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REPORT

FOR THE GENERAL COMMITTEE ON DEMOCRACY, HUMAN RIGHTS AND HUMANITARIAN QUESTIONS

Helsinki +40: Towards Human Security For All

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Introduction

Next year, the OSCE will mark its 40th anniversary. The Helsinki +40 process has been an inclusive effort by participating States to provide strong and continuous political impetus to advancing work towards a security community, and further strengthening our co-operation in the OSCE. This initiative, supported by the Chairmanships of Ukraine (2013), Switzerland (2014) and Serbia (2015), has been welcomed by all 57 participating States. Of course, we are deeply concerned about regression in meeting human dimension commitments in entire regions of the OSCE, as well as the most recent violation of the Helsinki Final Act by the Russian Federation's invasion of Ukraine's Crimea, as well as lack of progress in frozen conflicts. All of this undermines the *raison d'être* of this important comprehensive security Organization and its mandate to protect Eurasian security through co-operation, human rights and democracy.

At the core of the Helsinki Final Act, the participating States agreed to “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.” They recognized “the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.” They have agreed to refrain from threat of use of force, and respect for territorial integrity.¹

In our resolution this year, the Committee on Democracy, Human Rights and Humanitarian Questions will focus on key human dimension issues such as rule of law, access to justice, political prisoners, civil society engagement and OSCE human dimension reform, including our human rights tools and field operations. In particular, we will also discuss issues of migration management and the need to secure and protect the basic human rights of all migrants in the OSCE area – regardless of their legal status.

Migration Management and Human Rights Protection

Migration management traditionally falls into what the OSCE considers the “second dimension” – economic and environmental issues. This Committee in Baku will look at the issue from a Human Dimension perspective: protection of migrants' human rights, non-discrimination and supporting OSCE countries, including those that host migrants and those which generate migratory flows due to socio-economic issues and/or conflicts.

In this regard, the OSCE PA will review the situation concerning migrants from countries such as Tajikistan, Kyrgyzstan and Uzbekistan, who are hosted by the Russian Federation, Kazakhstan and other participating States. The Committee will discuss the treatment of these migrants in host countries, but also at the significant socio-economic impact these heavy migration flows have on the countries of origin. Along with Moldova, Tajikistan tops global economic surveys of remittance-dependent states. With regard to host countries, there are deep concerns regarding the risk of human trafficking, respecting national labour regulations (when applied to migrants – both

¹ Helsinki Final Act, 1975.

legal and illegal), but also serious non-discrimination issues against migrants of different race, religion and cultural heritage. Asylum applications from sexual minorities have increased in Europe – so our Committee will also discuss the treatment of the LGBT communities in the countries of origin, generating asylum seekers in Europe and North America.

West of Vienna, the Committee will focus on issues of discrimination against migrants of all kinds: asylum seekers and refugees, but also labour migrants. Particular attention will be paid to protecting labour rights, integration and legalization, as well as migration burden-sharing within the European Union states. The OSCE is built on principles of international co-operation. The Committee will look at ways migrants contribute to host countries: both economically and culturally through a diversity of views, cultures, religions, and traditions.

The OSCE must look at ways to ensure that overly restrictive migration management policies on the rise in the West do not undermine human rights, including labour rights of migrants. In particular, the Committee will look at women and children among migrants, who are at high risk of falling victim to human trafficking for sexual exploitation, as well as exploitation for labour. The OSCE will mark ten years since the Ministerial decision on gender equality. Regrettably, we can see both inside the Organization and the geographical area it spans that progress toward gender equality has stalled, and in some areas has begun to regress. This particularly affects women in the West at times of financial crisis and austerity, and there is ample evidence of this in the European Union. Participating States East of Vienna are impacted as countries in transition struggle with heavy gender-based discrimination in society in general, but in the workplace in particular. The OSCE has evidenced this in our election observation work, where candidates for parliament, party leadership and government posts are rarely gender-balanced. At times of hardship in transitioning, as well as established democracies, it is the women who bear the brunt of the economic burden – often forced to leave the workplace and return to caring for the household as equal pay for equal work remains a major issue across the OSCE area. Migrant women are particularly affected, as uprooted families are especially vulnerable.

Treatment of migrants as a “threat” is unacceptable. The OSCE should work harder to recommend national policies for more tolerant and understanding societies that appreciate the contribution multi-culturalism can make to human development. Parliamentarians serve the people of their constituencies (in many cases, this includes migrants – both refugees/asylum seekers and economic migrants). Through the OSCE Parliamentary Assembly, legislators should work hard to deepen the understanding of what migrants give to host countries through diversity and plurality of cultures, views and traditions. In particular, we should treat counter-terrorism measures with caution to ensure we do not neglect to protect the basic human rights of those accused. The OSCE should not allow policies to develop in participating States that undermine access to justice of those accused, who are often migrants. Legislators have a particular responsibility in this regard.

Detention facilities meant for processing migrants must be improved. This is connected to burden-sharing of migration issues in Europe, in particular. Some OSCE participating States are overwhelmed by migrants – some seeking better economic conditions, some fleeing persecution. Treating both with dignity is significant to the future of Europe, and the OSCE area at large. Wealthier nations in Europe should contribute more to migration management in the area. Looking at developments East of Vienna, it is not likely that migration flows East-to-West will reduce in volume in the coming years, and we need to look at new ways to preserve human dignity in managing these migratory flows.

At its Annual Session in Baku, the OSCE PA will also debate the rise of extremism and xenophobia – this is an important topic when we discuss migration and non-discrimination issues. Europe should lead by example in the OSCE area. Discrimination is an issue which concerns everyone. As we have seen in previous global conflicts, discrimination against one particular social group, such as migrants, or LGBT for example, has previously led to major global conflict, including genocide. Given the important historical lessons on our Continent, the rise of any such tendencies both East and West of Vienna should be treated with extreme caution.

Human Dimension Reform: Field Presences, Their Mandates and Our Operational Response

The OSCE PA has consistently called for full and long-term mandates for OSCE field operations – the flagships of our Organization. In particular, the Assembly has called for the re-opening of the OSCE field operations in Belarus and Georgia. It is deeply regrettable that in Azerbaijan, the mission has been downgraded to a Project Co-ordinator's Office, which means it will have no monitoring and reporting mandate. The Committee resolution calls on Ukraine to upgrade its OSCE presence to a full-scale mission. The issue of field missions is linked to the over-reliance of the OSCE on the consensus mechanism in its decision-making body – the Permanent Council. The trend is not positive, and greatly reduces the effectiveness of our Organization.

Our Committee will again raise the issue that the one-country veto obstructs the work of this Organization. We see this in regard to setting the Human Dimension Implementation Meeting agendas, field operations, key staffing positions and response to human rights crises in the OSCE area. Examples of inadequate and/or delayed response to crisis, include Georgia, Kyrgyzstan and Ukraine. In Ukraine, a large-scale OSCE monitoring mission has been deployed with a two-week delay due to a one-country veto in the Permanent Council, with zero presence in or access to Ukraine's Crimea. This calls into question how far the OSCE has come in 40 years since the Helsinki Final Act and whether this Organization can continue to exist in this framework. An OSCE constituent put it best: "What is the point of the OSCE if the aggressor has a veto?"

Tools such as the Moscow Mechanism are heavily under-used by the OSCE. The Vienna Document has been applied in a new way to the crisis in Ukraine, including attempts to apply to Crimea – which have been met with heavy push-back from one participating State, leaving access to the area an outstanding issue for our Organization. The OSCE guards human rights, democracy and Eurasian security. In order for the OSCE's ultimate goal – comprehensive security – to remain relevant for the OSCE area, we must work hard to further develop such diplomatic human rights tools and apply them more frequently – both East and West of Vienna.

Role of Civil Society and the OSCE

The OSCE's Human Dimension reform is moving along, but the lack of progress regarding the participation of civil society in the decision-making process is missing from the agenda. Several proposals have been made by non-governmental organizations and coalitions, such as the Civic Solidarity Platform.

The OSCE PA has repeatedly called for the OSCE Permanent Council to organize meetings with regard to the violation of OSCE commitments in the Human Dimension, to conduct these meetings in a way that is open to the public, the media and civil society representatives, we cannot see any improvements in this regard. We do welcome the work of the Human Dimension

Committee in Vienna, in this regard, as well as the strong emphasis that the 2014 Swiss Chairmanship has placed on civil society engagement.

The Assembly has also called for a civil society advisory board within the OSCE PA – in order to engage civil society in a consistent and constructive manner. While this issue remains on the table, civil society has been present in recent OSCE PA meetings, including the Winter Meeting – where it has become a tradition to invite guest speakers from among civil society to address the parliamentarians, and engage in an open, transparent and constructive debate. The Assembly’s Winter Meeting this year saw a record number of civil society representatives observing the Meeting, engaging with diplomats and parliamentarians from across the OSCE area.

Rule of Law and Political Prisoners in the OSCE Area

As stated in the 1990 Copenhagen Document,² all human beings should have access to a fair trial and tribunal, which also applies to political activists and those accused of terrorist activities. The 1991 Moscow Document indicated that participating States committed themselves to treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person and to respect the internationally recognized standards that relate to the administration of justice and the human rights of detainees. Therefore, all participating States should co-operate with international institutions regarding visits to all prisoners – including those the international community considers to be incarcerated on political grounds.

The Parliamentary Assembly of the Council of Europe has defined the term “political prisoner.” The OSCE Parliamentary Assembly supports this effort, and encourages its application to OSCE participating States. Individuals and sometimes whole groups from among civil society, political parties and human rights defenders languish in prisons without adequate access to justice. There are political prisoners in many OSCE participating States – primarily East of Vienna, but there are deep concerns about the prison in Guantanamo Bay, the use of extraordinary rendition – and what lessons the West has drawn from these human rights violations. No justice system is perfect, but the OSCE must strive to ever improve standards for rule of law and access to justice for all. This Committee has heard testimonies over the years from former political prisoners, their relatives and legal counsel, and we hope to continue this tradition – highlighting important human rights issues by first-hand sources.

The OSCE has not developed binding standards in the field of prison conditions and the systematic inspection of prisons is still limited. Austria recently ratified the Optional Protocol to the UN Convention against Torture, and other Cruel, Inhuman or Degrading Treatment or Punishment, which provides for an international inspection system, while many others still have not ratified this important protocol (Andorra, Belarus, Belgium, Canada, Finland, Georgia, Greece, Hungary, Iceland, Ireland, Kyrgyzstan, Latvia, Lithuania, Monaco, Mongolia, Norway, the Russian Federation, Slovakia, San Marino, Slovenia, Tajikistan, Turkmenistan, the United States and Uzbekistan).³ This issue also remains outstanding.

² Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990.

³ United Nations, “Treaty Collection”, <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>.

Conclusion

As the OSCE looks to its 40-year anniversary, it is a time to look back and to look forward. Continuous violations of the Helsinki Final Act and regression in meeting Human Dimension commitments call into question the effectiveness of our Organization and with it – the future of Eurasian comprehensive security. The Helsinki +40 processes should review the achievements and the violations that were observed since the 1975 Helsinki Final Act, note the general trends, make clear recommendations on further integrating human security into the overall agenda of the OSCE and find more effective ways to ensure respect for States' human rights commitments, including follow-up on concrete human rights issues. The OSCE must not be afraid to cite States – East and West – which violate the Organization's core principles, and to cite cases which highlight the level of human rights abuses in our area.

In particular, we must not forget the most vulnerable segments of the population, who are affected by all the challenges that our Organization has failed to address. In this case, the Committee will review the plight of migrants, especially migrant women in the OSCE area, and look at ways parliamentarians can contribute to improve policies of non-discrimination and migration management in our respective countries.