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## **STATEMENT BY THE CHAIRMAN-IN-OFFICE OF THE OSCE AT THE CLOSING SESSION OF THE FIFTEENTH MEETING OF THE MINISTERIAL COUNCIL**

Madrid, 30 November 2007

Good afternoon,  
Distinguished Ministers for Foreign Affairs,  
Distinguished Heads of Delegation,  
Mr. Secretary General,  
Dear colleagues,  
Members of all the Delegations,

As the Chairman-in-Office of the OSCE, I am going to make the following statement before the work of the Fifteenth Meeting of the Ministerial Council comes to a close. I hope that these two days here in Madrid have been pleasant and productive for you. The Spanish Chairmanship has done its utmost to create an atmosphere conducive to dialogue and agreement because we are aware of the challenges we are facing in the OSCE. As the President of the Spanish Government, José Luis Rodríguez Zapatero, said at the opening session of this forum, all of us who meet under the OSCE banner are guided by the transforming force of dialogue and an active desire for consensus.

It has been a privilege for me to chair this Organization. In exercising this responsibility, I have been guided by the desire to restore the Organization's value as a forum for dialogue in which measures to promote security and co-operation are discussed and agreed upon. I have also promoted closer definition of the Organization's institutional framework and strengthened the spirit of belonging to a joint enterprise among participating States and the Partners for Co-operation. The OSCE has been adapted to the new challenges of the twenty-first century and to the processes resulting from globalization with a view to promoting certainties and solutions for the future.

Renewal of consensus and promotion of co-operation are in keeping with this spirit. I am pleased to announce that in Madrid we have attained significant achievements for our Organization, some of them crucial ones. There is no doubt that this is a result of the political will of the participating States to interlink and unite the three dimensions of the OSCE still further and to fulfil the objectives and priorities set by the Spanish Chairmanship.

First of all, and this is most important, I should like to point out that under difficult circumstances we have adopted a decision on the next three chairmanships for the period 2009–2011: Greece, Kazakhstan and Lithuania. I should like to congratulate these countries on having been selected, and believe that we should be pleased with their election. In this way, we are creating continuity in our work after the Finnish Chairmanship of 2008 and are

clearing up uncertainties. The decision taken on Kazakhstan's candidacy for the Chairmanship reflects the equality that exists among participating States and represents a new factor that will help to strengthen the commitment of the Central Asian countries to our Organization.

The Spanish Chairmanship has expanded the concept of security to include sustainable human development in an effort to embrace common horizons in our security and in its socio-economic and human dimension. The Madrid Declaration on Environment and Security that we have adopted represents a pioneering instrument at the multilateral level. In providing for links between the two concepts, the OSCE has placed itself in the vanguard by identifying one of the greatest challenges of our time — sustainability. In this connection, we should mention the adoption of another pioneering and most important decision, that on water management. The use and management of water must be improved, because the availability of water is a universal right essential for life and development; water is a resource that should promote peace and co-operation.

I believe that the decision on OSCE engagement with Afghanistan is also of importance, enabling us to strengthen our security and to recognize that it is totally linked to that of our partners. A way has been opened up for the Organization to bring its experience in and knowledge of stability building to this Asian country. In keeping with this effort, I wish to commend the work of the OSCE missions in the Caucasus, Central Asia and the Balkans, which are involved in capacity building and the strengthening of the rule of law in the host States. Their success lies in their disappearance once they have fulfilled their mandate. I hope that this goal is in sight for the OSCE Mission to Croatia and that it is reducing its operations with a view to closing them down as soon as possible.

In this same spirit, I welcome the OSCE's ability to generate a lively and sincere debate on the various regional statements that are negotiated each year. I applaud the efforts of the Ministers for Foreign Affairs of Armenia and Azerbaijan and the Co-Chairmen of the Minsk Group in making it possible to adopt a statement on the Nagorno-Karabakh conflict.

The adaptation of the OSCE to the present day and age involves an intensification of relations with our Partners for Co-operation. This has been another of the activities of the Spanish Chairmanship. Accordingly, I am entirely satisfied with the Declaration on the Mediterranean and Asian Partners for Co-operation, and glad that we have agreed to establish a fund to finance joint activities.

I sincerely believe that we have adopted a number of decisions of great importance for our security in the fight against terrorism: on public-private partnerships in countering terrorism, on protecting critical energy infrastructure against terrorist attacks, on supporting the United Nations Global Counter-Terrorism Strategy and on issues relevant to the Forum for Security Co-operation, a key body for consultations and the taking of decisions which Spain will have the honour to chair during the first quarter of 2008. In the human dimension, consensus has been attained in the fight against trafficking in human beings in the labour market, in combating sexual exploitation of children on the Internet and — in keeping with one of the priorities of the Spanish Chairmanship — in promoting mutual tolerance and understanding.

I also want to offer special thanks to the Ministers and Heads of Delegation for taking part in yesterday's informal lunch-time debate. I believe that this novel initiative of the

Spanish Chairmanship was very useful and confirmed the efficacy of the OSCE as a forum for dialogue. I take the liberty of recommending the continuation of such debates to future chairmanships.

Along with these achievements that stimulate optimism among us, I must not pass over the fact that we should broaden our collective ambition to deal with the urgency and the importance of future challenges that we must confront with responsibility and intelligence, with calm and efficiency. Unfortunately we have not managed to negotiate the pitfalls that lie between us and a Ministerial Declaration, although we have displayed enough will power not to abandon the common proposal of Ministerial Declarations. Since 2002, none have been approved, and I think we are becoming aware that without these instruments the political stature of the OSCE is being reduced while the Organization is deprived of orientation and the viability of our achievements and efficiency — if any remains — is diminished.

One of our main assets, namely the election observation activities carried out by the Office for Democratic Institutions and Human Rights (ODIHR) in collaboration with the Parliamentary Assembly, has obviously become a source of controversy. On the basis of the results achieved, I think we could consider in the future how to handle these valuable instruments we have at our disposal. However that may be, the ODIHR should continue to carry out its mission within the framework of the autonomy conferred upon it by its mandate and we, the participating States, should guarantee the fulfilment of our commitments in connection with election observation.

There has been no agreement, either, on how to solve one of the most relevant and practical problems confronting the OSCE, namely recognition of the Organization's legal personality in the international sphere. I believe that these failures should not discourage us — quite the contrary. We can give even greater impetus to debate in the Organization on questions related to its strengthening in the legal sphere, including the possibility of drafting a Charter or Founding Statute for the OSCE. This should not, in itself, be a matter for concern in any delegation. What is important would be the content, not the format. At the same time I want to recognize and congratulate the Working Group on its efforts, and I should like to see the text produced by this Working Group annexed to my Statement for practical purposes.

The OSCE must continue to be a privileged forum for co-ordination, dialogue and co-operation in our region. For that purpose, I believe we are committed to renewing our political will with a view to achieving a further reduction of conflict episodes and tension. I am referring to urgent subjects that were dealt with extensively at the Ministerial Council, matters on which we should frame agreements. We have taken a very important step by drawing up an agreement for extension of the OSCE Mission in Kosovo, bearing in mind the importance of the work done there to build a country truly subject to the rule of law.

The Chairmanship urges all States Parties to seek ways of overcoming the differences that separate us — mutually acceptable solutions that will enable us to maintain the viability and continued application of the CFE regime to which all States Parties are firmly committed. In this context, the Chairmanship appeals to Russia to reconsider its decision to suspend application of the CFE Treaty from 12 December 2007 onward — a decision which is bound to increase the uncertainties weighing on the European security system. At the present time, there are important proposals which could be subject to negotiation with a view to finding ways of overcoming the present impasse. I appeal to all States Parties to enhance their efforts,

guided by the fundamental principles of the OSCE, the CFE Treaty and, generally, a constructive attitude, to achieve a breakthrough now.

We still have a lot of work to do, a vast task before us, if we wish to convert security into a true defence of human liberties and human rights, a promise of economic growth, sustainable development and democratic and social coexistence. That being so, it is important, if we wish to make progress, to continue our dialogue and critical reflexion with a view to improving relevant aspects of our Organization.

In view of the experience accumulated during the last few months — including these days of intense debate — I want to tell you that I find myself reaffirmed in the conviction that it would be extremely useful if we planned another Summit meeting of Heads of State or Government to impart a decisive and firm thrust to our work.

Until the very end of the Spanish Chairmanship, as the representative of a participating State committed to the future of this Organization, I want to emphasize the constructive and open position which Spain will maintain with a view to renewing consensus in the OSCE. The forthcoming Finnish Chairmanship knows that it can count on our support in carrying out this shared enterprise where we are bound to establish fairly ambitious and grand political objectives because, as Seneca reminds us: “there are many things we don’t dare to do because they are difficult, but they are difficult because we don’t dare to do them”.

Thank you very much.

# **Report of the Chair of the informal Working Group at expert level tasked with finalizing a Draft Convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE**

## **Introduction**

The Ministerial Council of the OSCE decided on 5 December 2006 (Decision No. 16/06 Legal Status and Privileges and Immunities of the OSCE, Doc. MC.DEC/16/06) that “the work on a draft convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE will be continued on the basis of the text drafted by the legal experts in 2001 (redistributed as document CIO.GAL/188/06)” and “to establish an informal Working Group at expert level under the Permanent Council tasked with finalizing a draft convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE. The working group will submit this draft convention to the Ministerial Council through the Permanent Council for adoption by the Ministerial Council, if possible, in 2007”.

The Chairman of the Permanent Council, Ambassador Carlos Sánchez de Boado, invited the Permanent Representative of the Netherlands to the OSCE, Ambassador Ida van Veldhuizen-Rothenbücher, to be the Chair of the informal Working Group. Co-chair of the Working Group was the Deputy Legal Adviser of the Austrian Foreign Ministry, Ambassador Helmut Tichy. The Working Group held seven meetings in Vienna between March and October 2007. On the basis of the 2001 Draft Convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE (redistributed as document CIO.GAL/188/06), the Working Group thoroughly discussed all provisions of the Draft Convention and amended the text at several places. At the last meeting of the Working Group, which took place on 11 and 12 October 2007, consensus on a text of the Draft Convention was reached, be it with three footnotes. The text can be found annexed to this report.

## **Report**

### Background

Over the years the OSCE has increasingly experienced considerable practical problems due to the absence of legal personality, legal capacity, and privileges and immunities for the organization and for its staff. On various occasions attempts have been made to find solutions for these practical problems. In 2000 and 2001 an open-ended Working Group on OSCE legal capacity had several meetings under the chairmanship of Ambassador Helmut Tichy. A draft text was produced in 2001. During the years 2002-2005 occasional OSCE consultations and presentations of the problems of the legal personality took place. In 2006 a group of legal experts was tasked with reviewing the implications of the lack of international legal status and uniform privileges and immunities of the OSCE. This group therefore recommended that the work on a draft convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE be continued, on the basis of the text drafted in 2001, and that an open-ended Working Group be tasked to finalize a draft convention and to submit it through the Permanent Council to the Ministerial Council in 2007.

Against this background, and convinced of the need to finally agree on solutions for the practical problems mentioned above with which the OSCE has been confronted for so long, legal experts from capitals and members of delegations to the OSCE in a spirit of cooperation and compromise reached consensus on the details of a Draft Convention, albeit, on the request of two delegations, with three footnotes related to a Charter of the OSCE. Once the Convention entered into force, the OSCE would be able to conclude legally binding agreements with States and with other international organizations, and it would be able to provide its staff with the necessary legal status and protection. In elaborating these provisions, the Working Group has been successful to, on the one hand, follow the standard provisions on legal personality, legal capacity, and privileges and immunities applicable to other international organizations and, on the other hand, take into account the specific characteristics of the OSCE.

In the course of the discussions of the Working Group, the following main issues were raised:

#### Definition of the OSCE

Although agreement was reached in the end not to provide a substantive definition of the OSCE in the context of the Draft Convention, there was a clear understanding that the OSCE includes the OSCE Secretariat, institutions and field operations. This is also reflected in the definitions contained in Article 1.

#### OSCE Parliamentary Assembly

The question whether, and how, the draft Convention should also cover the OSCE Parliamentary Assembly, an autonomous body of the OSCE, was debated several times. During the meetings, the Chairperson repeatedly stated that the present Working Group was not the appropriate forum for a general discussion on the status of the OSCE Parliamentary Assembly. A solution to the question as to whether the draft Convention should provide privileges and immunities to the OSCE Parliamentary Assembly was finally found by granting its members, as well as officials of its secretariat, the same treatment as the category of "Other Persons Performing Tasks of the OSCE". For a number of delegations it was essential to specify that privileges and immunities could be granted to the OSCE Parliamentary Assembly only insofar as its members and officials take part in the work of the OSCE. For these delegations it was equally essential to insert that, in this context, the work of the OSCE is to be identified by the Chairman-in-Office.

#### Privileges and Immunities of OSCE Officials

The question whether members of the OSCE Secretariat, institutions and field operations should enjoy the same privileges and immunities or whether differentiations had to be made on the basis of functional needs was thoroughly discussed. Although many delegations stated that they would have preferred one single article on the privileges and immunities of all OSCE Officials, an agreement was reached in the end to have two separate articles. One article on the privileges and immunities of "Members of the Secretariat and Institutions" and another article on privileges and immunities of "Members of Field Operations". An important difference between those two articles relates to the immunity from personal arrest or detention, which is only granted to members of field operations. There was a general understanding that in case a member of the Secretariat or an Institution temporarily serves on mission outside his or her usual duty station, he or she will, in addition, enjoy the privileges and immunities of "Other Persons Performing Tasks of the OSCE".

## **Conclusion**

After at times long and difficult deliberations, the Chairperson of the informal Working Group is pleased to present a final text of the Draft Convention to the Chairman of the Permanent Council. However, two delegations requested a reference to a Charter in the text of the Draft Convention by means of three footnotes, two relating to Preamble provisions and one relating to Article 4.

The mandate of the Working Group does not cover the question of a Charter. Thus, the Working Group, which was open-ended, considers that its mandate has been fulfilled. Bearing in mind that the text of the Draft Convention was prepared by highly qualified legal experts from capitals and experienced members of Vienna delegations representing the participating States of the OSCE, the Chair recommends that the discussion on the text of the articles of the Draft Convention should not be re-opened.

In order to avoid footnotes in the text of the Draft Convention, during the last meeting of the Working Group the Chair proposed the following footnote to be attached to the title of the Convention: "Two delegations referred to the interpretative statement by the delegation of the Russian Federation concerning the Ministerial Decision No. 16/06 (MC.DEC/16/06 of 5 December 2006) that "the entry into force of a convention on privileges and immunities, if and when there is agreement on a draft, will be possible only in conjunction with the entry into force of a statute or charter of the OSCE". This proposal received a very broad positive support, however, the two delegations which had requested the footnotes mentioned above were not in a position to agree to lift them.

The Chair of the Working Group would like to recommend to submit to the Ministerial Council in Madrid through the Permanent Council the final text of the Working Group on the Draft Convention on the international legal personality, legal capacity, and privileges and immunities.

Finally, the Chair would like to thank the Chairman of the Permanent Council for his confidence and the Co-chair, Ambassador Tichy, and Legal Services of the OSCE Secretariat for their commitment and creativity during many sessions of difficult negotiations as well as Conference Services for their full support. The Chair would also like to thank all delegations of the participating States for their cooperation in fostering a climate essential to meeting the Ministerial Council's request to finalize a draft of the Convention on the legal personality, legal capacity, and privileges and immunities of the OSCE.

Ida van Veldhuizen-Rothenbücher

Vienna, 22 October, 2007

Annex: Final Document of the informal Working Group on the Draft Convention on the international legal personality, legal capacity, and privileges and immunities of the OSCE

# **DRAFT CONVENTION ON THE INTERNATIONAL LEGAL PERSONALITY, LEGAL CAPACITY, AND PRIVILEGES AND IMMUNITIES OF THE OSCE**

The States Parties to the present Convention,

[ ]<sup>1</sup>

Recognizing the need for the OSCE to possess international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes<sup>2</sup>, and

Recognizing the need for the OSCE and its staff to enjoy such privileges and immunities as are necessary for the exercise of the functions and the fulfilment of the purposes of the OSCE,

Have agreed as follows:

## **Article 1 Definitions**

For the purpose of the present Convention:

- (a) “OSCE” shall refer to the Organization for Security and Co-operation in Europe.
- (b) “Participating States” shall refer to the OSCE participating States.
- (c) “States Parties” shall refer to the participating States for which the present Convention has entered into force in accordance with Article 22 below.
- (d) “Representatives of participating States” shall refer to participating States’ delegates, deputy delegates, advisers, technical experts and secretaries of delegations.
- (e) “Permanent Representations” shall refer to the Permanent Representations of the participating States to the OSCE.
- (f) “Institutions” shall refer to the Office for Democratic Institutions and Human Rights (ODIHR), the Office of the High Commissioner on National Minorities (HCNM), the Office of the Representative on Freedom of the Media (FOM) and any other institution established by OSCE decision-making bodies.

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<sup>1</sup> Two delegations requested to insert as the first paragraph of the preamble [“Referring to the appropriate provisions of the OSCE Charter which require to define the privileges and immunities of the OSCE in a separate multilateral agreement,”].

<sup>2</sup> Two delegations requested to insert [“as they are set forth in the OSCE Charter”].



- (g) “Field Operations” shall refer to the OSCE Field Operations, including OSCE Missions, Centres, Presences, Offices, Project Co-ordinators and other types of field operations established by OSCE decision-making bodies.
- (h) “Secretary General” shall refer to the Secretary General of the OSCE.
- (i) “Members of the Secretariat and Institutions” shall refer to the Secretary General, the Heads of Institution, as well as to the staff members of the OSCE Secretariat and Institutions, but shall not include persons who are locally recruited and receive an hourly or daily rate of pay.
- (j) “Members of Field Operations” shall refer to staff members of Field Operations, including the Heads of Mission, but shall not include persons who are locally recruited and receive an hourly or daily rate of pay.
- (k) “Other Persons Performing Tasks of the OSCE” shall refer to:
  - (i) OSCE experts on mission;
  - (ii) representatives of the OSCE Chairmanship-in-Office;

but shall not include persons who are locally recruited and receive an hourly or daily rate of pay.

For the purposes of the present Convention, members of the OSCE Parliamentary Assembly, as well as officials of its secretariat, taking part in the work of the OSCE as identified by the OSCE Chairman-in-Office, shall be treated as Other Persons Performing Tasks of the OSCE.

- (l) “Premises of the OSCE” shall refer to the buildings, parts of buildings and the land, including installations, facilities made available, maintained, occupied or used by the OSCE in connection with its functions and purposes.

## **Article 2**

### **OSCE Decision-Making Process, OSCE Commitments**

1. Nothing in the present Convention shall affect the OSCE decision-making process.
2. Nothing in the present Convention shall be construed to create any legal obligation for any State Party other than the obligations expressly set forth herein, nor shall anything in the present Convention affect the political, non-legally binding character of the OSCE commitments of the participating States.

## **Article 3**

### **International Legal Personality**

The OSCE shall possess international legal personality.

## **Article 4**

### **Legal Capacity**

The OSCE shall possess such legal capacity as is necessary for the exercise of its functions<sup>3</sup>, including the capacity to contract, to acquire and dispose of movable and immovable property, and to institute and participate in legal proceedings.

## **Article 5**

### **OSCE Premises, Property and Assets**

1. The premises of the OSCE shall be inviolable.
2. The property of the OSCE and its assets, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action, except insofar as in any particular case it has expressly waived its immunity.

## **Article 6**

### **Archives of the OSCE**

The archives of the OSCE, and in general all documents belonging to it or held by it, shall be inviolable wherever located and by whomsoever held.

## **Article 7**

### **Immunity from Jurisdiction and Execution**

1. The OSCE, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from any form of legal process except insofar as in any particular case it has expressly waived its immunity. It is, however, understood that such waiver of immunity does not extend to any measure of execution, for which a separate waiver shall be necessary.
2. The OSCE shall have insurance coverage against third party risks in respect of vehicles owned or operated by it, as required by the laws and regulations of the State where the vehicle is operated.

## **Article 8**

### **Tax Exemptions**

1. The OSCE, its assets, income and other property shall be exempt from all direct taxes; it being understood, however, that the OSCE shall not claim exemption from taxes which are, in fact, no more than charges for public utility services.

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<sup>3</sup> Two delegations requested to insert [“as they are set forth in the OSCE Charter”].

2. Where goods or services of substantial value necessary for the exercise of the functions of the OSCE are purchased, and when the price of such goods and services includes taxes or duties, the State Party that has levied taxes or duties shall grant, whenever possible, exemption or provide reimbursement of the amount of duty or tax.

## **Article 9 Customs Privileges**

The OSCE, its assets, income and other property shall be exempt from customs duties on imports and exports in respect of articles imported or exported by the OSCE for its official use; it being understood, however, that articles imported under such exemption shall not be sold, leased or given away in the territory of the State Party into which they were imported except under conditions agreed with the competent authorities of that State Party.

## **Article 10 Financial Controls**

Without being restricted by financial controls, regulations or moratoria of any kind, the OSCE shall be:

- (a) able to hold funds and keep accounts in all currencies to the extent necessary for the exercise of operations corresponding to its functions;
- (b) free to transfer its funds or currency from one country to another or within any country and to convert any currency held by it into another currency.

## **Article 11 Facilities in Respect of Communications**

1. For the purpose of its official communications and correspondence, the OSCE shall enjoy in the territory of each State Party, treatment not less favourable than that which the State Party accords to any intergovernmental organization or diplomatic mission in the matter of priorities, rates and taxes applicable to mail and the various forms of communication and correspondence.

2. The OSCE may use all appropriate means of communication and make use of codes or cipher for its official communications or correspondence. The official communications and correspondence of the OSCE shall be inviolable.

3. No censorship shall be applied to the official communications and correspondence of the OSCE.

4. The OSCE Secretariat, Institutions and Field Operations shall have the right to dispatch and receive correspondence and other materials or communications amongst themselves by courier or in sealed bags, which shall have the same privileges, immunities and facilities as diplomatic couriers and bags.

## **Article 12**

### **Flags and Symbols**

The OSCE and representatives of the OSCE Chairmanship-in-Office shall have the right to use OSCE symbols and flags for official purposes, on their premises and vehicles.

## **Article 13**

### **Permanent Representations**

States Parties in whose territory Permanent Representations are located shall accord diplomatic privileges and immunities in conformity with the Vienna Convention on Diplomatic Relations of 1961 to those representations and their staff.

## **Article 14**

### **Representatives of Participating States**

1. Representatives of participating States attending OSCE meetings or taking part in the work of the OSCE shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

- (a) Immunity from personal arrest or detention.
- (b) Immunity from legal process, even after they are no longer the Representatives of participating States, in respect of words spoken or written and all acts performed by them in their capacity as representatives.
- (c) Inviolability for all papers and documents in whatever form.
- (d) Exemption in respect of themselves and their spouses and relatives dependent on them from immigration restrictions and alien registration or national service obligations in the State they are visiting or through which they are passing in the exercise of their functions.
- (e) The same privileges in respect of currency and exchange facilities as are accorded to diplomatic agents of foreign States.
- (f) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents of foreign States.
- (g) The right to use codes and to receive papers or correspondence by courier or in sealed bags.

2. Applications for visas, where required, from Representatives of participating States attending OSCE meetings or taking part in the work of the OSCE, shall be dealt with as speedily as possible.

3. The provisions of paragraph 1 above shall not apply as between a representative and the State of which he or she is or has been the representative.

## **Article 15**

### **Members of the Secretariat and Institutions**

1. Members of the Secretariat and Institutions shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions. In particular, they shall be accorded:
  - (a) Immunity from legal process, even after the termination of their appointment with the OSCE, in respect of words spoken or written and all acts performed by them in their official capacity.
  - (b) Inviolability for all papers and documents in whatever form.
  - (c) Exemption from taxation on the salaries, allowances and other emoluments paid to them by the OSCE provided that these incomes are subject to a staff assessment for the benefit of the OSCE. However, States Parties may take these incomes into account in calculating the amount of tax to be levied on the taxable income originating from other sources.
  - (d) Exemption from the social security regulations of the host State as well as from all compulsory contributions to national social security schemes of any other State Party, provided that they are covered by the social security scheme of the OSCE. This exemption does not preclude any voluntary participation in a national social security scheme in accordance with the law of the State Party concerned neither does it require a State Party to make payments of benefits under social security schemes to Members of the Secretariat and Institutions who are exempt under the provision of this subparagraph.
  - (e) Exemption from national service obligations.
  - (f) Exemption in respect of themselves and their spouses and relatives dependent on them from immigration restrictions and alien registration. Applications for visas, where required, shall be dealt with as speedily as possible.
  - (g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents.
  - (h) The same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions established in the State Party concerned.
  - (i) The same repatriation facilities in time of international crisis as diplomatic agents, in respect of themselves and their spouses and relatives dependent on them.

- (j) The right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to export the same free of duty when they leave their post.
2. States Parties shall not be obliged to accord to their own nationals or permanent residents the privileges and immunities referred to under paragraph 1, except those granted under item (a) for acts performed in their official capacity. States Parties which do not grant exemption from taxation under their national law shall consider concluding an agreement with the OSCE for the reimbursement of national income tax paid to them by the Members of the Secretariat and Institutions.
3. In addition to the privileges and immunities specified in paragraph 1 above, the Secretary General shall be accorded in respect of him/herself, his/her spouse and relatives dependent on him/her the privileges and immunities, exemptions and facilities accorded to heads of diplomatic missions in accordance with international law. The same shall apply to the Heads of Institution in respect of themselves, their spouses and relatives dependent on them in the country of their duty station.

## **Article 16**

### **Members of Field Operations**

1. Members of Field Operations shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions during the period of their mission. In particular, in the State Party in which the Field Operation is established, and in other State Parties when travelling in connection with their duties, they shall be accorded:
- (a) Immunity from personal arrest or detention.
  - (b) Immunity from legal process, even after the termination of their appointment with the OSCE, in respect of words spoken or written and all acts performed by them in their official capacity.
  - (c) Inviolability for all papers and documents in whatever form.
  - (d) Exemption from taxation on the salaries, allowances and other emoluments paid to them by the OSCE provided that these incomes are subject to a staff assessment for the benefit of the OSCE. However, States Parties may take these incomes into account in calculating the amount of tax to be levied on the taxable income originating from other sources.
  - (e) Exemption from the social security regulations of the host State as well as from all compulsory contributions to national social security schemes of any other State Party, provided that they are covered by the social security scheme of the OSCE. This exemption does not preclude any voluntary participation in a national social security scheme in accordance with the law of the State Party concerned neither does it require a State Party to make payments of benefits under social security schemes to Members of Field Operations who are exempt under the provision of this sub-paragraph.

- (f) Exemption from national service obligations.
- (g) Exemption in respect of themselves and their spouses and relatives dependent on them from immigration restrictions and alien registration. Applications for visas, where required, shall be dealt with as speedily as possible.
- (h) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents.
- (i) The same privileges in respect of currency and exchange facilities as are accorded to the officials of comparable rank forming part of diplomatic missions established in the State Party concerned.
- (j) The same repatriation facilities in times of international crises as diplomatic agents, in respect of themselves and their spouses and relatives dependent on them.
- (k) The right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to export the same free of duty when they leave their post.

2. States Parties shall not be obliged to accord to their own nationals or permanent residents the privileges and immunities referred to under paragraph 1, except those granted under items (a) and (b) for acts performed in their official capacity. States Parties which do not grant exemption from taxation under their national law shall consider concluding an agreement with the OSCE for the reimbursement of national income tax paid to them by Members of Field Operations.

3. In addition to the privileges and immunities specified in paragraph 1 above, the Heads of Mission shall be accorded in respect of themselves, their spouses and relatives dependent on them in the country of their duty station the privileges and immunities, exemptions and facilities accorded to heads of diplomatic missions in accordance with international law.

## **Article 17**

### **Other Persons Performing Tasks of the OSCE**

1. Other Persons Performing Tasks of the OSCE shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

- (a) Immunity from personal arrest or detention.
- (b) Immunity from legal process, even after the termination of their appointment with the OSCE, in respect of words spoken or written and all acts performed by them in their official capacity.
- (c) Inviolability for all papers and documents in whatever form.

- (d) For the purpose of their communications with the OSCE, the right to use codes and to receive papers or correspondence by courier or in sealed bags.
  - (e) Exemption from the social security regulations of the host State as well as from all compulsory contributions to national security schemes of any other State Party, provided that they are covered by the social security scheme of the OSCE. This exemption does not preclude any voluntary participation in a national social security scheme in accordance with the law of the State Party concerned neither does it require a State Party to make payments of benefits under social security schemes to Other Persons Performing Tasks of the OSCE who are exempt under the provision of this sub-paragraph.
  - (f) Exemption from immigration restrictions and alien registration. Applications for visas, where required, shall be dealt with as speedily as possible.
  - (g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents.
  - (h) The same privileges in respect of currency and exchange facilities as are accorded to representatives of foreign Governments on temporary official missions.
  - (i) The same repatriation facilities in time of international crisis as diplomatic agents.
2. States Parties shall not be obliged to accord to their own nationals or permanent residents the privileges and immunities referred to under paragraph 1 (a) except for acts performed in their official capacity, and paragraph 1 (e) to (i).

## **Article 18**

### **Waiver of Immunities**

1. Privileges and immunities are accorded not for the personal benefit of the individuals concerned, but in order to safeguard the independent exercise of their functions and in the interest of the OSCE.
2. The OSCE shall co-operate at all times with the appropriate authorities of the participating States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Convention.
3. A participating State not only has the right, but is under a duty to waive the immunity of its representative in any case where in its opinion the immunity would impede the course of justice and it can be waived without prejudice to the purpose for which the immunity is accorded.
4. Where the immunity would impede the course of justice and it can be waived without prejudice to the functioning of the OSCE, the following authorities shall have the right and the duty to waive immunities:



- (a) The Permanent Council upon request of the Secretary General with respect to the OSCE.
- (b) The OSCE Chairman-in-Office with respect to the Secretary General, the Heads of Institution, and the Heads of Mission and their deputies.
- (c) The Secretary General in consultation with the OSCE Chairman-in-Office with respect to Members of the Secretariat and Institutions and Members of Field Operations other than those falling under (b).
- (d) The OSCE Chairman-in-Office with respect to his/her representatives.
- (e) The Secretary General with respect to Other Persons Performing Tasks of the OSCE other than those falling under (d), (f) and (g).
- (f) The OSCE Chairman-in-Office upon request of the Standing Committee of the OSCE Parliamentary Assembly with respect to the members of the OSCE Parliamentary Assembly and the Secretary General of the OSCE Parliamentary Assembly.
- (g) The OSCE Chairman-in-Office upon request of the Secretary General of the OSCE Parliamentary Assembly with respect to the other officials of its secretariat.

## **Article 19**

### **OSCE Identity Cards**

In order to assist States Parties in identifying individuals who are entitled to privileges and immunities set forth in this Convention, the OSCE may issue an OSCE Identity Card to persons entitled to such privileges and immunities. The document, which shall not substitute for ordinary travel documents, shall be issued in accordance with the form set out in Annex A and will entitle the bearer to the treatment specified herein.

## **Article 20**

### **Settlement of Disputes**

The OSCE shall make provisions for appropriate modes of settlement of:

- (a) Disputes arising out of contracts or other disputes of a private law character to which the OSCE is a party, in circumstances where the waiver of immunity of the OSCE is not exercised by the Secretary General.
- (b) Disputes involving Members of the Secretariat and Institutions, Members of Field Operations or Other Persons Performing Tasks of the OSCE, who by reason of their official position enjoy immunity, if immunity has not been waived.

## **Article 21**

### **Settlement of Disputes concerning the Convention**

Disputes concerning the interpretation or application of the present Convention shall be settled by consultations or any other mode of settlement agreed on between the OSCE and the State(s) Party(ies) or between the States Parties involved in the dispute.

## **Article 22**

### **Signature and Entry into Force**

1. The present Convention shall be open for signature at ... by all participating States until .... It shall be subject to ratification, acceptance or approval.
2. The participating States which have not signed the present Convention may subsequently accede thereto.
3. The present Convention shall enter into force sixty days after the date of deposit of the instruments of ratification, acceptance, approval or accession by two-thirds of the participating States.
4. For every participating State which ratifies, accepts, approves or accedes to the present Convention after the date of its entry into force, the present Convention shall enter into force sixty days after the date of deposit of its instrument of ratification, acceptance, approval or accession.
5. The Secretary General shall serve as depositary of the present Convention.

## **Article 23**

### **Provisional Application of the present Convention**

A participating State may declare at any time that it will apply the present Convention provisionally until it enters into force for it in accordance with paragraphs 3 and 4 of Article 22.

## **Article 24**

### **Amendments**

1. Any State Party may, by written communication addressed to the depositary, propose amendments to the present Convention. The depositary shall circulate this communication to all States Parties.
2. If, within ninety days from the date of circulation of the proposal for amendments, one third of the States Parties notify the depositary that they agree to convene a conference of the States Parties to consider that proposal, the depositary shall convene such a conference. The text of any amendment adopted by the conference shall be forwarded by the depositary

to States Parties for acceptance in accordance with their respective constitutional requirements.

3. Any such amendment shall come into force on the sixtieth day after all States Parties have notified the depositary of their acceptance thereof.

4. States Parties acceding to the Convention after any amendments thereto have entered into force shall be deemed to have acceded to the present Convention as amended.

## **Article 25**

### **Denunciation**

1. Any State Party may, at any time, denounce the present Convention by means of a notification addressed to the depositary.

2. Such denunciation shall become effective one year after the date of receipt of the notification by the depositary.

Done at ... on ... in the English, French, German, Italian, Russian and Spanish languages, all six language versions being equally authentic.

**ANNEX A**  
**OSCE IDENTITY CARD**

Name:

Surname:

Date of Birth:

National of:

Holder of passport/diplomatic passport no. ..., issued on ..., by ... .

It is hereby certified that the person named in the present document is on official business of the Organization for Security and Co-operation in Europe ("OSCE") during the period from ... to ... in the following OSCE participating State(s) ... .

The OSCE hereby requests all whom it may concern that the person named herein:

- be allowed to pass without delay or hindrance,
- in case of need be accorded all necessary lawful assistance and protection.

This document does not replace travel documents that may be required for entry or exit.

Issued in ... on ... by ... (relevant OSCE authority)

Signature:

Title:

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Note: The document will be issued in the six official OSCE languages. It will also contain a translation into the language or languages of the country or countries which the holder of the document will visit as well as a translation into the language or languages used by those military or police forces which might be present in the area of the duty travel.