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## **REPORT**

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

### ***Implementing OSCE Commitments: The Role of Parliaments***

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

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In 2017 the human rights situation continued to deteriorate throughout the OSCE area. Old crises have deepened, new crises have emerged and the commitment to values enshrined in the Helsinki Final Act seems to have weakened. With the exception of only a few encouraging signs of human rights protection in the OSCE area in 2017, the exacerbation of human rights abuses poses a real threat to the post-World War II human rights system. How best can the OSCE PA and national member Parliaments contribute to reversing this negative trend and to ensure participating States' enhanced commitment to their human rights obligations?

## **Human Rights in Conflict Areas**

The unspeakable humanitarian tragedy in **Syria** which has been at the heart of a new “cold war” environment, pervasive in the OSCE, constitutes a blow to our collective conscience. The unabated atrocities perpetrated against civilians, among them innocent children, point at the cynical predominance of geostrategic interests over human life and dignity, but also over the UN, as the primary guardian of international peace and security.

The conflict in **Ukraine** has continued to claim many lives and cause much suffering, unfortunately with no sign of abating. Effective investigations into the serious human rights violations committed in the country, including in Crimea, are necessary. The issues of internally displaced persons and of missing persons need to be addressed. Freedom of movement, as well as freedom of the media, must be restored in conflict areas.

Protracted conflicts in the **South Caucasus**, which continue to have a devastating humanitarian impact, are a permanent source of concern and must remain a high priority for the OSCE. Parliamentary dialogue must be further enhanced regarding these issues, eventually in a more regular OSCE PA framework.

Escalating tensions and polarization in **the Western Balkans** are yet another source of grave concern. The needs of many victims of wartime crimes remain neglected. The forces of aggressive nationalism and revisionism are becoming more vocal. The region is fragile, and the OSCE should continue to engage there actively.

In light of the above, it is essential to recall that international humanitarian law must be upheld during armed conflicts. Equally essential is that in **areas under foreign military occupation**, human rights be applicable in their entirety, irrespective of pending political negotiations that might hopefully restore international legality. **Citizens in occupied territories** across the OSCE area are deprived of their basic human rights. Their rights of enjoyment of their property, access to their homelands, free movement, their educational rights, fundamental freedoms, such as the freedom of conscience, are all being tampered with. At the same time, ghost towns have been created as a result of military aggression, forcing their lawful population to become internally displaced persons or refugees. Areas entangled in protracted conflicts, as well as territories under occupation in the OSCE area, do certainly fall within the remit of Helsinki commitments and in the OSCE PA's scope of scrutiny.

## **Human Rights Under the State of Emergency**

**Turkey**, a major actor in the Syrian conflict and the Eastern Mediterranean region, has been waging, since the failed coup of July 2016, “purging operations” against alleged terrorists within and beyond its boundaries.

The OSCE PA has joined the international community in condemning, time and again, the failed coup, as a blatant affront to Turkey’s constitutional order and in stressing its support to the democratically elected Turkish Government. At the same time, the OSCE PA has stressed the high importance of the protection and respect of the rule of law and human rights and of making appropriate and proportionate use of the extraordinary measures provided by the state of emergency. Furthermore, the OSCE PA has been eloquent in commending on many occasions Turkey’s significant contribution to global efforts aimed at dealing with the unprecedented refugee and migrant crisis, through hosting more than three million refugees.

Yet, the human rights and rule of law situation in Turkey has not ceased to deteriorate ever since and has been impacted by the prolonged state of emergency (renewed for the sixth time in January 2018). This has also been affirmed by the Office of the UN High Commissioner for Human Rights (OHCHR) in its relevant Report for 2017. In its Recommendations, the OHCHR states that, even during states of emergency, there are non-derogable rights which must be upheld at all times and that derogations regarding certain human rights, which are linked to a state of emergency, must strictly comply with proportionality and necessity in terms of duration, geographic coverage, and material scope. The OHCHR’s Recommendations point to the immediate steps that Turkey must take towards the restoration of the human rights situation and of the political and civic space, in compliance with its obligations under international human rights law. The OSCE and the OSCE PA must keep following the situation closely and act in their respective capacity and in complementarity towards Turkey’s implementation of the OHCHR’s Recommendations. The OSCE PA can be instrumental in promoting regular dialogue with the Turkish Parliament and in exploring the possibility of an OSCE/OSCE PA assessment and verification mechanism/field mission.

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 Rights of Refugees and Migrants**

International efforts to deal comprehensively and effectively with the refugee and migrant crisis continue. The EU shifted its migration control efforts to **Libya**, with horrific human rights consequences. Albeit understandable, the desire of many States to reduce irregular migration and refugee flows must comply with their international obligations. Particularly regarding refugee flows, the principle of *non-refoulement* must be upheld. Regrettably, many

OSCE countries have maintained excessively restrictive migration policies and emergency measures, thus causing unnecessary hardship for thousands of migrants detained in Libya in awful conditions. The situation regarding the slave trade in Libya being out of control is a highly alarming phenomenon. The OSCE PA and its member Parliaments must enhance efforts towards the protection of **refugees' and migrants' human rights** in accordance with international law and standards, particularly their right to freedom from arbitrary detention. This Assembly must also make a greater contribution towards further promoting co-operation with countries of origin regarding their own controls of migratory flows. Furthermore, we must place greater focus on refugees' and migrants' integration in host societies, including through ensuring respect of their right to family reunification and also of the rights of unaccompanied minors. Certain important steps can be taken domestically by host countries, such as treating migrants involved in prostitution as victims of trafficking, preventing the misuse of the internet for trafficking purposes, as well as prosecuting purchasers of commercial sex<sup>1</sup>.

### **Trafficking in Human Beings**

While a cause and effect relationship between **human trafficking** and exacerbated migration flows has been established, human trafficking has long been on the OSCE and the OSCE PA agenda, as a lucrative organized-crime activity (mainly for the purpose of labour and/or sexual exploitation) which entails gross violations of fundamental human rights, modern slavery, physical and psychological violence and a fierce assault on human dignity. The adoption by an increasing number of States of legislation broader in scope and with heavier sentences on offenders, is an encouraging sign. Yet, the global picture remains gloomy, as 40.3 million people are enslaved worldwide, with women and girls making up 71% of the victims, while one in four victims of modern slavery is a child.

Building upon their previous work in the field, the OSCE and the OSCE PA must further promote co-operation towards States' adequate enforcement and strengthening of existing legislation, with particular emphasis on prevention, to end human traffickers' impunity.

The fact that the overwhelming majority of victims of human trafficking are women and girls brings us to various other kinds of ill-treatment, from family violence and forced marriages to sexual harassment. The magnitude of these problems confirms the need for greater efforts to combat patriarchal privilege, gender stereotypes and discriminatory behavior and to further promote women's rights and **gender equality**, particularly focusing on equal education opportunities. The role of Parliaments is crucial in this regard towards the adoption of appropriate legislation and its further strengthening, as well as in holding Governments to account regarding their effective implementation of related policies.

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<sup>1</sup> Statistics are alarming about the extent of exploitation of migrant populations. Last year the International Organization for Migration estimated that 80% of girls arriving in Italy from Nigeria showed signs of being victims of human trafficking, namely sex trafficking, forced labor, and trafficking for the purpose of organ removal. The percentage of migrants showing these signs were even higher among Gambians, Ghanaians, Guineans, and Ivorians, especially youth. A study by the London School of Economics on the OSCE Region a few years back concluded that in countries where the purchase of prostitution is legal and demand for commercial sex has increased, the social stigma against buying sex is lower. Such policies ultimately contribute to the creation of a market for prostituted women and girls who are victims of trafficking. Some countries have criminalized the purchase of commercial sex.

## Children's and Young People's Rights

**The OSCE's advocacy** should particularly be addressed to **youth and children**, as a strategic priority, in order to ensure that a critical mass of people will have the willingness and ability to defend the human rights *acquis* enshrined in the Helsinki Final Act. A long-term strategic approach is therefore necessary. Of particular concern is the fact that children and youth have been more severely affected by conflicts, as well as the economic crisis, in many countries. If we do not address these ills effectively, what can we expect of future generations? What will the OSCE principles mean to them, if anything?

A core strategic goal should be **inclusive education**. Regrettably, too many children are deprived of access to mainstream education or receive substandard education in separate institutions, special classes or special schools. In many OSCE countries, Roma children, children with disabilities, migrant children, and economically disadvantaged children are kept in separate classes or schools, away from their peers and mainstream education. This certainly does not contribute to a diverse and inclusive society.

Another strategic goal should be citizens' **education based on the Universal Declaration of Human Rights**. In the light of States' diverging perceptions, interpretations and implementation of human rights, there is an urgent need to find common ground in this field. It is therefore highly significant that education based on the Universal Declaration of Human Rights, including adequate training for teachers, be incorporated in participating States' education systems and curricula. The role of Parliaments is crucial in terms of enacting pertinent legislation and overseeing the smooth integration of human rights at the core of Governments' education policies.

The increasing number of violations particularly of **children's rights** is highly alarming. Such violations, which may occur in the family, school or in the public environment, from family violence and girls' forced marriages to bullying, child pornography and pedophilia, may carry severe consequences for the mental and physical health of children, who will be tomorrow's citizens. This will mean a real threat to societies' cohesion and stability. National policies in accordance with international legal instruments must be adopted and effectively implemented. They should encompass rigorous legislation, as well as appropriate welfare policies for the highest protection and to the greatest benefit of the child.

**Drugs trafficking** is another lucrative criminal activity which poses a major threat, particularly for our youth, but also to the sustainability of our societies, due to implications on the health and well-being of citizens. It is essential to adopt common strategies to disrupt the entire chain and business model of cultivation, manufacture, distribution and sale of drugs. It is also very significant to further promote synergies towards enhanced networking and information exchange, in co-operation with international organizations active in this field and with the participation of competent authorities and stakeholders.

At the same time the human rights of drug users must be reinforced and their treatment and care must be ensured. Furthermore, treatment through the national health care systems as an alternative or addition to conviction must be considered in the legislative framework of participating States, while the rehabilitation and reintroduction of users into their social and familial environment, must be facilitated by relevant policies.

## **The State of Democracy, Human Rights and the Rule of Law in the OSCE Area**

The growing tide of **nationalism and populism** has acquired even more alarming proportions, as these phenomena are often associated with or result in restrictions targeting democratic institutions and citizens' fundamental rights and freedoms. Redoubling efforts to safeguard and further promote democracy, the rule of law and human rights in the OSCE area is central in efforts to keep the ultimate goal of a security community alive. Such a community must be based on democratic institutions, primarily impartial and independent judiciaries and on inclusive societies underpinned by fundamental rights and freedoms, particularly freedom of expression, freedom of assembly and association and freedom of religion. We can certainly not turn a blind eye to those countries where security concerns are invoked to serve political expediencies and to justify a crackdown on free speech or to undermine the judiciary. What may be seen as a short-term fix to a current problem, if it impinges on fundamental rights, simply causes much more serious problems in the longer term. The OSCE PA can add significant value to the OSCE's democratization efforts in its area. The input of this Assembly can be substantial towards the further enhancement of the OSCE's monitoring mechanisms and activities in this field, which proves to be highly necessary.

Populism being mainly expressed by politicians, within and outside parliaments, it is of the essence that Members of Parliament, who swear to respect the laws of the State, act upon a **common Code of Conduct**, which could be elaborated at the level of the OSCE PA. Under this Code, Members of Parliament should not invoke their parliamentary immunity for the purpose of using defamatory, racist or xenophobic language. Instead, Parliamentarians should promote peaceful coexistence and social cohesion by fostering tolerance among religious, ethnic, and cultural groups. They should engage to fully and impartially exercise their oversight role and fight corruption by promoting due transparency and accountability regarding States' and their own decision-making and overall behavior. Parliaments must play their full role as guardians of democracy and integrity at all levels of government, in their efforts to regain citizens' trust and encourage greater political participation. The OSCE PA must have a leading role in this endeavor.

Moreover, the world has been witnessing increasing **violence and tension on religious grounds**, which often result in conflict situations. Acts of violence are committed not only against religious minorities, but also against the majority. On every occasion, we must strongly condemn manifestations of intolerance and discrimination against Christians, Muslims, Jews or members of other religions, as well as acts of vandalism against and desecration of worship places, cemeteries, religious monuments and artefacts. Exacerbated nationalism, the glorification of Nazism, the falsification of history, violations of minority rights, and growing manifestations of racism and xenophobia, all these call for **an OSCE long-term strategy to combat intolerance**.

Fostering tolerance and peaceful coexistence becomes even more urgent, as **nationalist, revisionist and belligerent rhetoric by political leaders** often targets minorities in other countries for the purpose of serving expansionist aspirations and aims against these countries.

**The persecution of lawyers** is another very worrisome phenomenon occurring on a global scale, including in the OSCE area. Regrettably, in various participating States, lawyers are in need of greater protection, as they are constantly threatened due to their engagement to defend their clients, often persecuted by state authorities on the grounds of fabricated crimes. Particular targets of threats and attacks by these regimes are lawyers working in the field of human rights

and on high-profile cases of torture, police abuse or corruption and whose clients are political opponents of the regime. The role of the OSCE PA must be instrumental in raising awareness regarding this phenomenon and in efforts to uphold lawyers' independence in conducting their professional activity without any interference or restrictions.

Also of concern are **repression and persecution against other human rights defenders** in a number of OSCE countries, ombudspersons, journalists, national human rights institutions and structures, activist groups, etc. As the space for human rights defenders and NGOs to operate has shrunk in many places in the OSCE area and political rhetoric which undermines the independence of the institution of the ombudsman has been exacerbated, it is important that the OSCE ensures that NGOs can fully and freely participate in its activities. The OSCE must resist any measures of exclusion and remain a unique platform of open and frank discussions among politicians, experts and stakeholders.

At the same time, urgent action must be taken against extrajudicial executions, abductions, enforced disappearances and ill-treatment. Some of these acts come from unidentified actors (e.g. in the form of threats or attacks), while others are conducted by State officials or law enforcement authorities in an attempt to stifle human rights activities. In most cases, these threats and attacks are not investigated, and/or the perpetrators have never been identified. Participating States must carry out thorough, prompt, impartial and transparent investigations to bring all those responsible for violations against defenders to justice and apply the sanctions provided by law.

Prison conditions in various participating States, both East and West of Vienna, must also be improved. Structural reforms are therefore urgently needed to first and foremost demilitarize and democratize the penitentiary service. Establishing a functioning monitoring system and ensuring increased access to the outside world, as well as a proper training concept for the professionalization of staff, are also essential reforms that must be put in place. In this respect, a broad range of legislative changes, which will include modification of punishment policies and a system of more effective remedies, is necessary. National Parliaments must step up efforts in this direction.

At the same time **excessive use of force by police**, particularly during policing of assemblies, must be subject to strict conditionality based on the human rights principles of legality, necessity, proportionality, accountability and non-discrimination.

### **Cyber Warfare, Propaganda and Fake News, a Threat to Our Democracies**

Globalization and technological advances have created significant opportunities but also dreaded challenges, such as **cyber warfare, internet propaganda and fake news**, which need to be collectively addressed. In regimes falling short of democratic principles and practices, propaganda and fake news by official sources are a common occurrence against a background of omnipresent fear among citizens and the authorities' absolute intolerance to criticism and the right to free expression. On a global scale, fake news, particularly flourishing in social media by state or non-state actors, violates citizens' rights to receive real and impartial information and seriously undermines good governance. Sensationalism and misinformation aimed at manipulating public opinion, create a volatile information and communication environment, which entails serious challenges and is fertile ground for radical groups to pursue their aims.

Ensuring high quality news by trusted sources lies with the adoption of appropriate national legislation and international instruments aiming at **improving regulation of the internet**, while ensuring full respect for human rights, primarily freedom of expression. The responsibility also lies with journalists' compliance with their professional and ethical standards, including self-regulation and accountability in line with these standards. More important is that the owners of major news outlets, particularly social media, acknowledge and act upon their due responsibility and liability by taking adequate oversight measures at their initiative and in co-operation with States and the international community. The misuse of the personal data of millions of social media users entails serious legal and moral implications.

As this phenomenon has been acquiring alarming proportions, it is important that the OSCE develops a comprehensive approach, including a **human-centered analysis of and response to Information and Communication Technologies (ICT) challenges**. In the context of cooperative security, the OSCE can be instrumental in promoting such synergies towards ensuring a sound information and communication environment. Such a comprehensive approach must be reflected in the work of the OSCE PA, eventually through a special committee or subcommittee. Parliaments can make a significant contribution in terms of enacting appropriate legislation, scrutinizing Governments' policies and exchanging best practices. Their contribution can also be substantial in promoting global legislation to **ensure accuracy, impartiality, self-regulation and accountability in journalism**, in strict compliance with international standards and with due respect to freedom of expression.

### **Election Observation in OSCE Area and the Role of Parliamentarians**

Because election observation lies at the core of the OSCE's and the OSCE PA's work, it is highly important that **international standards and the Code of Conduct for OSCE PA Election Observers** be strictly observed. It is also essential that a clear dissociation be made between OSCE Election Observers and non-qualified or biased international observers, be they politicians, experts or others, who carry out parallel election monitoring upon invitation by a State on an individual or bilateral basis, for the purpose of affirming this State's adherence to internationally accepted election standards and commitments.

Being that fair and just elections are the cornerstone of democracy and the rule of law, it is crucial that the election monitoring process be standardized and that the OSCE firmly insist on participating States' strict observance of a set of standards by which OSCE-led Election Observation Missions would be given precedence over bilateral arrangements, while any such arrangements would have to comply with the OSCE's election oversight model.