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## **REPORT**

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

### ***Enhancing Mutual Trust and Co-operation for Peace and Prosperity in the OSCE Region***

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**I. The Human Foundation of Security**

The OSCE region is witnessing a period of tension and insecurity unlike any since the Cold War. In recent years new violent conflicts have erupted and longstanding ones have reignited. Enduring rivalries and persistent mistrust bubble under the surface of many societies, raising fears of renewed civil conflicts on the horizon. A yawning gap of legitimacy between peoples and their institutions adds to a popular sense of dislocation and disorientation. External factors, particularly imported radical ideologies and the influx of refugees and non-European migrants, exacerbate feelings of insecurity and perceptions of crisis.

It is tempting for leaders to respond to such a moment in history by moving aggressively to assert control over their societies, borders, and institutions. This approach “securitizes” challenges; that is, it regards societal tensions, real or perceived injustices, and demonstrations of dissent or difference as veneers for threats to stability. As a result, it prescribes narrow, security-minded responses aimed at suppressing or squelching these phenomena.

In a time like ours, the Helsinki Final Act speaks to us with reinvigorated relevance of time-tested and hard-earned truths, namely “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...” Rather than a secondary or tertiary matter relating to internal and international peace, our founding mandate proclaims human rights as “*essential*” to these concerns.

This report aims to underscore the centrality of the human dimension to regional security and propose ways of reinforcing this keystone of our regional architecture at a time when it threatens to crumble without due care.

**II. Strengthening Space for Human Dimension Debate in the OSCE**

Before addressing specific human dimension commitments, it is important to take stock of the space the OSCE provides for openly discussing these commitments. In this context, participating States must recall the consensus document issued in Moscow in 1991 that “the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned.” This commitment is foundational and must be upheld in its fullness in order for the OSCE to remain relevant and effective. Efforts to undermine this principle constitute attacks on the core mission of the organization itself.

Regrettably, in recent years some participating States have acted to impede such open discussion of the human dimension, often invoking national sovereignty or security as justification. The Moscow Document could not be clearer in dismissing the legitimacy of such objections. Participating States must confront three primary tactics deployed in recent years to

undermine human dimension discussions: first, the tactical obstruction of consensus on the details or content of human dimension events with the aim of extracting concessions that constrain debate of human rights issues; second, efforts to hinder the participation of civil society by providing insufficient notice of the dates or agenda for relevant meetings or by imposing onerous registration requirements; third, constraining space for legitimate human rights discussion by filling speakers lists with state-sponsored, pseudo-civil society organizations, or packing event agendas with extraneous topics. This brief list is by no means exhaustive. Participating States must remain vigilant regarding the introduction of new tactics and objections that thinly disguise efforts to undermine the OSCE's work in the human dimension.

### **III. Reinforcing the Institutional Foundations of Respect for Rights**

Just as the OSCE must have a solid foundation for discussing human dimension commitments, participating States must have strong institutions in place to guarantee fundamental freedoms to their peoples. In this context, it is important to recall the consensus declaration in Ljubljana in 2005 “recognizing that full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law is a prerequisite for achieving a lasting peace, security, justice and stability.” In practice, however, pluralistic democracy and the rule of law are often the first victims of efforts to tackle real or perceived threats to national security.

Properly understood, the rule of law is a central pillar of a stable government and resilient regional order. It fosters security and stability by creating predictable and equitable processes for administering justice and addressing inequality. While there are many causes of security challenges and instability beyond injustice and inequality, disregard for the rule of law can undermine the legitimacy of popular institutions, generate new grievances, and compound security concerns.

As security concerns are routinely invoked to justify restrictions on human rights and the rule of law, it is instructive to reflect on what the OSCE has said about these topics in the context of the most extreme security situations: states of emergency. In this most extreme of examples, the OSCE recognizes the possible justification for extraordinary measures but explicitly delimits the boundaries of such efforts.

The Moscow Document of 1991 provides crucial guidance in this regard:

“A state of public emergency may not be used to subvert the democratic constitutional order, nor aim at the destruction of internationally recognized human rights and fundamental freedoms.” Furthermore, it “will not remain in force longer than is strictly required by the exigencies of the situation.” The document goes on to say that “participating States will endeavor to ensure that the legal guarantees necessary to uphold the rule of law will remain in force during a state of public emergency” and that States will “take no measures aimed at barring journalists from the legitimate exercise of their profession other than those strictly required by the exigencies of the situation.” Finally, “when a state of public emergency is declared or lifted in a participating State, the State concerned will immediately inform the CSCE Institution of this decision, as well as of any derogation made from the State's international human rights obligations.”

In commenting on the right of participating States to derogate from international human rights commitments, the Copenhagen Document of 1990 stresses that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political stability or any other public emergency, may be invoked as a justification of torture.”

In a time of heightened security tensions, participating States ought to further renew their commitment to principles in the Moscow Document, and elsewhere, concerning oversight of military, security, and intelligence services. Participating States committed in Moscow to, *inter alia*, “ensure that their military and paramilitary forces, internal security and intelligence services, and the police are subject to the effective direction and control of the appropriate civil authorities.” The document also commits participating States to “take appropriate steps to create, wherever they do not already exist, and maintain effective arrangements for legislative supervision of all such forces, services, and activities.” Such safeguards are vital to ensuring that States emerge from times of crisis in positions of strength, with their institutions and rule of law intact.

#### **IV. Emphasizing Key Human Dimension Commitments**

The OSCE must make every effort to not only insist upon, but further invigorate, its commitment to the human dimension, particularly in the following areas that have special bearing on the future security and stability of the OSCE region: freedom of expression, freedom of thought, conscience, religion, or belief, and the rights of especially vulnerable populations.

No stable society can be established on a foundation of coerced belief or prejudiced access to information. For this reason, freedom of expression and freedom of the media are crucial to international security. These freedoms can mitigate the threat of miscommunication and misperception that often serve as catalysts for conflict. Furthermore, the free flow of information forges relationships and networks that are engines of human creativity, generating new ideas for everything from groundbreaking technology to political reform. Dissenting views must be able to be expressed and disseminated to ensure the accountability of governments to their people, both for their actions domestically and overseas. Additionally, participating States should respect freedom of the media and not intentionally propagate misleading or false information in the form of propaganda.

In the same vein, the freedom of thought, conscience, religion, or belief should not be abridged. Religious groups in several participating States are treated as threats to national security and individuals belonging to them are harassed under the pretext of “anti-terrorism” laws. Without doubt, crimes stemming from violent religious extremism should be prosecuted as such, but religious affiliation itself should never serve as grounds for criminal charges.

Freedom of conscience—the right to freely and peacefully live according to one’s most deeply held beliefs—must be respected in all instances. Human rights are threatened where groups or individuals are persecuted for managing their businesses, organizations, and personal affairs according to the dictates of their conscience.

Participating States bear the responsibility to ensure that the human rights and fundamental freedoms of vulnerable individuals are upheld, and that they enjoy effective access to means of redress and advocacy. Ensuring the human rights of vulnerable individuals, particularly in crisis situations, can help avoid situations of even greater crisis. In this context, political

prisoners, migrants, internally displaced persons (IDPs) and persons with disabilities deserve particular mention.

In accordance with the clear commitments contained within Principle VII of the Helsinki Final Act, OSCE participating States must release all political prisoners and cease harassment of individuals and organizations peacefully exercising their fundamental freedoms. In addition, no one should be disappeared while in prison, and participating States should ensure full access for international and domestic monitoring of prison conditions.

The lifting of immunity, detention and imprisonment of parliamentarians, as a result of thinly guised political motivations, is a cause for concern. The Parliamentary Assembly should be afforded the possibility to show its solidarity towards other elected parliamentarians across the OSCE area that are victims of political persecution.

At the same time, while we acknowledge that there are no specific OSCE commitments requiring the abolition of the death penalty, in the Vienna Document and in the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the OSCE, participating States agreed that the death penalty could be imposed only for the most serious crimes and only in line with international commitments, while they agreed to consider the potential abolition of the death penalty, to exchange information toward that end, and to make information on the use of the death penalty available to the public. Considering that the death penalty fails to deter criminal behaviour and renders any miscarriage of justice which is inevitable in any legal system, irreversible, the Parliamentary Assembly urges participating States to abolish it while it considers that debates for its reintroduction in States where it has already been abolished, are a step backwards.

The OSCE must bear in mind how the violation of human rights engenders conflict and how these fundamental rights are routinely trampled in the course of hostilities, thus further begetting suffering and violence. Since the outbreak of war so often stems from the infringement of human dimension commitments, any OSCE effort to resolve existing violent conflicts and pre-empt new ones from emerging must incorporate a focus on the human dimension. Such a focus could play a role in averting future crises or mitigating their effects, such as the mass migration of refugees.

The OSCE expresses concern over the unresolved situation of internally displaced persons (IDPs) scattered over a number of its participating States. According to the Council of Europe PACE estimates, in early 2014 some 2.5 to 2.8 million Europeans were internally displaced in 11 of the 47 member states of the CoE: Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Cyprus, Georgia, Moldova, Russian Federation, the former Yugoslav Republic of Macedonia, Serbia and Turkey. According to a PACE Recommendation of 2009, the vast majority of displaced persons were forced to leave their homes “some 15 to 35 years ago as a result of armed conflicts or human rights violations, and are living in situations of protracted displacement”. In addition, as a result of the armed conflict in eastern Ukraine, as of June 2016 there were nearly 1.8 million IDPs registered in Ukraine. The OSCE calls on governments to seek durable solutions for the return, local integration or integration elsewhere in the home countries of displaced persons and to guarantee the protection of their rights under the provisions of relevant Council of Europe instruments and in line with the 1998 United Nations Guiding Principles on Internal Displacement.

The fight against terrorism is an unfortunate reality of modern times, but the adaptations that we have to undertake for security purposes cannot come at the expense of the human rights that we have fought so hard to protect. The rights of all citizens must be maintained when combating terrorism, but we should pay appropriate respect to the rights of those most directly impacted: the victims of terrorism. The casualties of terrorism should be able to expect recognition and support from their governments.

With regard to migrants, participating States must improve efforts to register, notify family members, and keep track of vulnerable refugee and migrant children in order to prevent exploitation by traffickers. Unaccompanied refugee and migrant children who survived the journey to the OSCE region are falling prey to human traffickers luring and coercing victims outside asylum accommodations, in camps, and on the street. Europol reports that more than 10,000 unaccompanied minors are missing. Forced prostitution and sexual assault of children has been reported in some camps, temporary shelters, and registration centers, many of which lack sleeping quarters for women and children that can be locked from the inside; separate, well-lit, guarded bathroom facilities designated for women and children only; and female interpreters, guards, and social workers whom the women and children can approach with reports of trafficking.

In accordance with the 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings, participating States should educate the public on how to report suspected trafficking of refugee and migrant children in their communities; prioritize prosecution of human traffickers and their accomplices; ensure that all child victims of trafficking are provided with access to justice and remedies; and co-operate with the law enforcement of other participating States to prevent sexual exploitation of vulnerable refugees and migrants, especially children.

Within these migration flows are refugees fleeing targeted violence in their home countries. Indeed, genocide is being committed on the borders of the OSCE region, and history warns of the perils to collective security of ignoring genocidal actors and activity. A co-ordinated OSCE approach to migration must make special provision for especially vulnerable populations that have been targeted for extermination.

The current migration and refugee crisis reminds the significance of the rights of persons belonging to national minorities. It is acknowledged that persons belonging to national minorities should be able to establish and maintain free and peaceful contacts across States' borders and to develop cultural and economic links. When, however, States seek an enhanced role with regard to the political or religious leadership of minorities outside their jurisdictions, inter-state tensions rise. It is evident that engaging with minorities cannot concern issues which undermine OSCE principles or negatively impact democracy, the rule of law, etc.

The OSCE must additionally make every effort to ensure that human and civil rights are applied equally to people with disabilities. Individuals with disabilities must be encouraged to engage in political life through accessible political information. Individuals with disabilities must be supported in exercising their right to vote through accessible polling stations and means of transportation to vote. The views of people with disabilities must be included in all levels of governance. In addition, the OSCE should encourage political parties to include in their party platforms positions on the equal dignity and equal rights of people with disabilities.

## V. Drawing on OSCE Resources

There are several concrete measures that participating States can take to reaffirm the integral nature of the human dimension to the OSCE's concept of comprehensive security.

First, the OSCE must ensure that field missions have mandates that address all three dimensions of the OSCE and are adequately resourced. Specifically, participating States should expend every possible effort to facilitate the prompt re-establishment of field missions that are currently closed and renew the mandate of existing missions, where necessary.

Secondly, participating States should reinvigorate the Moscow Mechanism as a vital OSCE asset in the service of human rights and fundamental freedoms, including by ensuring that an adequate number of experts are nominated.

Third, participating States should closely examine and make every effort, in co-operation with national legislatures, to implement the recommendations made by the OSCE pursuant to OSCE election monitoring missions. OSCE recommendations are oriented toward building the popular legitimacy of governments and public trust in their governing institutions, two key pillars of domestic stability.

Fourth, the OSCE should place greater focus on the human dimension-related roots of conflict, especially in the Middle East region, in order to work towards a more sustainable and stable future for all states. Specifically, the OSCE Parliamentary Assembly should establish a Special Representative for the Middle East to enhance the OSCE's ability to anticipate security challenges and political upheaval along the territorial and maritime periphery of the OSCE region that could have direct consequences for participating States. The current situations in Syria and Lebanon are eloquent examples of why such a post is necessary. Middle East security issues, particularly as they impact migrant flows and terrorism, are central to the future stability of the OSCE region. As a result, the OSCE must develop the ability to proactively address these challenges rather than responding reactively. The OSCE PA should consider further expanding this regional special representative construct to other parts of the world with significant linkages to the OSCE region.

For over four decades, the OSCE has championed its singular concept of "comprehensive security" that is grounded in overlapping co-operation in the political, military, economic, democratic, and human rights arenas. This vision was decisive in charting a way out of the Cold War, and it remains a lodestar for our present historical moment. The rule of law, robust debate, free flow of information, and protection for the most vulnerable will make our societies more resilient in the face of foreign and domestic challenges. We must work urgently to preserve the OSCE as a space where such a vision can gain strength and help shape our collective future.