to periodically forward statistical information to ODIHR about hate crimes, which include crimes motivated by religious bias. ODIHR staff can raise issues of concern with participating States, but there are no formal procedures and this is often done in private.

Advocacy Actions

The primary purpose of ODIHR is to promote human rights and democratization. Advocates should report individual religious freedom violations or more systemic abuses to ODIHR and the Tolerance and Nondiscrimination Unit. The Unit can potentially follow up with an offending government about these allegations or use the information to contrast the statistical data provided by the government on hate crimes. Advocates can also request that the ODIHR Director raise concerns specifically with an offending government.

CONTACT INFORMATION**ODIHR Tolerance and Nondiscrimination Unit**

<http://www.osce.org/odihr/20051.html>

Office for Democratic Institutions and Human Rights

Aleje Ujazdowskie 19

00-557 Warsaw

Poland

Tel: +48 22 520 06 00

Fax: +48 22 520 06 05

**ADVISORY PANEL OF EXPERTS ON FREEDOM
OF RELIGION OR BELIEF***Monitoring Body and Policymakers*

ODIHR has established and manages the Advisory Panel of Experts on Freedom of Religion. The Advisory Panel of Experts serves as a consultative body on trends affecting the freedom of religion and advises ODIHR on actions that would support and advance this right. The Advisory Panel is composed of two bodies, the Council and the Panel, totaling roughly sixty experts and representatives of various religious faiths. The Council is composed of approximately fifteen individuals, selected by the ODIHR Director from academia or nonprofit organizations, who serve in their personal capacities. The Panel has a much wider membership, as every participating State may appoint two individuals. There is not a defined term of service for Advisory Panel members on either the Council or the broader Panel. Advisory Panel activities are supported by the ODIHR Tolerance and Nondiscrimination Unit.

Process

To request Advisory Panel assistance, participating States can make a request through their ambassadors to the OSCE or through an OSCE Mission (discussed below), should one be operating on their territory. OSCE Missions can also independently request Advisory Panel assistance. In response, members of the Council will author technical critiques on laws or legislation affecting religion or belief for the Advisory Panel. These comprehensive legal critiques provide recommendations on how to bring draft legislation into conformity with OSCE commitments on religious freedom. The Advisory Panel also published “Guidelines for Review of Legislation Pertaining to Religion or Belief,” which is a resource for legislators and NGOs on how to ensure that

emerging legislation upholds international commitments to freedom of religion, as well as the “Toledo Guiding Principles on Teaching about Religions and Beliefs in Public Schools.” The Advisory Panel can also conduct less-formal consultations with legislators and officials working on these issues.

There is no formal complaint procedure to the Council. However, the Advisory Panel has responded to complaints from religious communities. Religious communities can request Council assistance either through the ODIHR Tolerance and Nondiscrimination Unit or by approaching Council members directly. For instance, the Advisory Panel publicly condemned the bulldozing of a Hare Krishna commune in 2006 by Kazakhstani authorities.

Advocacy Actions

The Advisory Panel is an accessible mechanism that can address legal shortcomings affecting the freedom of religion. Advocates should request the attention of the Panel to situations in which legislation or government action is infringing upon religious freedom, by forwarding information about problematic laws or draft legislation through the ODIHR Tolerance and Nondiscrimination Unit. Advocates should also consider attending ODIHR meetings where Advisory Panel members are speaking, to raise concerns directly.

CONTACT INFORMATION

Advisory Panel of Experts on Freedom of Religion or Belief

<http://www.osce.org/odihr/20056.html>

c/o ODIHR Tolerance and Nondiscrimination Unit

Aleje Ujazdowskie 19

00-557 Warsaw

Poland

Tel: +48 22 520 06 00

Fax: +48 22 520 06 05

tolerance@odihr.pl

HIGH COMMISSIONER ON NATIONAL MINORITIES

Monitoring Body

The Office of the OSCE High Commissioner on National Minorities (HCNM) was created in 1992 to “identify and seek early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States.”⁷¹ Located in The Hague, Netherlands, the High

Commissioner is appointed for a three-year term, which can be renewed once. The HCNM can address religious freedom issues only if the national minority is recognized as a religious minority. For example, the High Commissioner could raise with Turkey the limitations placed upon ethnic Greeks, who are Turkish citizens living in Turkey, in enjoying their Greek Orthodox religious practices. The intersection between religious freedom advocacy and the HCNM is narrow, but could be useful for certain religious communities.

Advocacy Actions

If the religious community of concern is considered a national minority, advocates should establish contact with the High Commissioner and his office, provide information, and request his involvement. If the HCNM visits the country in question, advocates should also work to arrange a meeting with the victimized community.

CONTACT INFORMATION

High Commissioner on National Minorities

<http://www.osce.org/hcnm/>

Office of the OSCE High Commissioner on National Minorities

Prinsessegracht 22

2514AP The Hague

Netherlands

Tel: +31 70 312 55 00

Fax: +31 70 363 59 10

PERSONAL REPRESENTATIVES OF THE CHAIRMAN-IN-OFFICE

Policymakers

One area of particular influence for the Chairman-in-Office is the power to create and appoint “personal representatives.” OSCE modalities permit the creation of these positions at the Chairman’s discretion in response to a “crisis or a conflict” for the duration of the term. However, the positions are often extended by subsequent Chairmen, allowing the positions to work for longer periods.

In 2003, the then-Bulgarian Chairman-in-Office created three positions to deal with tolerance-related issues:

- Personal Representative on Combating anti-Semitism
- Personal Representative on Combating Intolerance and Discrimination against Muslims
- Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions

These mandates have been renewed each year and the positions reappointed. These positions were designed to liaise with governments about issues of concern within their mandate. The ODIHR Tolerance and Nondiscrimination Unit provides some logistical support for these individuals, to aid their work.

Advocacy Actions

All three Personal Representatives potentially touch on different aspects of religious freedom affecting different groups. Advocates should consider approaching the Personal Representatives through the ODIHR Tolerance and Nondiscrimination Unit with information about an issue of concern relevant to their mandate and request their engagement.

CONTACT INFORMATION

Chairman-in-Office Representatives to Promote Tolerance

<http://www.osce.org/about/19257.html>

c/o ODIHR Tolerance and Nondiscrimination Unit

Aleje Ujazdowskie 19

00-557 Warsaw

Poland

Tel: +48 22 520 06 00

Fax: +48 22 520 06 05

OSCE FIELD OPERATIONS

Monitoring Body

OSCE institutions play an important role in human rights advocacy, as well. The OSCE maintains field missions in Southeast Europe, Eastern Europe, the Caucasus, and Central Asia.

These missions represent an on-the-ground presence by the OSCE in a number of countries where religious freedom may not be fully respected.

These missions are headed by an ambassador from a participating State and a small staff. Missions will regularly meet with NGOs and religious groups to collect information and report their findings to the Permanent Council.

OSCE field operations

Southeast Europe

OSCE Presence in Albania

OSCE Mission to Bosnia and Herzegovina

OSCE Mission to Croatia

OSCE Mission to Montenegro

OSCE Mission to Serbia

OSCE Mission in Kosovo

OSCE Spillover Monitor Mission to Skopje

Eastern Europe

OSCE Office in Minsk

OSCE Mission to Moldova

OSCE Project Coordinator in Ukraine

Caucasus

OSCE Office in Baku

OSCE Mission to Georgia

OSCE Office in Yerevan

Central Asia

OSCE Centre in Almaty

OSCE Centre in Ashgabad

OSCE Centre in Bishkek

OSCE Project Coordinator in Uzbekistan

OSCE Centre in Dushanbe

Advocates should be mindful that missions in countries with a problematic human rights record usually have the least influence with the host government, so the assistance they can offer is often limited. Still, heads of mission do have the ability to raise directly with host governments problems that come to their attention.

Advocacy Actions

Advocates should meet with, or encourage coreligionists to meet with, OSCE Missions to share their concerns and provide information about abuses. Advocates should also consider requesting mission intervention in problematic situations.

CONTACT INFORMATION

<http://www.osce.org/about/13510.html>

HUMAN DIMENSION MEETINGS

The OSCE convenes four annual meetings to review the implementation of participating States of their “human dimension” commitments. Every fall the Human Dimension Implementation Meeting (HDIM) convenes in Warsaw,

Poland. This two-week meeting covers the entire gamut of human rights, with a special session specifically on protection of religious freedom. In addition, three Supplementary Human Dimension Meetings (SHDM) are held throughout the year, usually in Vienna, on topics selected by the Chairman-in-Office. The HDIM and SHDM meetings are open to the public, and non-governmental organizations are encouraged to participate and speak.

With no accreditation process, advocates must simply register on time to attend the HDIM or an SHDM. In a surprisingly egalitarian arrangement, religious freedom advocates, religious groups, and NGO representatives may participate on the same level as member states at these meetings, giving statements (referred to as “interventions”) in the main plenary sessions criticizing the very countries seated around the table. Advocates and their organizations can also request permission to convene smaller meetings, called “side events,” to allow a more informal opportunity to discuss human rights issues among delegates and NGOs.

The HDIM and SHDMs play an important role in the creation of new politically binding commitments for all OSCE participating States. If advocates can build sufficient political will among OSCE countries during these meetings, then the recommendations emerging from these events can be forwarded to the annual December meeting of foreign ministers for consideration. Only a ministerial meeting can approve new, politically binding commitments.

Advocacy Actions

Advocates should attend the annual HDIM meeting and any relevant SHDM meetings. During these events, they should give interventions during plenary sessions highlighting specific abuses and consider holding side events. Advocates should also try to meet with delegations from participating States attending the SHDM/HDIM to brief them on situations and ask for their assistance.

CONTACT INFORMATION

Human Dimension Implementation Meeting

<http://www.osce.org/odihr/16533.html>

Supplementary Human Dimension Meetings

<http://www.osce.org/odihr/16537.html>

OSCE PARLIAMENTARY ASSEMBLY

Policymakers

Like the Council of Europe, the OSCE Parliamentary Assembly is composed of parliamentarians elected to national legislative bodies. With support staff based in Copenhagen, Denmark, the Assembly meets regularly throughout the year. Its winter meeting convenes annually in Vienna, Austria but is generally not attended by nongovernmental organizations. The annual summer session is the main meeting and is convened in a different city each year. During the summer session, the Assembly will divide into three committees to debate and pass nonbinding resolutions. The Third Committee considers human rights issues, also referred to as the “human dimension.” These resolutions do not have the force of law but do provide parliamentarians with the opportunity to speak in unison on human rights concerns.

Advocates and their organizations may attend these summer meetings if they can find a delegation to sponsor their presence (which is usually not a problem). Speaking during committee and plenary sessions is limited to the parliamentarians, but advocates will be able to observe, convene side events to highlight issues of concern, and talk with parliamentarians on the margins of the meeting.

Advocacy Actions

Advocates should attend OSCE Parliamentary Assembly meetings and meet with legislators from countries of concern. In addition, advocates should brief parliamentarians from more sympathetic nations on actions needed elsewhere in the region to promote religious freedom. Advocates should also work with delegations on language to add to resolutions about specific instances of religious freedom violations, as well as consider holding a side event on issues of concern. Advocates will need to find a delegation sponsor to attend the annual session.

CONTACT INFORMATION

OSCE Parliamentary Assembly

<http://www.oscepa.org/>

Rådhusstræde 1

1466 Copenhagen K

Denmark

Tel.: +45 33 37 80 40

Fax: +45 33 37 80 30

osce@oscepa.dk