

RECALLING THE SPIRIT OF HELSINKI



HELSINKI 5-9 JULY 2015

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**REPORT**

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

***Recalling the Spirit of Helsinki***

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**Rapporteur: Ms. Gordana Comic (Serbia)**

While gathering to celebrate the 40<sup>th</sup> anniversary of the Helsinki Final Act, it is incumbent upon us to examine whether the OSCE that we have today remains true to the spirit and principles of that remarkable document. The Final Act was controversial in 1975, but has been widely celebrated since the time of its signing. Today's OSCE Institutions were built up bit-by-bit over many years to help with the implementation of commitments made at the political level. It is therefore appropriate to consider if the Institutions that we now have are sufficient for this purpose, but also more importantly, to consider whether the political dialogue currently taking place under the auspices of the OSCE is true to the OSCE/CSCE's roots.

The Helsinki Final Act overall was quite State-centric. The high priority given to the "inviolability of frontiers" and to the "non-intervention in internal affairs" was criticised at the time as a virtual ratification of the post-World War II borders. This was an agreement between sovereign States, solidifying the States and their borders as they were at that time.

However, at the heart of the CSCE's success was the seventh of the 10 Principles Guiding Relations between participating States, commonly known as the Helsinki Decalogue. This seventh principle, 'Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief,' added important perspective to the rest of the document. This seventh principle, instead of focusing on States' rights, put individuals' rights front and centre. Indeed, it codified that the human rights of another State's population was a relevant matter of concern to all participating States. The development of subsequent concepts like 'human security' and even the 'responsibility to protect' can arguably be traced to Helsinki and the CSCE.

The concepts embodied in the Helsinki Final Act have undergone significant development and deepening since 1975. It is no longer unusual for a country or international organization to comment on the treatment by a government of its own people. We see this daily within the OSCE region when countries rightly criticize each other for issues related to people imprisoned for their political activities, for the continued use of the death penalty, for their treatment of refugees, or for crackdowns on independent journalism and human rights defenders. The fact that we hear so regularly of these cases clearly demonstrates that implementation by States of their commitments is lacking, if there were any doubt.

A wide range of institutions and bodies have been established under the OSCE's umbrella to deal with many of the challenges identified in the Helsinki Final Act. In 1975, the drafters of the Final Act focused particular attention on national minorities, freedom of the media and religious freedom. The OSCE now has significant spokespersons who are effective in highlighting concerns and suggesting remedies within these fields. The independent mandate of the High Commissioner on National Minorities, who consults with the Chairperson-in-Office but does not report to the Permanent Council, has made this an effective body for early warning on issues related to minorities. The Representative on Freedom of the Media has remained an effective monitor and a steadfast advocate of free speech in spite of increasing criticism by some countries of the Institution and the Representative herself.

Consistent monitoring of democratic rights has also largely been a success story within the OSCE. While difficulties have regularly occurred in co-operation, the 1997 Co-operation Agreement, governing relations between the OSCE PA and the ODIHR, has ensured that parliamentarians play a leading role in the observation of elections. The independence that elected politicians bring to this endeavour, supported with the strong technical abilities of the ODIHR, has enabled OSCE observation missions to continue to speak with credibility and to hold participating States to the commitments that they themselves have agreed to.

Another area which was a significant challenge in the 1970s, that of facilitating contacts across borders and cultural exchanges, is much less relevant today with modern technology and a more globalized world. However, the echo of this challenge remains today, with significant differences throughout the OSCE region related to the treatment of refugees and migrants. Countries' neighbouring areas of humanitarian crisis have been carrying an outsized burden in hosting refugees, and greater willingness to accept movement across borders on humanitarian grounds is necessary.

Considering that much of the success of the Helsinki Final Act can be traced to the recognition that individual rights are relevant on the international plane, it is necessary to consider if the OSCE's current functioning does justice to this founding principle. While the key OSCE Institutions that have been established – the Parliamentary Assembly, the High Commissioner for National Minorities, the Office for Democratic Institutions and Human Rights, and the Representative on Freedom of the Media – do put individuals' rights at the core of their mandates, the same cannot be said of the decision-making processes. The Permanent Council of representatives of each OSCE participating State remains stubbornly state-based in its approach. Not only does civil society lack a voice in this forum, but OSCE populations are not even entitled to information on their deliberations. By steadfastly meeting behind closed doors, with no media access or effective reporting on meetings, the public is effectively shut out.

The Permanent Council of today is inadequate as a forum for dialogue, which was the entire intention of the Helsinki process. Statements prepared in advance are read out, generally with little change week after week. Reports from the OSCE PA's Special Representative in Vienna make it evident that the only change in recent years has been a sharpening of rhetoric. This lack of effective dialogue and increasingly harsh language does little or nothing to alleviate the very real human rights and humanitarian concerns that exist throughout the OSCE region. Criticisms and counter-criticisms related to Russia's occupation of parts of Ukraine and continued support for separatist rebels there do little to address the dire human rights situation of people personally impacted by the conflict. The fact of the matter is that human rights have been politicized and are used as a tool for critique between states rather than as a safeguard for individuals.

The failures in the OSCE's decision-making process and the politicization of human rights have hamstrung the OSCE's ability to effectively monitor and report on problems. The OSCE Ministerial Council has been unable to agree on any significant decisions within the human rights field for several years. The need for consensus for the adoption of all decisions, especially without the requirement to publicly justify positions, is a serious impediment to human rights work. OSCE field missions – the crown jewels of the Organization – are more and more restricted in their ability to report on human rights concerns, as host countries wield their veto power in the Permanent Council to strip reporting out of missions' mandates.

Human rights concerns are rarely addressed in any depth in the Permanent Council. The annual two-week Human Dimension Implementation Meeting (HDIM) is portrayed as the appropriate forum for discussion on these topics, but is wholly inadequate as an effective review mechanism of human rights in the OSCE area. The mere existence of the HDIM serves as a convenient excuse to avoid effective discussion and monitoring of human rights during the remaining 50 weeks of the year.

People have come to enjoy and expect the rights granted in Helsinki and thereafter, and they see international organizations as supporting these rights. They consider – just as our leaders in 1975 did – that their rights are legitimate issues for the international community to address. Unfortunately, there is a clear push-back from governments in many OSCE countries against this. They seek to reclaim international relations as the sole prerogative of the state, with no regard paid to individual rights. It is unfortunate to admit, but the ‘spirit’ of Helsinki is woefully lacking in the OSCE today, most notably in the human dimension.

Considering the applause that the CSCE/OSCE has received over the past 40 years, it is a worthwhile effort to work to regain this lost spirit. This entails a clear and public recognition that the fundamental rights of all OSCE peoples are the legitimate concern of all OSCE countries. Effective implementation of these rights requires transparency through effective and ongoing monitoring by robust and independent institutions and public reporting.