

# OSCE HUMAN DIMENSION COMMITMENTS

Volume 1  
*Thematic Compilation*

SECOND EDITION





# OSCE HUMAN DIMENSION COMMITMENTS

Volume 1

Thematic Compilation

2nd Edition

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# Foreword

I am pleased to present this second edition of our reference guide to OSCE human dimension commitments in the year when we celebrate the 30th anniversary of the Helsinki Final Act. Signed in 1975, the Final Act remains a fundamental cornerstone not only of the wider security framework in Europe and throughout the OSCE region, but it is also guides the work of my institution, the OSCE's Office for Democratic Institutions and Human Rights.

The Helsinki Final Act was the first international document that recognized the protection of human rights and fundamental freedoms as a matter of international concern. It is one of 10 fundamental principles of interstate relations, on the same level and status as the classical rules of international relations we have known since the beginning of the modern age.

But the world has changed considerably since 1975. And so has the framework developed by the OSCE for the entire region. Since the historic changes of 1989, the states of Europe have taken the basic outline of the Helsinki Final Act and developed it into a comprehensive set of norms and standards, in particular with respect to human rights. These basic rights, together with democracy and the rule of law, are the building blocks of what the OSCE terms the human dimension of security.

At the 1990 Copenhagen Conference on the Human Dimension, OSCE states laid the groundwork for what would become the fundamental rule book for the entire OSCE region, the *acquis* of many of the world's developed democracies. It has, so far, not been matched by any comparable international exercise and continues to guide us in our daily work.

Thus, the Helsinki framework has been further developed ever since and has become a comprehensive set of standards. While the details of all of the related commitments can be found in this compilation, their essence is to be found in a few basic principles: that respect for human rights and fundamental freedoms is at the heart of the OSCE's concept of security; and that states are accountable to all of their citizens, and to one another, for ensuring that these rights and freedoms are indeed respected and protected.

The OSCE states have affirmed that the ODIHR, together with the High Commissioner on National Minorities and the Representative on Freedom of the Media are

essential instruments in ensuring respect for human rights, democracy, and the rule of law.

In 2001, the ODIHR produced a compilation of human dimension commitments in order to facilitate access to them. This compilation has been an invaluable reference tool for all of us involved in promoting human rights, democracy, and the rule of law. However, new pledges and decisions made by the OSCE call for a continued update. This revised compilation contains chronological and thematic parts, and is now published in two volumes due to its expanding body of commitments.

In the end, it all comes down to what US President Gerald Ford said after signing the Helsinki Final Act thirty years ago, namely that it does not matter what promises we make, but what promises we keep. The OSCE participating States have created an impressive body of norms and principles in the area of the human dimension. I hope that the present publication will further promote the knowledge and the implementation of the many commitments that the OSCE participating States have made to benefit their one billion inhabitants.

*Ambassador Christian Strohal*  
*Director of the OSCE Office for Democratic Institutions and Human Rights*

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## Foreword to the First Edition

From the outset, the Conference on Security and Co-operation in Europe (CSCE), later transformed into the Organization for Security and Co-operation in Europe (OSCE), has been very much a “work in progress”, an on-going process that has led to a significant expansion of its normative foundations. This expansion accelerated rapidly following the end of the Cold War, in a spirit of openness and change that very much characterizes the Charter of Paris for a New Europe and other documents adopted in the early 1990s.

Since the signing of the Helsinki Final Act in 1975, the CSCE/OSCE has accumulated a substantial body of commitments in the fields of human rights, democracy, rule of law and national minorities. These commitments relating to the so-called human dimension of the OSCE are contained in an ever-growing set of documents adopted by CSCE/OSCE Summits and other political forums. As a result, it has become increasingly difficult to survey the achievements that have been made in developing new standards for the CSCE/OSCE area.

As early as 1992, the Helsinki Summit recommended “the drawing up of compilations of existing CSCE Human Dimension commitments in order to promote greater understanding of the implementation of these commitments”. Subsequently, the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) produced in 1995 a chronological compilation of human dimension commitments. This compilation represented a first and important step towards facilitating access to the OSCE’s body of commitments. However, five years and two OSCE Summits later, that publication has become outdated. Moreover, its usefulness had always been limited due to its purely chronological structure and the absence of an index.

In the year of the 10th anniversary of the OSCE/ODIHR, the OSCE’s main institution dealing with the human dimension, I am pleased to present to the public a completely revised compilation of OSCE human dimension commitments, which contains not only an update of the chronological part, but also, for the first time ever, a thematic part listing all relevant human dimension commitments topic-by-topic.

I am convinced that this publication represents a much-needed, user-friendly and practical tool for governments, OSCE personnel and the general public to easily access OSCE commitments on specific topics, as well as chronologically.

One of the reasons for the success of the Helsinki Final Act was the agreement by all signatory States to publish the document and disseminate it in their countries as widely as possible. This enabled the citizens of the participating States to inform themselves about the commitments their governments had undertaken and to call their country's leadership to account for failing to put these commitments into practice.

By publishing and distributing this compilation, the OSCE/ODIHR seeks to contribute to a better knowledge and understanding of OSCE commitments in the field of the human dimension — among the OSCE governments as well as among the citizens and civil society actors in the OSCE region. I strongly hope that this publication thus will ultimately also foster further progress in the implementation of these commitments by the governments of the OSCE participating States.

*Ambassador Gérard Stoudmann*

*Director of the OSCE Office for Democratic Institutions and Human Rights, 1997-2002*

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## Preface: How to Use This Compilation

Beginning with the Helsinki Final Act in 1975, the now 55 participating States of the OSCE region have adopted a large number of politically binding commitments relating to what has become known as the *human dimension* of the OSCE's comprehensive security concept. The selection of commitments contained in the thematic and the chronological parts of this publication was made on the basis of a definition of the term human dimension as it is used today, encompassing all aspects related to human rights and fundamental freedoms; democracy, including democratic elections and democratic governance and institutions; tolerance and non-discrimination; and the rule of law, as well as to national minorities, human contacts, and international humanitarian law.<sup>1</sup> In addition, the compilation includes provisions for mechanisms to monitor the implementation of these commitments, as well as the basic mandates of the OSCE institutions active in the field of the human dimension.

The documents used for this publication were signed, or otherwise adopted, by various high-level CSCE/OSCE forums. While these documents do not have the character of legally binding treaties under international law, they represent political commitments, adopted by consensus and binding on each participating State. As they are all adopted by consensus, they are, as it were, of immediate effect and are immediately applicable and can be invoked by any citizen or OSCE government directly vis-à-vis any government of a participating State. Moreover, OSCE commitments reinforce, rather than duplicate, obligations contained in international law and conventions, as they contain a commitment to implement those, and to do so in good faith.

The human dimension provisions contained in this compilation are laid down in the documents that emerged from summits, follow-up meetings, conferences on the human dimension, and, where relevant, Ministerial Council meetings since 1975. Also included are documents that were produced by relevant expert meetings and later incorporated into the CSCE/OSCE body of commitments by other forums.

While the goal of this publication is to present a comprehensive account of the OSCE's normative basis in the field of the human dimension, no attempt has been made to produce a complete inventory of every part of a sentence that could possibly be con-

<sup>1</sup> This definition is also reflected in the agenda of the annual OSCE Human Dimension Implementation Meeting.

ceived to have a human dimension aspect. It should be stressed that while this compilation focuses on the human dimension, and therefore human rights and democracy, OSCE commitments should always be read and understood in the context of the comprehensive security concept, which also encompasses politico-military issues, as well as economic and environmental aspects. The fact that a particular commitment has or has not been included in this compilation does not mean that it is not relevant. For reasons of pure practicality, a line had to be drawn somewhere, as the intention was to provide a user-friendly reference guide, rather than an encyclopaedia. It is intended for use by government officials and civil society organizations, academics, students, and practitioners alike.

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# The Human Dimension of the OSCE: An Introduction

This year, the Organization for Security and Co-operation in Europe (OSCE) is commemorating the 30th anniversary of the signing of its founding document, the Helsinki Final Act. Since 1975, the OSCE has created a large set of human rights norms and standards that are generally reflective of traditional human rights norms and concepts as enshrined in other international human rights treaties and declarations. Building on these, however, the OSCE has also developed a number of standards that are highly innovative both in terms of style and substance.

This publication is intended to make OSCE commitments more accessible to citizens and governmental officials alike, in keeping with one of the most important lessons learned in the Helsinki process. Human rights start with an element of empowerment, or with the “right to know your right”. When the Helsinki Final Act was adopted, participating States were committed to making the document widely accessible. This helped spark the creation of many important human rights groups, such as the Helsinki groups and Charter 77, which found the reference for their work in the Helsinki process and contributed to the collapse of Communist monopoly rule in Central and Eastern Europe. The OSCE human rights framework has thus been one of the most effective human rights frameworks, and it continues to play an important role today.

It is a unique framework, comprising a set of documents that, among other innovations, makes human rights an issue of legitimate concern between states. Its basis can be found in the Helsinki Final Act, but subsequent documents such as the 1990 Copenhagen Document and the 1990 Charter of Paris for a New Europe have added other important foundations that are needed to understand the OSCE human dimension as it exists today.

The purpose of this article is to provide guidance on how to read and use these norms and to give an introduction to some of the basic aspects of the human dimension of the OSCE.<sup>2</sup>

<sup>2</sup> The Conference on Security and Co-operation in Europe (CSCE) was renamed the Organization for Security and Co-operation in Europe (OSCE) in 1994. For practical purposes, only the term OSCE will be used in this article.

## A. The main foundations

### 1. Human rights and the OSCE's comprehensive concept of security

The OSCE was created as a *security organization*. However, it does not deal exclusively with issues of military security, disarmament, or border issues. Based on a broad concept of security, it deals equally with human rights. The OSCE considers security more than merely the absence of war. Instead, it was the intention of the OSCE participating States to create a comprehensive framework for peace and stability in Europe. The Helsinki Final Act acknowledges as one of its 10 guiding principles the “(r)espect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief”. This constitutes a milestone in the history of human rights protection. For the first time, human rights principles were included as an explicit and integral element of a regional security framework on the same basis as politico-military and economic issues. This acknowledgement has been reinforced by numerous follow-up documents. It is therefore now well established and beyond question. There is no hierarchy among these principles, and no government can claim that they have to establish political or economic security before addressing human rights and democracy.

Recent history proves the validity of the OSCE concept that a free society allowing everyone to fully participate in public life is a safeguard against conflict and instability. For example, the exclusion of individuals or certain groups from society, sometimes on ethnic grounds, has led to tensions and sometimes even armed conflict. The impact of refugee crises on security, often as a result of massive human rights abuses, is another example.

In OSCE terminology, the term *human dimension* is used to describe the set of norms and activities related to human rights, democracy, and the rule of law, which is regarded within the OSCE as one of three dimensions of security, together with the politico-military and the economic and environmental dimensions. The term also indicates that the OSCE norms in this field cover a wider area than traditional human rights law.

### 2. The OSCE “process”

Since its beginnings, the OSCE has followed a process approach. The Helsinki Final Act provides for regular follow-up conferences and meetings. This is very important for understanding the OSCE human rights framework.

First, it means that there is a forum for discussing the implementation of the standards agreed in previous meetings. Second, it has led to a set of successive OSCE documents specifying and elaborating the human dimension commitments adopted in past documents. As a result, the OSCE has developed a very flexible and dynamic norm-creating process in the human rights field, a process that is ongoing. Among the innovations adopted in recent documents is, for example, the acknowledgement of trafficking in human beings, previously treated most often in an organized-crime context, as a human rights concern (Vienna Ministerial Council 2000).



OSCE commitments generally take the form of documents adopted by consensus at OSCE summits or ministerial meetings. Each meeting takes place in a particular political climate and context. Not surprisingly, the OSCE summits have therefore played different roles in creating new commitments. Whereas some meetings, in particular in the early 1990s, created a large set of important new norms, others restricted themselves to minor changes and additions.

This process approach has led to a large number of OSCE documents. As a result, it is not always easy for practitioners to find out which standards apply to a specific situation, in particular as each document contains, to a varying degree, repetitions and innovations. As a basic guideline, the user should note that all documents together form the existing framework of the OSCE. Thus, a document does not become invalid when new documents are adopted. The documents build on each other and constitute what could be called the OSCE *acquis*. They have been adopted by consensus and thus are politically binding on all OSCE participating States. This also applies to newly admitted participating States, which are required to accept the *acquis* upon accession.

Consequently, a user should not rely only on a single document, but should check the whole range of existing documents in order to find the actual scope of commitments on a given right or fundamental freedom. Often, an early document stipulates only a general principle that then is further elaborated in subsequent documents. However, since the commitments and documents build on each other, a commitment in an early document does not lose its force if a subsequent document has only a general reference to this right.

At the same time, each document as a whole reflects a specific historical context and its structure follows a certain logic that puts the different parts of the document in a wider context. Reading the document in its entirety can thus equally provide important information as to the understanding and interpretation of the norms concerned. This explains the dual approach in this compilation, which consists of thematic and chronological components.

### 3. Human dimension commitments and pluralistic democracy based on the rule of law

In a number of cases, OSCE human dimension commitments go far beyond the level provided for in “traditional”, legally binding human rights instruments. In traditional human rights treaties, individual (or group) rights are formulated, and the state party has the obligation to respect and/or guarantee those rights. How to implement these obligations, however, is most often left to the discretion of the states.

The OSCE human dimension goes much further in linking human rights with the institutional and political system of a state. In essence, OSCE states have agreed through their human dimension commitments that pluralistic democracy based on the rule of law is the only system of government suitable to guarantee human rights effectively.

This explains why the OSCE human dimension has been described as a common pan-European public order (*ordre public*). In other words, the OSCE is not simply an organization of 55 participating States but a “community of values”. This linkage is also reflected in the strong commitment to the rule of law and in the way it is formulated, as

a concept based on the dignity of the human person and a system of rights through law/legal structures.

#### 4. Politically binding commitments

The OSCE process is essentially a political process that does not create legally binding norms or principles. Unlike many other human rights documents, OSCE human dimension commitments are politically, rather than legally, binding. This is an important distinction since it limits the legal enforceability of OSCE standards. In other words, OSCE commitments cannot be enforced in a court of law. However, this should not be mistaken as indicating that the commitments lack binding force. The distinction is between *legal* and *political* and not between *binding* and *non-binding*. This means that OSCE commitments are more than a simple declaration of will or good intentions; rather, they are a political promise to comply with these standards.

While deliberations on international legal documents usually take considerable time until agreement on a final text is reached, and the final documents are subject to ratification and reservations, this does not apply to OSCE documents. Their political nature leads to the unique situation that, once consensus among the states has been achieved, decisions enter into force immediately and, in principle, are binding upon all OSCE states (the so-called universality principle).

This allows the OSCE to react quickly to new needs. For example, when human rights violations in regard to minorities increased in the beginning of the 1990s, it was the OSCE that reacted first and drafted a comprehensive set of standards in the field of minority protection. Later, these political standards served as basis for the legally binding Council of Europe Framework Convention on the Protection of National Minorities.

#### 5. Human rights as a matter of international concern

A fundamental aspect of the OSCE's human dimension is that human rights and pluralistic democracy are not considered an internal affair of a state. The participating States have stressed that issues relating to human rights, fundamental freedoms, democracy, and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of the international order. In fact, the participating States "categorically and irrevocably" declared that the "commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned" (Moscow Document, 1991). Therefore, OSCE participating States are no longer in a position to invoke the non-intervention principle to avoid discussions about human rights problems within their countries. This explains why the OSCE is not only a community of values but also a community of responsibility. And it has to be stressed that this responsibility focuses not only on the right to criticize other states concerning violations of human dimension commitments but also on the duty to assist each other in solving specific problems.

## 6. Limitations and relation to international human rights treaties

OSCE commitments reflect traditional human rights and freedoms, as well as some areas beyond the scope of traditional human rights law. As in other human rights treaties, an important question is the extent to which rights can be limited. This is important for any practitioner trying to identify whether or not a specific right has been violated. Some of the freedoms stipulated by the OSCE contain specific limitation clauses. However, the OSCE Copenhagen Document stipulates an important general rule for those rights mentioned in this document. They will not be subject to any restrictions except those provided for by the law and consistent with other obligations under international law, such as the International Covenant on Civil and Political Rights. Restrictions must not be applied in an arbitrary manner, and they always have to be understood as an exception to the general rule that individual freedom must be respected. Any limitation must be strictly proportionate to the aim of the law. This proportionality test requires a narrow interpretation, particularly since any interference must be evaluated against the great value of such fundamental freedoms to a free and open democratic society.

## B. Institutions and implementation

### 1. The responsibility to implement OSCE human dimension commitments

The human rights framework described above exists for the benefit of all people living in the OSCE area and, indeed, describes human rights and fundamental freedoms as “birth rights of all individuals”. The first responsibility for guaranteeing these rights lies with the OSCE participating States. The OSCE human dimension commitments are addressed — in line with other international human rights treaties — to the participating States. The commitments reinforce this general principle in stressing that “the protection and promotion of human rights and fundamental freedoms is one of the basic purposes of government”.

From the beginning, it was clear that formulating standards alone is not always sufficient for the effective implementation of human dimension commitments. International procedures should play an important complementary function in this regard. Consequently, the OSCE has created a set of procedures, conferences, and institutions that help to monitor and assist with the implementation of OSCE human dimension commitments.

Unlike other human rights treaties,<sup>3</sup> the OSCE has not created a court or other individual petition body to ensure the implementation of OSCE commitments. This reflects the political character of the OSCE process and the intention not to duplicate existing mechanisms. To the contrary, the OSCE reinforces these important mechanisms and calls upon participating States to subscribe to these mechanisms and to abide by standards set by other international organizations. It is also important to note that the absence of an individual-complaints process does not preclude that individual cases might be brought to the attention of the political bodies of the OSCE.

### 2. Summits and other follow-up meetings

As already mentioned, the Helsinki Final Act provided for regular follow-up conferences, reflecting the understanding that a continuous dialogue is needed to make the agreement effective. This process approach has created over time a refined system of political summits and other conferences where the implementation of OSCE commitments is discussed.<sup>4</sup>

<sup>3</sup> See, for example, the European Convention of Human Rights establishing the European Court of Human Rights, or the UN International Covenant on Civil and Political Rights establishing the UN Human Rights Committee.

<sup>4</sup> OSCE summits and Ministerial Council meetings usually adopt new declarations and documents. Review conferences precede OSCE summits and discuss the compliance with OSCE standards and prepare the final document to be adopted at the subsequent summit. OSCE human dimension implementation meetings take place in years when no OSCE summit is scheduled and provide the forum for discussing the implementation of OSCE human dimension commitments. In addition, a human dimension seminar and three supplementary human dimension meetings are organized every year. For more information, see *OSCE Handbook*, 4<sup>th</sup> edition, Vienna 2000.

This complex structure of summits, meetings, conferences, and seminars generates two important effects. First, it enables the participating States to embark on a dynamic norm-creating process. The participating States can react quickly to new needs and build on previous OSCE commitments to specify their application. Second, it provides a forum for discussing the actual implementation of human dimension commitments by OSCE participating States. This reflects the principle that compliance with OSCE commitments is a subject of direct and legitimate concern for all OSCE participating States and does not belong to the internal affairs of any particular State.

An important feature of OSCE human dimension meetings is that they are open to the active participation of non-governmental organizations (NGOs). Thus, NGOs can and do participate in addressing concerns about the actual implementation of OSCE human dimension commitments and make suggestions on how to solve problems.

### 3. The human dimension mechanism

In addition to these regular meetings, the OSCE has also created a so-called human dimension mechanism, the Vienna Mechanism<sup>5</sup> and the Moscow Mechanism,<sup>6</sup> the latter partly constituting a further elaboration of the Vienna Mechanism. Together, they set out a process for supervising the implementation of human dimension commitments to be invoked on an *ad hoc* basis by any individual OSCE participating State.

The Vienna Mechanism allows a participating State, through a set of procedures, to raise questions relating to the human dimension in another OSCE participating State. The Moscow Mechanism builds on this and provides for the additional possibility to establish *ad hoc* missions of independent experts to assist in the resolution of a specific human dimension problem. This includes the right to investigate alleged violations of human dimension commitments, in exceptional circumstances even without the consent of the accused state.

In practice, the human dimension mechanism is only rarely applied, partly due to the development of the OSCE into a permanently functioning organization and partly due to the political considerations involved in invoking such *ad hoc* mechanisms.<sup>7</sup>

### 4. OSCE institutions with relevance to the human dimension

Departing from the conference approach of its early years, the OSCE has established a number of permanent institutions to assist participating States with the implementation of OSCE human dimension commitments. These institutions play an increasingly important role. The following gives a very basic overview about these institutions without giving a full account of their activities.

<sup>5</sup> As established in the Vienna Concluding Document of 1989.

<sup>6</sup> The Moscow Mechanism was agreed upon at the last meeting of the Conference on the Human Dimension of the CSCE in Moscow (1991).

<sup>7</sup> Nevertheless, the responsible OSCE institution, the Office for Democratic Institutions and Human Rights, continues to maintain an active list of experts as required by the Moscow Mechanism.

### *A. The Office for Democratic Institutions and Human Rights*

Originally established as the Office for Free Elections in 1990, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), based in Warsaw, is the main institution of the OSCE for the human dimension. The 1992 Helsinki Document set the ODIHR's mandate to help OSCE participating States "ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and ... to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society."

In accordance with its mandate and tasks contained in a variety of documents, the ODIHR promotes democratic election processes through the in-depth observation of elections and conducts election assistance projects that enhance meaningful participatory democracy and assists OSCE participating States in the implementation of their human dimension commitments by providing expertise and practical support in building up democratic institutions. This is done through longer-term programmes to strengthen the rule of law, democratic governance, and civil society. It also assists OSCE field missions in their human dimension activities, through training, exchange of experiences, and regional co-ordination, and contributes to early warning and conflict prevention by monitoring the implementation of OSCE human dimension commitments by participating States. For this purpose, it also provides regular human rights training for government authorities, civil society, and OSCE staff.

The ODIHR also assists participating States with the implementation of international legal obligations and OSCE commitments on anti-terrorism in compliance with international human rights standards and in implementing their commitments on tolerance and non-discrimination. In this context, it also supports efforts to respond to, and combat, hate crimes and incidents of racism, anti-Semitism, and other forms of intolerance, including against Muslims. The ODIHR serves as the OSCE Contact Point for Roma and Sinti Issues and seeks to promote the full integration of Roma and Sinti groups into the societies in which they live. In all its activities, the ODIHR develops policies and actions to ensure gender mainstreaming and implements activities designed to improve the situation of women in the OSCE region.

In order to structure its human dimension activities, it organizes regular meetings that take stock of OSCE human dimension commitments and recommends follow-up. In all its activities, the ODIHR reaches out to a network of partners active in related areas, including international and local non-governmental human rights organizations, as well as international governmental organizations, in particular the United Nations Office of the High Commissioner for Human Rights and the Council of Europe.

### *B. The High Commissioner on National Minorities*

The OSCE High Commissioner on National Minorities, established in The Hague in 1992, is tasked to identify — and seeks early resolution of — ethnic tensions that might endanger peace, stability, or friendly relations between OSCE participating States.

Operating independently of all parties involved, the High Commissioner conducts on-site missions and engages in preventative diplomacy at the earliest stage of tension.

In addition to seeking first-hand information, the High Commissioner seeks to promote dialogue, confidence, and co-operation.

### *C. The Representative on Freedom of the Media*

The OSCE Representative on Freedom of the Media assists participating States in furthering free, independent, and pluralistic media as one of the basic elements of a functioning pluralistic democracy. The Representative, whose office is in Vienna, observes media developments in all participating States and advocates and promotes compliance with relevant OSCE principles and commitments.

## **C. Concluding remarks**

The OSCE participating States have created an impressive *corpus* of norms and principles in the area of the human dimension. OSCE documents constitute a wealth of important human rights commitments that have marked the Organization as a leading innovator in this field. It is hoped that the present publication will further promote the knowledge as well as the implementation of the many, often very detailed commitments that the OSCE participating States have entered into in the sphere of human rights and fundamental freedoms, the rule of law, and democracy.





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# OSCE Documents Referred to in This Compilation

Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975 (hereafter referred to as **Helsinki 1975**)

Concluding Document of Madrid — The Second Follow-up Meeting, Madrid, 6 September 1983 (hereafter referred to as **Madrid 1983**)

Concluding Document of Vienna — The Third Follow-up Meeting, Vienna, 15 January 1989 (hereafter referred to as **Vienna 1989**)

Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990 (hereafter referred to as **Copenhagen 1990**)

Charter of Paris for a New Europe/Supplementary Document to give effect to certain provisions contained in the Charter of Paris for a New Europe, Paris, 21 November 1990 (hereafter referred to as **Paris 1990**)

Document of the Cracow Symposium on the Cultural Heritage of the CSCE Participating States, Cracow, 6 June 1991 (hereafter referred to as **Cracow 1991**)

Report of the CSCE Meeting of Experts on National Minorities, Geneva, 19 July 1991 (hereafter referred to as **Geneva 1991**)

Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991 (hereafter referred to as **Moscow 1991**)

Document of the Second Meeting of the CSCE Council, Prague, 30-31 January 1992 (hereafter referred to as **Prague 1992**)

Concluding Document of Helsinki — The Fourth Follow-up Meeting, Helsinki, 10 July 1992 (hereafter referred to as **Helsinki 1992**)

Document of the Third Meeting of the CSCE Council, Stockholm, 14-15 December 1992 (hereafter referred to as **Stockholm 1992**)

Document of the Fourth Meeting of the CSCE Council, Rome, 30 November-1 December 1993 (hereafter referred to as **Rome 1993**)

Concluding Document of Budapest, 6 December 1994 (hereafter referred to as **Budapest 1994**)

Lisbon Document, Lisbon, 3 December 1996 (hereafter referred to as **Lisbon 1996**)

Document of the Sixth Meeting of the Ministerial Council, Copenhagen, 18-19 December 1997 (hereafter referred to as **Copenhagen 1997**)

Document of the Seventh Meeting of the Ministerial Council, Oslo, 2-3 December 1998 (hereafter referred to as **Oslo 1998**)

Istanbul Document, Istanbul, 19 November 1999 (hereafter referred to as **Istanbul 1999**)

Document of the Eighth Meeting of the Ministerial Council, Vienna, 27-28 November 2000 (hereafter referred to as **Vienna 2000**)

Document of the Ninth Meeting of the Ministerial Council, Bucharest, 3-4 December 2001 (hereafter referred to as **Bucharest 2001**)

Document of the Tenth Meeting of the Ministerial Council, Porto, 6-7 December 2002 (hereafter referred to as **Porto 2002**)

Document of the Eleventh Meeting of the Ministerial Council, Maastricht, 1-2 December 2003 (hereafter referred to as **Maastricht 2003**)

Document of the Twelfth Meeting of the Ministerial Council, Sofia, 6-7 December 2004 (hereafter referred to as **Sofia 2004**)

I.  
General Provisions Related  
to the Human Dimension



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# 1. An Introduction to the Human Dimension

## 1.1 The Nature and Importance of the Human Dimension

### **Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States; Principles VII-IX)

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

(...)

They will endeavour, in developing their co-operation as equals, to promote mutual understanding and confidence, friendly and good-neighbourly relations among themselves, international peace, security and justice. They will equally endeavour, in developing their cooperation, to improve the well-being of peoples and contribute to the fulfilment of their aspirations through, *inter alia*, the benefits resulting from increased mutual knowledge and from progress and achievement in the economic, scientific, technological, social, cultural and humanitarian fields. They will take steps to promote conditions favourable to making these benefits available to all; they will take into account the interest of all in the narrowing of differences in the levels of economic development, and in particular the interest of developing countries throughout the world.

### **Copenhagen 1990** (Preamble)

The participating States express their conviction that full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation that they seek to establish in Europe.

I

(1) The participating States express their conviction that the protection and promotion of human rights and fundamental freedoms is one of the basic purposes of government, and reaffirm that the recognition of these rights and freedoms constitutes the foundation of freedom, justice and peace.

(...)

V

(41) The participating States reaffirm their commitment to the human dimension of the CSCE and emphasize its importance as an integral part of a balanced approach to security and co-operation in Europe (...)

**Paris 1990 (A New Era of Democracy, Peace and Unity)**

We declare our respect for human rights and fundamental freedoms to be irrevocable (...)

**Helsinki 1992 (Summit Declaration)**

6. We welcome the commitment of all participating States to our shared values. Respect for human rights and fundamental freedoms, including the rights of persons belonging to national minorities, democracy, the rule of law, economic liberty, social justice and environmental responsibility are our common aims. They are immutable

(...)

7. We reaffirm the validity of the guiding principles and common values of the Helsinki Final Act and the Charter of Paris, embodying responsibilities of States towards each other and of governments towards their people. These are the collective conscience of our community.

(...)

21. Our approach is based on our comprehensive concept of security as initiated in the Final Act.

This concept relates the maintenance of peace to the respect for human rights and fundamental freedoms. It links economic and environmental solidarity and co-operation with peaceful inter-State relations. This is equally valid in managing change as it was necessary in mitigating confrontation.

Section VI: The Human Dimension

(2) The participating States express their strong determination to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote the

principles of democracy and, in this regard, to build, strengthen and protect democratic institutions, as well as to promote tolerance throughout society.

**Budapest 1994** (Summit Declaration)

14. We confirm the significance of the Human Dimension in all the activities of the CSCE. Respect for human rights and fundamental freedoms, democracy and the rule of law is an essential component of security and co-operation in the CSCE region. It must remain a primary goal of CSCE action (...) We underline the importance of human contacts in overcoming the legacy of old divisions.

**Budapest 1994** (Decisions: VIII. The Human Dimension)

2. Human rights and fundamental freedoms, the rule of law and democratic institutions are the foundations of peace and security, representing a crucial contribution to conflict prevention, within a comprehensive concept of security. The protection of human rights, including the rights of persons belonging to national minorities, is an essential foundation of democratic civil society. Neglect of these rights has, in severe cases, contributed to extremism, regional instability and conflict (...)

**Istanbul 1999** (Charter for European Security: II. Our Common Foundations)

7. We reaffirm our full adherence to the Charter of the United Nations, and to the Helsinki Final Act, the Charter of Paris and all other OSCE documents to which we have agreed. These documents represent our common commitments and are the foundation for our work (...) They established clear standards for participating States' treatment of each other and of all individuals within their territories (...) Their implementation in good faith is essential for relations between States, between governments and their peoples, as well as between the organizations of which they are members (...) We regard these commitments as our common achievement (...)

(...)

9. We will build our relations in conformity with the concept of common and comprehensive security, guided by equal partnership, solidarity and transparency. The security of each participating State is inseparably linked to that of all others. We will address the human, economic, political and military dimensions of security as an integral whole.

**Porto 2002** (Ministerial Declaration)

3. (...) our Organization must develop new responses to the changing nature of the threats to our security, embracing and enhancing all three dimensions of our comprehensive approach. Our efforts to promote peace and stability must go hand in hand with our determination to ensure full respect for human rights, fundamental freedoms and the rule of law, and to reinforce the conditions essential for sustainable development in all our States.

**Maastricht 2003** (I. OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

4. Respect for human rights and fundamental freedoms, democracy and the rule of law is at the core of the OSCE's comprehensive concept of security. Strong democratic institutions and the rule of law play an important role in preventing threats from arising. Weak governance, and a failure by States to secure adequate and functioning democratic institutions that can promote stability, may in themselves constitute a breeding ground for a range of threats. Equally, systematic violations of human rights and fundamental freedoms, including the rights of persons belonging to national minorities, can give rise to a wide range of potential threats.

(...)

8. Against this background, it is clear that the OSCE's comprehensive approach to security, covering the politico-military, economic and environmental and human dimensions retains its full validity and should be maintained and further strengthened.

9. (...) Non-compliance with international law and with OSCE norms and principles, as well as a range of factors within the politico-military, economic and environmental and human dimensions lie behind the immediate causes of violent conflict.

**1.2 The Human Dimension as a Matter of Direct and Legitimate International Concern****Moscow 1991** (Preamble)

The participating States emphasize that issues relating to human rights, fundamental freedoms, democracy and the rule of law are of international concern, as respect for these rights and freedoms constitutes one of the foundations of the international order. They categorically and irrevocably declare 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.

**Lisbon 1996** (Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century)

5. We recognize that, within the OSCE, States are accountable to their citizens and responsible to each other for their implementation of OSCE commitments.

**Istanbul 1999 (Charter for European Security: II. Our Common Foundations)**

7. (...) All OSCE commitments, without exception, apply equally to each participating State (...) We regard these commitments as our common achievement and therefore consider them to be matters of immediate and legitimate concern to all participating States.



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## 2. Implementation of Commitments

### 2.1 The Obligation to Implement

**Helsinki 1975** (Questions relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principles VII-X)

[The participating States] (...) will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

(...)

(...) In exercising their sovereign rights, including the right to determine their laws and regulations, they will conform with their legal obligations under international law; they will furthermore pay due regard to and implement the provisions in the Final Act of the Conference on Security and Cooperation in Europe.

(...)

All the principles set forth above are of primary significance and, accordingly, they will be equally and unreservedly applied, each of them being interpreted taking into account the others.

The participating States express their determination fully to respect and apply these principles, as set forth in the present Declaration, in all aspects, to their mutual relations and cooperation in order to ensure to each participating State the benefits resulting from the respect and application of these principles by all.

**Madrid 1983** (Questions Relating to Security in Europe: Preamble)

The participating States express their determination

(...)

- to fulfil consistently all the provisions under the Final Act and, in particular, strictly and unreservedly to respect and put into practice all the ten principles contained in the Declaration on Principles Guiding Relations between Participating States, irrespective of their political, economic or social systems, as well as of their size, geographical location or level of economic development (...)

### **Madrid 1983** (Questions Relating to Security in Europe: Principles)

The participating States stress their determination to promote and encourage the effective exercise of human rights and fundamental freedoms, all of which derive from the inherent dignity of the human person and are essential for his free and full development and to assure constant and tangible progress in accordance with the Final Act, aiming at further and steady development in this field in all participating States, irrespective of their political, economic and social systems.

### **Paris 1990** (A New Era of Democracy, Peace and Unity)

We declare our respect for human rights and fundamental freedoms to be irrevocable. We will fully implement and build upon the provisions relating to the human dimension of the CSCE.

### **Moscow 1991** (Preamble)

The participating States (...) express their determination to fulfil all of their human dimension commitments and to resolve by peaceful means any related issue, individually and collectively, on the basis of mutual respect and co-operation (...)

### **Helsinki 1992** (Summit Declaration)

6. (...) Adherence to our commitments provides the basis for participation and co-operation in the CSCE and a cornerstone for further development of our societies.

### **Istanbul 1999** (Charter for European Security: II. Our Common Foundations)

7. We reaffirm our full adherence to the Charter of the United Nations, and to the Helsinki Final Act, the Charter of Paris and all other OSCE documents to which we have agreed. These documents represent our common commitments and are the foundation for our work (...). All OSCE commitments, without exception, apply equally to each participating State. Their implementation in good faith is essential for relations between States, between governments and their peoples, as well as between the organizations of which they are members. Participating States are accountable to their citizens and responsible to each other for their implementation of their OSCE commitments. We regard these commitments as our common achievement and therefore consider them to be matters of immediate and legitimate concern to all participating States.

## 2.2 Methods of Implementation

### 2.2.1 General Provisions, Including Human Rights Education

#### **Helsinki 1975** (Follow-up to the Conference)

The participating States,

(...)

1. Declare their resolve, in the period following the Conference, to pay due regard to and implement the provisions of the Final Act of the Conference:

(a) unilaterally, in all cases which lend themselves to such action;

(b) bilaterally, by negotiations with other participating States;

(c) multilaterally, by meetings of experts of the participating States, and also within the framework of existing international organizations, such as the United Nations Economic Commission for Europe and UNESCO, with regard to educational, scientific and cultural co-operation;

2. Declare furthermore their resolve to continue the multilateral process initiated by the Conference:

(a) by proceeding to a thorough exchange of views both on the implementation of the provisions of the Final Act and of the tasks defined by the Conference (...)

(...)

The text of this Final Act will be published in each participating State, which will disseminate it and make it known as widely as possible.

#### **Madrid 1983** (Questions Relating to Security in Europe: Principles)

They reaffirm their determination fully to respect and apply these principles and accordingly, to promote by all means, both in law and practice, their increased effectiveness. They consider that one such means could be to give legislative expression - in forms appropriate to practices and procedures specific to each country - to the ten principles set forth in the Final Act.

(...)

They reaffirm the particular significance of the Universal Declaration of Human Rights, the international Covenants on Human Rights and other relevant international instruments of their joint and separate efforts to stimulate and develop universal respect for human rights and fundamental freedoms; they call on all participating States to act in conformity with those international instruments and on those participating States, which have not yet done so, to consider the possibility of acceding to the covenants.

**Copenhagen 1990**

(5) [The participating States] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(...)

(5.21) - in order to supplement domestic remedies and better to ensure that the participating States respect the international obligations they have undertaken, the participating States will consider acceding to a regional or global international convention concerning the protection of human rights, such as the European Convention on Human Rights or the Optional Protocol to the International Covenant on Civil and Political Rights, which provide for procedures of individual recourse to international bodies.

**Moscow 1991**

(42) The participating States

(42.1) - affirm that human rights education is fundamental and that it is therefore essential that their citizens are educated on human rights and fundamental freedoms and the commitment to respect such rights and freedoms in domestic legislation and international instruments to which they may be parties;

(42.2) - recognize that effective human rights education contributes to combating intolerance, religious, racial and ethnic prejudice and hatred, including against Roma, xenophobia and anti-semitism;

(42.3) - will encourage their competent authorities responsible for education programmes to design effective human rights related curricula and courses for students at all levels, particularly students of law, administration and social sciences as well as those attending military, police and public service schools;

(42.4) - will make information on all CSCE human dimension provisions available to their educators;

(42.5) - will encourage organizations and educational establishments to co-operate in drawing up and exchanging human rights programmes at the national as well as the international level;

(42.6) - will seek to ensure that activities undertaken with a view to promoting human rights education in the broader sense take into account experience, programmes and forms of co-operation within existing international governmental and non-governmental bodies, such as the United Nations and the Council of Europe.

### 2.2.2 Review of Implementation

#### **Helsinki 1992** (Decisions: I. Strengthening CSCE Institutions and Structures)

(26) Thorough review of the implementation of CSCE commitments will continue to play a prominent role in CSCE activities, thus enhancing co-operation among participating States.

(27) Reviews of implementation will be held regularly at review conferences as well as at special meetings convened for this purpose at the ODIHR and the CPC (...) as provided for in the relevant CSCE documents.

(28) These reviews of implementation will be of a co-operative nature, comprehensive in scope and at the same time able to address specific issues.

(29) The participating States will be invited to offer contributions on their implementation experience, with particular reference to difficulties encountered, and to provide their views of implementation throughout the CSCE area. Participating States are encouraged to circulate descriptions of contributions in advance of the meeting.

(30) Reviews should offer the opportunity to identify action which may be required to address problems. Meetings at which reviews of implementation take place may draw to the attention of the CSO any suggestions for measures to improve implementation which they deem advisable.

#### **Budapest 1994** (Summit Declaration)

14. (...) Periodic reviews of implementation of our commitments, fundamental throughout the CSCE, are critical in the Human Dimension.

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

5. Building on the implementation review structures in the Helsinki Document 1992 and to improve human dimension implementation, the participating States will use the Permanent Council for an enhanced dialogue on the human dimension and for possible action in cases of non-implementation. To this end, the participating States decide that human dimension issues will be regularly dealt with by the Permanent Council (...)

6. They encourage the Chairman-in-Office to inform the Permanent Council of serious cases of alleged non-implementation of human dimension commitments, including on the basis of information from the ODIHR, reports and recommendations of the High Commissioner on National Minorities (HCNM), or reports of the head of a CSCE mission and information from the State concerned.

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

14. (...) We individually confirm our willingness to comply fully with our commitments. We also have a joint responsibility to uphold OSCE principles (...) We will co-operate in a spirit of solidarity and partnership in a continuing review of implementation (...)

### **2.2.3 Election Observation**

#### **Copenhagen 1990**

(8) The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.

(...)

(12) The participating States, wishing to ensure greater transparency in the implementation of the commitments undertaken in the Vienna Concluding Document under the heading of the human dimension of the CSCE, decide to accept as a confidence building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law; it is understood that proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments.

### **2.2.4 Human Dimension Mechanisms and Other Relevant Mechanisms**

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

14. (...) We individually confirm our willingness to comply fully with our commitments. We also have a joint responsibility to uphold OSCE principles. We (...) stand ready to use OSCE instruments, tools and mechanisms (...) We will co-operate in a spirit of solidarity and partnership in a continuing review of implementation.

#### **A. Vienna Mechanism**

##### **Vienna 1989** (Human Dimension of the CSCE)

The participating States,

Recalling the undertakings entered into in the Final Act and in other CSCE documents concerning respect for all human rights and fundamental freedoms, human contacts and other issues of a related humanitarian character,

Recognizing the need to improve the implementation of their CSCE commitments and their co-operation in these areas which are hereafter referred to as the human dimension of the CSCE,

Have, on the basis of the principles and provisions of the Final Act and of other relevant CSCE documents, decided:

1. to exchange information and respond to requests for information and to representations made to them by other participating States on questions relating to the human dimension of the CSCE. Such communications may be forwarded through diplomatic channels or be addressed to any agency designated for these purposes;
  2. to hold bilateral meetings with other participating States that so request, in order to examine questions relating to the human dimension of the CSCE, including situations and specific cases, with a view to resolving them. The date and place of such meetings will be arranged by mutual agreement through diplomatic channels;
  3. that any participating State which deems it necessary may bring situations and cases in the human dimension of the CSCE, including those which have been raised at the bilateral meetings described in paragraph 2, to the attention of other participating States through diplomatic channels;
  4. that any participating State which deems it necessary may provide information on the exchanges of information and the responses to its requests for information and to representations (paragraph 1) and on the results of the bilateral meetings (paragraph 2), including information concerning situations and specific cases, at the meetings of the Conference on the Human Dimension as well as at the main CSCE Follow-up Meeting.
- (...)

### **Copenhagen 1990**

(42) The participating States recognize the need to enhance further the effectiveness of the procedures described in paragraphs 1 to 4 of the section on the human dimension of the CSCE of the Vienna Concluding Document and with this aim decide

(42.1) - to provide in as short a time as possible, but no later than four weeks, a written response to requests for information and to representations made to them in writing by other participating States under paragraph 1;

(42.2) - that the bilateral meetings, as contained in paragraph 2, will take place as soon as possible, as a rule within three weeks of the date of the request;

(42.3) - to refrain, in the course of a bilateral meeting held under paragraph 2, from raising situations and cases not connected with the subject of the meeting, unless both sides have agreed to do so.

### **B. Moscow Mechanism**

#### **Moscow 1991** (Preamble & Section I – as modified by Rome 1993)

In order to strengthen and expand the human dimension mechanism described in the section on the human dimension of the CSCE in the Concluding Document of the Vienna Meeting and to build upon and deepen the commitments set forth in the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, the participating States adopt the following:

(...)

(1) The participating States emphasize that the human dimension mechanism described in paragraphs 1 to 4 of the section on the human dimension of the CSCE in the Vienna Concluding Document constitutes an essential achievement of the CSCE process, having demonstrated its value as a method of furthering respect for human rights, fundamental freedoms, democracy and the rule of law through dialogue and co-operation and assisting in the resolution of specific relevant questions. In order to improve further the implementation of the CSCE commitments in the human dimension, they decide to enhance the effectiveness of this mechanism and to strengthen and expand it as outlined in the following paragraphs.

(2) The participating States amend paragraphs 42.1 and 42.2 of the Document of the Copenhagen Meeting to the effect that they will provide in the shortest possible time, but no later than ten days, a written response to requests for information and to representations made to them in writing by other participating States under paragraph 1 of the human dimension mechanism. Bilateral meetings, as referred to in paragraph 2 of the human dimension mechanism, will take place as soon as possible, and as a rule within one week of the date of the request.

(3) A resource list comprising up to six experts appointed by each participating State will be established without delay at the CSCE Institution\*. The experts will be eminent persons, including where possible experts with experience related to national minority issues, preferably experienced in the field of the human dimension, from whom an impartial performance of their functions may be expected.

The experts will be appointed for a period of three to six years at the discretion of the appointing State, no expert serving more than two consecutive terms. Within four weeks after notification by the CSCE Institution of the appointment, any participating State may make reservations regarding no more than two experts to be appointed by another participating state. In such case, the appointing State may, within four weeks of being notified of such reservations, reconsider its decision and appoint another expert or experts; if it confirms the appointment originally intended, the expert concerned cannot take part in any procedure with respect to the State having made the reservation without the latter's express consent.

The resource list will become operational as soon as 45 experts have been appointed.

(4) A participating State may invite the assistance of a CSCE mission, consisting of up to three experts, to address or contribute to the resolution of questions in its territory relating to the human dimension of the CSCE. In such case, the State will select the person or persons concerned from the resource list. The mission of experts will not include the participating State's own nationals or residents or any of the persons it appointed to the resource list or more than one national or resident of any particular State.

\* The Council will take the decision on the institution.



The inviting State will inform without delay the CSCE Institution when a mission of experts is established, which in turn will notify all participating States. The CSCE institutions will also, whenever necessary, provide appropriate support to such a mission.

(5) The purpose of a mission of experts is to facilitate resolution of a particular question or problem relating to the human dimension of the CSCE. Such mission may gather the information necessary for carrying out its tasks and, as appropriate, use its good offices and mediation services to promote dialogue and co-operation among interested parties. The State concerned will agree with the mission on the precise terms of reference and may thus assign any further functions to the mission of experts, *inter alia*, fact-finding and advisory services, in order to suggest ways and means of facilitating the observance of CSCE commitments.

(6) The inviting State will co-operate fully with the mission of experts and facilitate its work. It will grant the mission all the facilities necessary for the independent exercise of its functions. It will, *inter alia*, allow the mission, for the purpose of carrying out its tasks, to enter its territory without delay, to hold discussions and to travel freely therein, to meet freely with officials, nongovernmental organizations and any group or person from whom it wishes to receive information. The mission may also receive information in confidence from any individual, group or organization on questions it is addressing. The members of such missions will respect the confidential nature of their task.

The participating States will refrain from any action against persons, organizations or institutions on account of their contact with the mission of experts or of any publicly available information transmitted to it. The inviting State will comply with any request from a mission of experts to be accompanied by officials of that State if the mission considers this to be necessary to facilitate its work or guarantee its safety.

(7) The mission of experts will submit its observations to the inviting State as soon as possible, preferably within three weeks after the mission has been established. The inviting State will transmit the observations of the mission, together with a description of any action it has taken or intends to take upon it, to the other participating States via the CSCE Institution no later than two weeks after the submission of the observations.

These observations and any comments by the inviting State may be discussed by the Committee of Senior Officials, which may consider any possible follow-up action. The observations and comments will remain confidential until brought to the attention of the Senior Officials. Before the circulation of the observations and any comments, no other mission of experts may be appointed for the same issue.

(8) Furthermore, one or more participating States, having put into effect paragraphs 1 or 2 of the human dimension mechanism, may request that the CSCE Institution inquire of another participating State whether it would agree to invite a mission of

experts to address a particular, clearly defined question on its territory relating to the human dimension of the CSCE. If the other participating State agrees to invite a mission of experts for the purpose indicated, the procedure set forth in paragraphs 4 to 7 will apply.

(9) If a participating State (a) has directed an enquiry under paragraph 8 to another participating State and that State has not established a mission of experts within a period of ten days after the enquiry has been made, or (b) judges that the issue in question has not been resolved as a result of a mission of experts, it may, with the support of at least five other participating States, initiate the establishment of a mission of up to three CSCE rapporteurs. Such a decision will be addressed to the CSCE Institution, which will notify without delay the State concerned as well as all the other participating States.

(10) The requesting State or States may appoint one person from the resource list to serve as a CSCE rapporteur. The requested State may, if it so chooses, appoint a further rapporteur from the resource list within six days after notification by the CSCE Institution of the appointment of the rapporteur. In such case the two designated rapporteurs, who will not be nationals or residents of, or persons appointed to the resource list by any of the States concerned, will by common agreement and without delay appoint a third rapporteur from the resource list. In case they fail to reach agreement within eight days, a third rapporteur who will not be a national or resident of, or a person appointed to the resource list by any of the States concerned, will be appointed from the resource list by the ranking official of the CSCE body designated by the Council. The provisions of the second part of paragraph 4 and the whole of paragraph 6 also apply to a mission of rapporteurs.

(11) The CSCE rapporteur(s) will establish the facts, report on them and may give advice on possible solutions to the question raised. The report of the rapporteur(s), containing observations of facts, proposals or advice, will be submitted to the participating State or States concerned and, unless all the States concerned agree otherwise, to the CSCE Institution no later than two weeks after the last rapporteur has been appointed. The requested State will submit any observations on the report to the CSCE Institution, unless all the States concerned agree otherwise, no later than two weeks after the submission of the report.

The CSCE Institution will transmit the report, as well as any observations by the requested State or any other participating State, to all participating States without delay. The report will be placed on the agenda of the next regular meeting of the Committee of Senior Officials or of the Permanent Committee of the CSCE, which may decide on any possible follow-up action. The report will remain confidential until after that meeting of the Committee. Before the circulation of the report no other rapporteur may be appointed for the same issue.

(12) If a participating State considers that a particularly serious threat to the fulfilment of the provisions of the CSCE human dimension has arisen in another participating

State, it may, with the support of at least nine other participating States, engage the procedure set forth in paragraph 10. The provisions of paragraph 11 will apply.

(13) Upon the request of any participating State the Committee of Senior Officials or the Permanent Committee of the CSCE may decide to establish a mission of experts or of CSCE rapporteurs. In such case the Committee will also determine whether to apply the appropriate provisions of the preceding paragraphs.

(14) The participating State or States that have requested the establishment of a mission of experts or rapporteurs will cover the expenses of that mission. In case of the appointment of experts or rapporteurs pursuant to a decision of the Committee of Senior Officials or of the Permanent Committee of the CSCE, the expenses will be covered by the participating States in accordance with the usual scale of distribution of expenses. These procedures will be reviewed by the Helsinki Follow-up Meeting of the CSCE.

(15) Nothing in the foregoing will in any way affect the right of participating States to raise within the CSCE process any issue relating to the implementation of any CSCE commitment, including any commitment relating to the human dimension of the CSCE.

(16) In considering whether to invoke the procedures in paragraphs 9 and 10 or 12 regarding the case of an individual, participating States should pay due regard to whether that individual's case is already *sub judice* in an international judicial procedure.

**Prague 1992** (Document on Further Development of CSCE Institutions and Structures: III. Human Dimension)

14. The Office for Democratic Institutions and Human Rights is designated as the CSCE institution charged with the tasks in connection with expert and rapporteur missions according to the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE.

**Helsinki 1992** (Decisions: VI. The Human Dimension)

(5) Under the general guidance of the CSO (...) the ODIHR will, as the main institution of the Human Dimension:

(5a) assist the monitoring of implementation of commitments in the Human Dimension by:

- serving as a venue for bilateral meetings under paragraph 2 and as a channel for information under paragraph 3 of the Human Dimension Mechanism as set out in the Vienna Concluding Document;

(...)

(5b) act as a clearing-house for information on:

- a state of public emergency according to paragraph 28.10 of the Document of the Moscow Meeting of the Conference on the Human Dimension;

(...)

(7) In order to align the Human Dimension Mechanism with present CSCE structures and institutions the participating States decide that:

Any participating State which deems it necessary may provide information on situations and cases which have been the subject of requests under paragraphs 1 or 2 of the chapter entitled the "Human Dimension of the CSCE" of the Vienna Concluding Document or on the results of those procedures, to the participating States through the ODIHR — which can equally serve as a venue for bilateral meetings under paragraph 2 — or diplomatic channels. Such information may be discussed at Meetings of the CSO, at implementation meetings on Human Dimension issues and review conferences (...)

Implementation meetings on Human Dimension issues

(8) Procedures concerning the covering of expenses of expert and rapporteur missions of the Human Dimension Mechanism may be considered by the next review conference in the light of experience gained.

(9) Every year in which a review conference does not take place, the ODIHR will organize a three-week meeting at expert-level of all participating States at its seat to review implementation of CSCE Human Dimension commitments. The meeting will perform the following tasks:

(9a) a thorough exchange of views on the implementation of Human Dimension commitments, including discussion on the information provided in accordance with paragraph 4 of the Human Dimension Mechanism (...)

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

5. Building on the implementation review structures in the Helsinki Document 1992 and to improve human dimension implementation, the participating States will use the Permanent Council for an enhanced dialogue on the human dimension and for possible action in cases of non-implementation. To this end, the participating States decide that human dimension issues will be regularly dealt with by the Permanent Council. They will draw more widely on the possibilities offered by the Moscow Mechanism for examining or promoting the solution of questions relating to the human dimension on their territory.

6. They encourage the Chairman-in-Office to inform the Permanent Council of serious cases of alleged non-implementation of human dimension commitments, including on the basis of information from the ODIHR, reports and recommendations of the High Commissioner on National Minorities (HCNM), or reports of the head of a CSCE mission and information from the State concerned.

### C. Mechanism to Assist Participating States in Combating Trafficking in Human Beings

#### **Maastricht 2003** (Decisions: Decision No. 2/03 on Combating Trafficking in Human Beings)

The Ministerial Council,

(...)

With the goal of enhancing the OSCE's efforts in fighting trafficking in human beings,

(...)

2. Establishes, under the aegis of the Permanent Council, an OSCE mechanism to provide assistance to participating States to combat trafficking in human beings. The mechanism will consist of two parts, complementing the activities of each other: a Special Representative appointed by the Chairmanship-in-Office, and a special unit in the OSCE Secretariat,

The mechanism is set up to:

(a) Assist OSCE participating States in the implementation of commitments and full usage of recommendations proposed by the OSCE Action Plan to Combat Trafficking in Human Beings;

(b) Ensure co-ordination of OSCE efforts in combating trafficking in human beings across all three dimensions of the OSCE;

(c) Strengthen co-ordination among the relevant authorities of the participating States and between the OSCE and other relevant organizations;

(d) Raise the public and political profile of the combat against trafficking in human beings;

(e) Operate in the whole OSCE area and as appropriate, assist the participating States, in a spirit of co-operation and following consultations with the respective authorities of the relevant participating States in aiming at the implementation of their commitments in combating human trafficking;

(f) Provide and facilitate advice and technical assistance in the field of legislation as well as policy development, together, as necessary, with other OSCE structures engaged in this field;

(g) Be ready to offer advice to senior level authorities representing the legislative, judicial, and executive branches in participating States and discuss with them the implementation of the OSCE Action Plan to Combat Trafficking in Human Beings and commitments in the field of combating trafficking in human beings. In specific cases calling for special attention, seek direct contacts, in an appropriate manner with the par-

ticipating State concerned and discuss the provisions of advice and concrete assistance, if needed;

(h) Co-operate with National Rapporteurs or other national mechanisms established by participating States for co-ordinating and monitoring the anti-trafficking activities of State institutions. It will also co-operate with relevant Non-Governmental Organizations of the participating States. Furthermore, it will assume responsibility within the OSCE for hosting and facilitating meetings for the exchange of information and experience between national co-ordinators, representatives designated by participating States, or experts on combating trafficking in human beings;

(i) Closely co-operate and co-ordinate with the Office for Democratic Institutions and Human Rights (ODIHR) and other OSCE Institutions, the Secretary General, relevant structures of the Secretariat including the Office of the Co-ordinator for OSCE Economic and Environmental Activities (OCEEA), the Strategic Police Matters Unit (SPMU), the Senior Gender Adviser, as well as, where appropriate, the OSCE field operations. The mechanism will draw on the expertise within these OSCE structures, and will see that duplication is avoided. Participate when appropriate in the work of the Informal Working Group on Gender Equality and Anti-Trafficking in Human Beings;

(j) Co-operate and co-ordinate with relevant international actors such as the United Nations Office on Drugs and Crime, the United Nations High Commissioner for Refugees, the United Nations High Commissioner for Human Rights, the United Nations Children's Fund, the International Labour Organization, as well as the International Organization for Migration, the International Centre for Migration Policy Development, the European Union, the Council of Europe, the Stability Pact Task Force on Trafficking in Human Beings, the Council of Baltic Sea States, the Southeast European Co-operative Initiative, Interpol and Europol;

3. Affirms that the Special Representative will be politically accountable to, and will report regularly and when appropriate to the Permanent Council. It will function in accordance with Decision No. 8 of the Tenth Meeting of the Ministerial Council in Porto;

4. Calls on the Chairmanship-in-Office to appoint as Special Representative a prominent personality with relevant expertise, according to OSCE procedures, following consultations with participating States through the Preparatory Committee on his or her mandate (...)

5. Tasks the Permanent Council to establish the above-mentioned special unit, as a part of the OSCE Secretariat, with contracted or seconded staff. The Special Representative will have the capacity of the special unit at his or her full disposal in order to effectively implement the above-mentioned tasks (...)

#### D. Counter-Terrorism Network

##### **Maastricht 2003** (Decisions: Decision No. 6/03 on Terms of Reference for the OSCE Counter-Terrorism Network)

The Ministerial Council,

Decides to establish the OSCE Counter-Terrorism Network (CTN) in accordance with the terms of reference for the Network contained in the annex to this decision.

(Annex to Decision No. 6/03: OSCE Counter-Terrorism Network: Terms of Reference)

The primary purpose of the OSCE Counter-Terrorism Network (CTN) is to promote the strengthening of co-ordination of counter-terrorism measures and information-sharing between OSCE participating States. In particular, it aims to strengthen the liaison between the delegations of participating States, counter-terrorism officials in capitals and the OSCE Action against Terrorism Unit (ATU).<sup>\*</sup> The Network facilitates timely exchanges of information on counter-terrorism programmes, training and legal developments initiated by the OSCE and participating States, as well as on open-source analyses concerning trends in terrorist phenomena. The primary emphasis will be placed on supporting and supplementing the work of the United Nations Security Council Counter-Terrorism Committee in implementing Security Council resolution 1373. The CTN is not intended to be a conduit for intelligence or other sensitive information, nor does it seek to duplicate functions of other international and regional law-enforcement networks.

Each government will designate a principal liaison to serve, through its OSCE delegation, as the principal contact point with the ATU on counter-terrorism matters. The principal liaison will ensure that communications from the ATU are forwarded to the appropriate government authorities in the capital concerned, and that the ATU and delegations are similarly informed in a timely manner of relevant developments in the participating State. In order to foster co-ordination, communications through the Counter-Terrorism Network passing between the ATU and a principal liaison will in principle be transmitted through the OSCE delegation of the State concerned.

##### Responsibilities of the ATU

1. Inform participating States of bilateral as well as multilateral training opportunities related to counter-terrorism matters, and work with principal liaisons to take full advantage of such programmes.
2. Co-ordinate and facilitate OSCE counter-terrorism activities, including capacity-building assistance programmes, training and contingency-preparedness workshops, with a view to effectively utilizing resources and averting duplication.

<sup>\*</sup> The United Nations Counter-Terrorism Committee (CTC) has supported the development of such regional networks to strengthen co-operation and co-ordination. The Secretariat of the Inter-American Committee against Terrorism (CICTE), within the Organization of American States, has already developed a regional hemispheric network of national points of contact. The ATU is grateful for and acknowledges CICTE's advice and assistance in developing the OSCE Counter-Terrorism Network.

3. Respond to information and requests for action from principal liaisons in a timely manner.
4. Ensure that, through the delegations, the principal liaisons are kept fully informed of developments regarding significant counter-terrorism matters that affect the OSCE region, by means of regular distribution by email of an ATU newsletter and of regular updates of the OSCE ATU home page.
5. Co-ordinate with the principal liaison, through the delegation concerned, when an OSCE ATU official travels to a participating State in connection with terrorism-related matters.

#### Responsibilities of principal liaisons

1. Ensure that communications from the ATU reach the appropriate government offices, and that responses to the ATU are forwarded in a timely manner.
2. Provide information to the ATU about significant national developments regarding action to combat terrorism, including new counter-terrorism legislation\*, counter-terrorism training or assistance programmes and examples of national “best practices”.
3. Communicate information on seminars, workshops and conferences related to counter-terrorism concerns that participating States may host, and that are open to outside participation.
4. Serve as the principal co-ordinator for OSCE anti-terrorism seminars, workshops and conferences involving the principal liaison’s participating State.
5. Co-ordinate, prioritize and communicate, on behalf of the participating State concerned, training and assistance needs and requests related to counter-terrorism matters that the OSCE might support or facilitate (...)

#### E. Other Mechanisms

##### **Prague 1992** (Document on Further Development of CSCE Institutions and Structures: IV. Safeguarding Human Rights, Democracy and the Rule of Law)

16. The Council decided, in order to develop further the CSCE’s capability to safeguard human rights, democracy and the rule of law through peaceful means, that appropriate action may be taken by the Council or the Committee of Senior Officials, if necessary in the absence of the consent of the State concerned, in cases of clear, gross and uncorrected violations of relevant CSCE commitments. Such actions would consist of political declarations or other political steps to apply outside the territory of the State concerned. This decision is without prejudice to existing CSCE mechanisms.

\* The OSCE ATU relies on official notifications of ratification through the web sites of the relevant depositories of anti-terrorism instruments for the most accurate information on ratification.



**Helsinki 1992** (Decisions: I. Strengthening CSCE Institutions and Structures)

(22) When dealing with a crisis or a conflict, the Chairman-in-Office may, on his/her own responsibility, designate a personal representative with a clear and precise mandate in order to provide support. The Chairman-in-Office will inform the CSO of the intention to appoint a personal representative and of the mandate. In reports to the Council/CSO, the Chairman-in-Office will include information on the activities of the personal representative as well as any observations or advice submitted by the latter.

**Sofia 2004** (Decisions: Decision No. 12/04 on Tolerance and Non-discrimination)

The Ministerial Council

(...)

5. Welcomes the intention of the Chairman-in-Office to appoint, in accordance with Porto Ministerial Council Decision No. 8, three personal representatives as part of the overall fight of the OSCE in combating discrimination and promoting tolerance. The personal representatives will have their costs covered by extra-budgetary contributions.

**2.3 Partners in Implementation****2.3.1 Governments; Government Bodies and Institutions****Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle IX)

[The participating States] (...) confirm that governments, institutions, organizations and persons have a relevant and positive role to play in contributing toward the achievement of these aims of their cooperation.

**Copenhagen 1990** (Preamble)

[The participating States] recognize that co-operation among themselves, as well as the active involvement of persons, groups, organizations and institutions, will be essential to ensure continuing progress towards their shared objectives.

**Moscow 1991** (Preamble)

The participating States (...) express their determination to fulfil all of their human dimension commitments and to resolve by peaceful means any related issue, individually and collectively, on the basis of mutual respect and co-operation. In this context they recognize that the active involvement of persons, groups, organizations and institutions is essential to ensure continuing progress in this direction.

### 2.3.2 *Governments of Other Countries and International Organizations*

#### **Helsinki 1992** (Summit Declaration)

7. We reaffirm the validity of the guiding principles and common values of the Helsinki Final Act and the Charter of Paris, embodying responsibilities of States towards each other and of governments towards their people. These are the collective conscience of our community. We recognize our accountability to each other for complying with them. We underline the democratic rights of citizens to demand from their governments respect for these values and standards.

#### **Helsinki 1992** (Decisions: IV. Relations with International Organizations, Relations with Non-Participating States, Role of Non-Governmental Organizations (NGOs))

(1) (...) Successful efforts to build a lasting peaceful and democratic order and to manage the process of change require more structured and substantive input from groups, individuals, States and organizations outside the CSCE process.

To this end, the participating States have decided as follows:

##### Relations with international organizations

(2) The participating States, reaffirming their commitments to the Charter of the United Nations as subscribed to by them, declare their understanding that the CSCE is a regional arrangement in the sense of Chapter VIII of the Charter of the United Nations and as such provides an important link between European and global security (...)

(3) Recalling the relevant decisions of the Prague Document, the participating States will improve contact and practical co-operation with appropriate international organizations.

(...)

##### Relations with non-participating Mediterranean States

(7) Recalling the provisions of the Final Act and other CSCE relevant documents and consistent with established practice, the non-participating Mediterranean States will continue to be invited to contribute to CSCE activities.

(...)

##### Relations with non-participating States

(9) (...) the participating States intend to deepen their co-operation and develop a substantial relationship with non-participating States...which display an interest in the CSCE, share its principles and objectives, and are actively engaged in European co-operation through relevant organizations.

**Lisbon 1996** (Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century)

5. We recognize that, within the OSCE, States are (...) responsible to each other for their implementation of OSCE commitments.

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

14. (...) Today we commit ourselves to joint measures based on co-operation, both in the OSCE and through those organizations of which we are members, in order to offer assistance to participating States to enhance their compliance with OSCE principles and commitments. We will strengthen existing co-operative instruments and develop new ones in order to respond efficiently to requests for assistance from participating States (...)

**Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

Co-operation with other international organizations and institutions

52. (...) The OSCE's interaction with other organizations and institutions is based on the Platform for Co-operative Security. In it, participating States have pledged themselves to seek to develop political and operational coherence among all the bodies dealing with security, both in responding to specific threats and in formulating responses to new threats and challenges (...)

53. Our co-operation with other organizations and institutions currently encompasses political dialogue, co-ordination, and structured co-operation on thematic or regional issues across the OSCE region, based on common values and objectives (...)

54. The OSCE seeks to expand its relations with all organizations and institutions that are concerned with the promotion of comprehensive security within the OSCE area (...)

**2.3.3 Individuals, Human Rights Defenders, and Non-governmental Organizations**

**Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle VII)

The participating States recognize the universal significance of human rights and fundamental freedoms (...) They confirm the right of the individual to know and act upon his rights and duties in this field.

(...)

They confirm that (...) organizations and persons have a relevant and positive role to play in contributing toward the achievement of these aims of their cooperation.

**Madrid 1983** (Questions Relating to Security in Europe: Principles)

[The participating States] recall the right of the individual to know and act upon his rights and duties in the field of human rights and fundamental freedoms, as embodied in the Final Act, and will take the necessary action in their respective countries to effectively ensure this right.

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(12) [The participating States] express their determination to guarantee the effective exercise of human rights and fundamental freedoms (...)

(13) In this context they will

(...)

(13.3) - publish and disseminate the text of the Final Act, of the Madrid Concluding Document and of the present Document as well as those of any relevant international instruments in the field of human rights, in order to ensure the availability of these documents in their entirety, to make them known as widely as possible and to render them accessible to all individuals in their countries, in particular through public library systems;

(13.4) - effectively ensure the right of the individual to know and act upon his rights and duties in this field, and to that end publish and make accessible all laws, regulations and procedures relating to human rights and fundamental freedoms;

(13.5) - respect the right of their citizens to contribute actively, individually or in association with others, to the promotion and protection of human rights and fundamental freedoms;

(13.6) - encourage in schools and other educational institutions consideration of the promotion and protection of human rights and fundamental freedoms;

(...)

(13.8) - ensure that no individual exercising, expressing the intention to exercise or seeking to exercise these rights and freedoms or any member of his family, will as a consequence be discriminated against in any manner;

(13.9) - ensure that effective remedies as well as full information about them are available to those who claim that their human rights and fundamental freedoms have been violated; they will, *inter alia*, effectively apply the following remedies:

- the right of the individual to appeal to executive, legislative, judicial or administrative organs;

- the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one's choice;
- the right to be promptly and officially informed of the decision taken on any appeal, including the legal grounds on which this decision was based. This information will be provided as a rule in writing and, in any event, in a way that will enable the individual to make effective use of further available remedies.

(...)

(26) (...) To that end they will respect the right of persons to observe and promote the implementation of CSCE provisions and to associate with others for this purpose. They will facilitate direct contacts and communication among these persons, organizations and institutions within and between participating States and remove, where they exist, legal and administrative impediments inconsistent with the CSCE provisions. They will also take effective measures to facilitate access to information on the implementation of CSCE provisions and to facilitate the free expression of views on these matters.

### **Copenhagen 1990**

[The participating States] recognize that co-operation among themselves, as well as the active involvement of persons, groups, organizations and institutions, will be essential to ensure continuing progress towards their shared objectives.

(...)

(10) In reaffirming their commitment to ensure effectively the rights of the individual to know and act upon human rights and fundamental freedoms, and to contribute actively, individually or in association with others, to their promotion and protection, the participating States express their commitment to

(10.1) - respect the right of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information;

(10.2) - respect the rights of everyone, individually or in association with others, to study and discuss the observance of human rights and fundamental freedoms and to develop and discuss ideas for improved protection of human rights and better means for ensuring compliance with international human rights standards;

(10.3) - ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups;

(10.4) - allow members of such groups and organizations to have unhindered access to and communication with similar bodies within and outside their countries and with

international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations and to solicit, receive and utilize for the purpose of promoting and protecting human rights and fundamental freedoms voluntary financial contributions from national and international sources as provided for by law.

### **Paris 1990 (A New Era of Democracy, Peace and Unity)**

We recall the major role that non-governmental organizations, religious and other groups and individuals have played in the achievement of the objectives of the CSCE and will further facilitate their activities for the implementation of the CSCE commitments by the participating States. These organizations, groups and individuals must be involved in an appropriate way in the activities and new structures of the CSCE in order to fulfil their important tasks.

### **Moscow 1991**

The participating States (...) express their determination to fulfil all of their human dimension commitments and to resolve by peaceful means any related issue, individually and collectively, on the basis of mutual respect and co-operation. In this context they recognize that the active involvement of persons, groups, organizations and institutions is essential to ensure continuing progress in this direction.

(...)

(43) The participating States will recognize as NGOs those which declare themselves as such, according to existing national procedures, and will facilitate the ability of such organizations to conduct their national activities freely on their territories; to that effect they will

(43.1) - endeavour to seek ways of further strengthening modalities for contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions;

(43.2) - endeavour to facilitate visits to their countries by NGOs from within any of the participating States in order to observe human dimension conditions;

(43.3) - welcome NGO activities, including, *inter alia*, observing compliance with CSCE commitments in the field of the human dimension;

(43.4) - allow NGOs, in view of their important function within the human dimension of the CSCE, to convey their views to their own governments and the governments of all the other participating States during the future work of the CSCE on the human dimension.

(43.5) During the future work of the CSCE on the human dimension, NGOs will have the opportunity to distribute written contributions on specific issues of the human dimension of the CSCE to all delegations.

(43.6) The CSCE Secretariat will, within the framework of the resources at its disposal, respond favourably to requests by NGOs for non-restricted documents of the CSCE.

### **Helsinki 1992** (Summit Declaration)

7. We reaffirm the validity of the guiding principles and common values of the Helsinki Final Act and the Charter of Paris, embodying responsibilities of States towards each other and of governments towards their people. These are the collective conscience of our community (...) We underline the democratic rights of citizens to demand from their governments respect for these values and standards.

### **Helsinki 1992** (Decisions: IV. Relations with International Organizations, Relations with Non-Participating States, Role of Non-Governmental Organizations (NGOs))

(1) (...) Successful efforts to build a lasting peaceful and democratic order and to manage the process of change require more structured and substantive input from groups, individuals, States and organizations outside the CSCE process.

To this end, the participating States have decided as follows:

(...)

Increasing openness of CSCE activities, promoting understanding of the CSCE, expanding the role of NGOs

(12) The participating States will increase the openness of the CSCE institutions and structures and ensure wide dissemination of information on the CSCE.

(...)

(14) The participating States will provide opportunities for the increased involvement of non-governmental organizations in CSCE activities.

(15) They will, accordingly:

- apply to all CSCE meetings the guidelines previously agreed for NGO access to certain CSCE meetings;
- make open to NGOs all plenary meetings of review conferences, ODIHR seminars, workshops and meetings, the CSO when meeting as the Economic Forum, and human rights implementation meetings, as well as other expert meetings. In addition each meeting may decide to open some other sessions to attendance by NGOs;
- instruct Directors of CSCE institutions and Executive Secretaries of CSCE meetings to designate an "NGO liaison person" from among their staff;
- designate, as appropriate, one member of their Foreign Ministries and a member of their delegations to CSCE meetings to be responsible for NGO liaison;

- promote contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions between CSCE meetings;
- facilitate during CSCE meetings informal discussion meetings between representatives of participating States and of NGOs;
- encourage written presentations by NGOs to CSCE institutions and meetings, titles of which may be kept and provided to the participating States upon request;
- provide encouragement to NGOs organizing seminars on CSCE-related issues;
- notify NGOs through the CSCE institutions of the dates of future CSCE meetings, together with an indication, when possible, of the subjects to be addressed, as well as, upon request, the activations of CSCE mechanisms which have been made known to all participating States.

(16) The above provisions will not be applied to persons or organizations which resort to the use of violence or publicly condone terrorism or the use of violence.

(17) The participating States will use all appropriate means to disseminate as widely as possible within their societies knowledge of the CSCE, its principles, commitments and activities.

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

27. Non-governmental organizations (NGOs) can perform a vital role in the promotion of human rights, democracy and the rule of law. They are an integral component of a strong civil society. We pledge ourselves to enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms.

#### **2.3.4 OSCE Institutions with Particular Relevance to the Human Dimension**

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

14. (...) We individually confirm our willingness to comply fully with our commitments. We also have a joint responsibility to uphold OSCE principles. We are therefore determined to co-operate within the OSCE and with its institutions and representatives ... We will co-operate in a spirit of solidarity and partnership in a continuing review of implementation.

#### **Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

The OSCE response

20. The OSCE will continue to be an active player across its region, using its institutions — the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities (HCNM), and the Representative on Freedom of the Media (RFM) — its field operations and its Secretariat to the full. They are impor-



tant instruments in assisting all participating States to implement their commitments, including respect for human rights, democracy and the rule of law. In all relevant activities, possibilities for strengthening co-operation with the Parliamentary Assembly, and through it, national parliaments will be actively pursued.

#### A. The Office for Democratic Institutions and Human Rights (ODIHR)

##### *1. General Mandate, Including Additional General Tasks*

#### **Paris 1990** (A New Era of Democracy, Peace and Unity)

We decide to establish an Office for Free Elections in Warsaw to facilitate contacts and the exchange of information on elections within participating States.

#### **Paris 1990** (Supplementary Document to Give Effect to Certain Provisions Contained in the Charter of Paris for a New Europe)

#### G. The Office for Free Elections

1. The function of the Office for Free Elections will be to facilitate contacts and the exchange of information on elections within participating States. The Office will thus foster the implementation of paragraphs 6, 7 and 8 of the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE (the relevant provisions are contained in Annex 1).

2. To this end, the Office will

- compile information, including information provided by the competent authorities of the participating States, on the dates, procedures and official results of scheduled national elections within participating States, as well as reports of election observations, and provide these on request to governments, parliaments and interested private organizations;
- serve to facilitate contact among governments, parliaments or private organizations wishing to observe elections and competent authorities of the States in which elections are to take place;
- organize and serve as the venue for seminars or other meetings related to election procedures and democratic institutions at the request of the participating States.

3. The Office will take into account the work of and co-operate with other institutions active in this field.

4. The Office will carry out other tasks assigned to it by the Council.

#### Annex 1 (Copenhagen 1990)

(6) The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government. The participating States will accordingly respect the right of their cit-

izens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes. They recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

(7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(7.1) - hold free elections at reasonable intervals, as established by law;

(7.2) - permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;

(7.3) - guarantee universal and equal suffrage to adult citizens;

(7.4) - ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;

(7.5) - respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

(7.6) - respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;

(7.7) - ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;

(7.8) - provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

(7.9) - ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

(8) The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe

the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.

**Prague 1992** (Document on Further Development of CSCE Institutions and Structures: III. Human Dimension)

9. In order to extend practical co-operation among participating States in the human dimension, the Ministers decided to give additional functions to the Office for Free Elections which will henceforth be called the Office for Democratic Institutions and Human Rights.

10. Under the general guidance of the CSO, the Office should, *inter alia*:

- organize a short CSCE meeting at the seat of the Office for Democratic Institutions and Human Rights to address implementation of CSCE human dimension commitments every year in which a follow-up meeting does not take place (...)
- serve as an institutional framework for sharing and exchanging information on available technical assistance, expertise, and national and international programmes aimed at assisting the new democracies in their institution-building;
- facilitate contacts between those offering such resources and those wishing to make use of them;
- develop co-operation with the Council of Europe in order to make use of its database of such resources and services;
- establish contacts with non-governmental organizations active in the field of democratic institution-building, with a view to enabling interested participating States to make use of their extensive resources and expertise;
- facilitate co-operation in training and education in disciplines relevant to democratic institutions;
- organize meetings and seminars among all participating States on subjects related to the building and revitalization of democratic institutions, such as a short seminar on free media and, at an appropriate time, one on migration. These meetings and seminars will be held in Warsaw unless otherwise decided.

11. In order to avoid duplication of work specially in the fields enumerated above, the Ministers directed the Office to work closely with other institutions active in the field of democratic institution-building and human rights, particularly the Council of Europe and the European Commission for Democracy through Law.

12. The CSO will on an annual basis examine the need for meetings and seminars on the human dimension and democratic institutions and will establish a work programme.

(...)

14. The Office for Democratic Institutions and Human Rights is designated as the CSCE institution charged with the tasks in connection with expert and rapporteur missions according to the Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE.

#### **Helsinki 1992** (Decisions: VI. The Human Dimension)

(2) The participating States express their strong determination to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote the principles of democracy and, in this regard, to build, strengthen and protect democratic institutions, as well as to promote tolerance throughout society. To these ends, they will broaden the operational framework of the CSCE, including by further enhancing the ODIHR, so that information, ideas, and concerns can be exchanged in a more concrete and meaningful way, including as an early warning of tension and potential conflict. In doing so, they will focus their attention on topics in the Human Dimension of particular importance. They will therefore keep the strengthening of the Human Dimension under constant consideration, especially in a time of change.

(...)

Framework for monitoring compliance with CSCE commitments and for promoting co-operation in the human dimension

(4) In order to strengthen and monitor compliance with CSCE commitments as well as to promote progress in the Human Dimension, the participating States agree to enhance the framework of their co-operation and to this end decide the following:

Enhanced role of the ODIHR

(5) Under the general guidance of the CSO and in addition to its existing tasks as set out in the Charter of Paris for a New Europe and in the Prague Document on Further Development of CSCE Institutions and Structures, the ODIHR will, as the main institution of the Human Dimension:

(5a) assist the monitoring of implementation of commitments in the Human Dimension by:

- serving as a venue for bilateral meetings under paragraph 2 and as a channel for information under paragraph 3 of the Human Dimension Mechanism as set out in the Vienna Concluding Document;
- receiving any comments from States visited by CSCE missions of relevance to the Human Dimension other than those under the Human Dimension Mechanism; it will transmit the report of those missions as well as eventual comments to all participating States with a view to discussion at the next implementation meeting or review conference;

- participating in or undertaking missions when instructed by the Council or the CSO;
- (5b) act as a clearing-house for information on:
- a state of public emergency according to paragraph 28.10 of the Document of the Moscow Meeting of the Conference on the Human Dimension;
  - resource lists, and assistance, e.g. in the field of censuses or on democracy at a local and regional level, and the holding of national seminars on such issues;
- (5c) assist other activities in the field of the Human Dimension, including the building of democratic institutions by:
- fulfilling the tasks as defined in the "Programme of co-ordinated support to recently admitted participating States";
  - arranging "Seminars on the democratic process" at the request of participating States. The same procedural provisions as set out in the "Programme of co-ordinated support for recently admitted participating States" will also apply to these seminars;
  - contributing, within the resources at its disposal, to the preparation of seminars at the request of one or more participating States;
  - providing, as appropriate, facilities to the High Commissioner on National Minorities;
  - communicating, as appropriate, with relevant international and non-governmental organizations;
  - consulting and co-operating with relevant bodies of the Council of Europe and those associated with it, and examining how they can contribute, as appropriate, to the ODIHR's activities. The ODIHR will also, at the request of participating States, supply them with information about programmes within the framework of the Council of Europe which are open to all participating States.
- (6) The activities on Human Dimension issues undertaken by the ODIHR may, *inter alia*, contribute to early warning in the prevention of conflicts.

#### Human Dimension Mechanism

(7) In order to align the Human Dimension Mechanism with present CSCE structures and institutions the participating States decide that:

Any participating State which deems it necessary may provide information on situations and cases which have been the subject of requests under paragraphs 1 or 2 of the chapter entitled the "Human Dimension of the CSCE" of the Vienna Concluding Document or on the results of those procedures, to the participating States through the ODIHR - which can equally serve as a venue for bilateral meetings under paragraph 2 -

or diplomatic channels. Such information may be discussed at Meetings of the CSO, at implementation meetings on Human Dimension issues and review conferences.

(...)

Implementation meetings on Human Dimension issues

(9) Every year in which a review conference does not take place, the ODIHR will organize a three-week meeting at expert-level of all participating States at its seat to review implementation of CSCE Human Dimension commitments. The meeting will perform the following tasks:

(9a) a thorough exchange of views on the implementation of Human Dimension commitments, including discussion on the information provided in accordance with paragraph 4 of the Human Dimension Mechanism and on the Human Dimension aspects of the reports of CSCE missions, as well as the consideration of ways and means of improving implementation;

(9b) an evaluation of the procedures for monitoring compliance with commitments.

(10) The implementation meeting may draw to the attention of the CSO measures to improve implementation which it deems necessary.

(11) The implementation meeting will not produce a negotiated document.

(12) Written contributions and information material will be of a non-restricted or restricted character as indicated by the submitting State.

(13) Implementation meetings will be organized to meet in formal and informal sessions. All formal sessions will be open. In addition, the participating States may decide, on a case-by-case basis, to open informal sessions.

(14) The Council of Europe, the European Commission for Democracy through Law and the European Bank for Reconstruction and Development (EBRD), as well as other relevant international organizations and institutions will be encouraged by the implementation meeting to attend and make contributions.

(15) Non-governmental organizations having relevant experience in the field of the Human Dimension are invited to make written presentations to the implementation meeting, e.g. through the ODIHR, and may be invited by the implementation meeting, on the basis of their written presentations, to address specific questions orally as appropriate.

(16) During two half days in the course of the implementation meeting no formal session will be scheduled in order to provide better opportunities for possible contacts with NGOs. To this purpose, a hall at the meeting site will be placed at the disposal of NGOs.

## CSCE Human Dimension seminars

(17) Under the general guidance of the CSO, the ODIHR will organize CSCE Human Dimension seminars which will address specific questions of particular relevance to the Human Dimension and of current political concern. The CSO will establish an annual work programme including the titles and dates of such seminars. The agenda and modalities of each seminar will be approved by the CSO at the latest three months before the seminar. In doing so, the CSO will take into account views expressed by the ODIHR. Unless otherwise decided, seminars will be held at the seat of the ODIHR and will not exceed one week. The work programme will take into account work by relevant international organizations and institutions.

(18) These seminars will be organized in an open and flexible manner. Relevant international organizations and institutions may be invited to attend and to make contributions. So may NGOs with relevant experience. Independent experts attending the seminar as members of national delegations will also be free to speak in their own capacity.

(19) CSCE seminars will be organized to meet in formal and informal sessions. All formal sessions will be open. In addition, the participating States may decide, on a case-by-case basis, to open informal sessions.

(20) CSCE seminars will not produce a negotiated document or follow-up programmes.

(21) Contributions by independent experts will be of a non-restricted character.

**Rome 1993** (Decisions: IV. The Human Dimension)

(3) The political consultation process and CSCE missions

(...)

- Further emphasis will be given to human dimension issues in mandates of CSCE missions as well as in the follow-up of mission reports. To this end the ODIHR will be given an enhanced role in the preparation of CSCE missions, *inter alia*, in providing information and advice to missions in accordance with its expertise.

(...)

## 4. Office for Democratic Institutions and Human Rights

The Ministers decided to strengthen the ODIHR's functions and operations. *Inter alia*, the ODIHR will enhance its activities under its mandate in the following areas:

- the building of an expanded database of experts in fields relevant to the human dimension. Participating States and non-governmental organizations are requested to inform the ODIHR of experts available in fields relevant to the human dimension;

(...)

- strengthened co-operation with relevant international organizations in order to coordinate activities and identify possible areas of joint endeavour;
- receiving information provided by NGOs having relevant experience in the human dimension field;
- serving as a point of contact for information provided by participating States in accordance with CSCE commitments;
- disseminating general information on the human dimension, and international humanitarian law.

### **Budapest 1994** (Decisions: VIII. The Human Dimension)

8. The ODIHR, as the main institution of the human dimension, in consultation with the Chairman-in-Office, will, acting in an advisory capacity, participate in discussions of the Senior Council and the Permanent Council, by reporting at regular intervals on its activities and providing information on implementation issues. It will provide supporting material for the annual review of implementation and, where necessary, clarify or supplement information received. Acting in close consultation with the Chairman-in-Office, the Director of the ODIHR may propose further action.

9. The participating States recognize the need for enhanced co-operation through the ODIHR with other international organizations and institutions active in the human dimension, including among others the United Nations High Commissioner for Human Rights, for the exchange of information, including reports, and for further developing of future-oriented activities, such as outlined in the present document.

10. The participating States decide to

(...)

- task the ODIHR to act as a clearing-house for the exchange of information on media issues in the region, and encourage governments, journalists and NGOs to provide the ODIHR with information on the situation of the media.

11. The ODIHR will be consulted on a CSCE mission's mandate before adoption and will contribute to the follow-up of mission reports as decided by the Permanent Council. The ODIHR's knowledge of experts on the human dimension should be used to help to staff CSCE missions. These missions will also designate a mission member to liaise with the ODIHR and with NGOs on human dimension issues.

(...)

13. The provisions mentioned in the human dimension chapter of this document do not in any way constitute a change in the mandate of either the ODIHR or the HCNM.

ODIHR seminars



14. The number of large-scale human dimension seminars will as a rule be reduced to two per year. They will focus on topics which are of the broadest interest.

There will be more emphasis on regional seminars. Where appropriate they will form part of the Programme of Co-ordinated Support. These seminars should seek full participation from States in the region in which they are held (...)

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

43. They agreed that the ability of the ODIHR to provide in-depth expertise on human dimension issues under the Programme of Co-ordinated Support should be further developed. In order to respond to requests for advice by newly independent States concerned on all aspects of democratization, they decided that using experts-at-large within the framework of the Programme of Co-ordinated Support would be a useful enhancement of the ODIHR's role.

##### *II. Additional Tasks Related to Elections*

#### **Rome 1993** (Decisions: IV. The Human Dimension)

##### 4. Office for Democratic Institutions and Human Rights

The Ministers decided to strengthen the ODIHR's functions and operations. *Inter alia*, the ODIHR will enhance its activities under its mandate in the following areas:

(...)

- enhancement of its role in comprehensive election monitoring (...)

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

12. The ODIHR will play an enhanced role in election monitoring, before, during and after elections. In this context, the ODIHR should assess the conditions for the free and independent functioning of the media.

The participating States request that co-ordination between the various organizations monitoring elections be improved, and task the ODIHR to consult all relevant organizations in order to develop a framework for co-ordination in this field.

In order to enhance election monitoring preparations and procedures, the ODIHR will also devise a handbook for election monitors and set up a rolling calendar for upcoming elections.

#### **Maastricht 2003** (Decisions: Decision No. 5/03 on Elections)

The Ministerial Council

(...)

Tasks the ODIHR to consider ways to improve the effectiveness of its assistance to participating States in following up recommendations made in ODIHR election-observation reports

### *III. ODIHR Contact Point for Roma and Sinti Issues*

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

23. The participating States decide to appoint within the ODIHR a contact point for Roma and Sinti (Gypsies) issues. The ODIHR will be tasked to:

- act as a clearing-house for the exchange of information on Roma and Sinti (Gypsies) issues, including information on the implementation of commitments pertaining to Roma and Sinti (Gypsies);
- facilitate contacts on Roma and Sinti (Gypsies) issues between participating States, international organizations and institutions and NGOs;
- maintain and develop contacts on these issues between CSCE institutions and other international organizations and institutions.

To fulfil these tasks, the ODIHR will make full use of existing resources. In this context they welcome the announcement made by some Roma and Sinti (Gypsies) organizations of their intention to make voluntary contributions.

24. The participating States welcome the activities related to Roma and Sinti (Gypsies) issues in other international organizations and institutions, in particular those undertaken in the Council of Europe.

#### **Oslo 1998** (Decisions: Decision on Enhancement of the OSCE's Operational Capabilities Regarding Roma and Sinti Issues)

The Ministerial Council,

Bearing in mind the existing OSCE commitments regarding Roma and Sinti, and

Recalling the decision taken by the Budapest Summit to appoint within the ODIHR a Contact Point for Roma and Sinti (Gypsies) Issues,

1. Decides to enhance the capability of the OSCE regarding those issues by strengthening the existing ODIHR Contact Point for Roma and Sinti Issues. Among its priorities will be:

- to enhance the OSCE's interaction with the governments of the participating States, with representatives of Roma and Sinti communities, as well as with international organizations, initiatives and NGOs relevant to Roma and Sinti issues, and in particular to secure further mutual reinforcement of co-operation with the Co-ordinator for Roma in the Council of Europe with a view to avoiding duplication of effort, including the establishment of regular consultations with those organizations, initiatives and

NGOs in order to develop synergies and common approaches designed to facilitate full integration of Roma and Sinti communities into the societies they live in, while preserving their identity;

- to enhance co-operation among OSCE institutions and mission/field presences with respect to Roma and Sinti, if applicable;
- to develop, on the basis of input from participating States, the OSCE institutions, and in particular the HCNM, Roma and Sinti communities, NGOs, and international organizations and other institutions and initiatives, a work programme which should include, inter alia, seminars, workshops and clearing houses;
- to collect information from the participating States on legislative and other measures related to the situation of Roma and Sinti with a view to making it available to the OSCE community, as well as to other interested international organizations, and to elaborating additional reports on the situation of Roma and Sinti in the OSCE area.

2. Further decides that the Contact Point should deal solely with matters concerning Roma and Sinti.

**Maastricht 2003** (Decisions: Annex to Decision No. 2/03 on Combating Trafficking in Human Beings; OSCE Action Plan to Combat Trafficking in Human Beings)

Action for OSCE Institutions and Bodies

6. Data collection and research

(...)

6.2 Tasking ODIHR's Contact Point on Roma and Sinti with continuing to gather data regarding trafficking in human beings, especially children, and its effects on Roma and Sinti communities.

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03; Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

III Combating racism and discrimination

Legislation and law enforcement

Recommended action by OSCE institutions and structures:

(...)

23. The ODIHR/Contact Point for Roma and Sinti Issues (CPRSI) will promote better relations between Roma and Sinti non-governmental organizations (NGOs) and the participating States.

24. The ODIHR-CPRSI will serve as a clearing house on initiatives undertaken by participating States and facilitate exchanges of information on best practices.

25. The ODIHR-CPRSI will, in close co-operation with participating States, Roma and Sinti communities, and where possible with other international organizations, and in full respect of the laws on the protection of personal data, collect documentation for the purpose of developing more precisely targeted policies.

Police

Recommended action by OSCE institutions and structures:

(...)

34. The ODIHR-CPRSI and the Strategic Police Matters Unit will, within their respective mandates, produce a compilation of police “best practices” in the OSCE region with respect to policing and Roma and Sinti communities.

35. The HCNM, the ODIHR-CPRSI and the Strategic Police Matters Unit will assist the participating States in developing codes of conduct to prevent racial profiling and improve interethnic relations.

#### IV. Addressing socio-economic issues

Housing and living conditions

Recommended action by OSCE institutions and structures:

47. The ODIHR-CPRSI and the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) are encouraged to play a larger role in facilitating the provision of information about and access to resources made available by foreign donors for specific projects, particularly those generated by Roma and Sinti groups, addressing the social and economic development of Roma and Sinti communities.

Unemployment and economic problems

Recommended action by OSCE institutions and structures:

54. At the request of participating States, the ODIHR-CPRSI and the OCEEA will support development of the employability and entrepreneurial skills of Roma and Sinti people through the establishment of training and retraining programmes in participating States. Successful practices, particularly relating to the development of entrepreneurial skills and small and medium-sized enterprises (SMEs) (e.g., the Youth Entrepreneurship Seminars programme) could be adapted to the needs of Roma and Sinti people (...)

(...)

56. The ODIHR-CPRSI and the OCEEA will draw upon the research developed by UNDP and other agencies to assess the needs of Roma and Sinti people with a view to fostering policies that take into account the extent and nature of their specific needs in each participating State.

57. In co-ordination with relevant international organizations (in particular UNDP and the World Bank), the ODIHR-CPRSI and the OCEEA will examine ways to stimulate better access by Roma and Sinti people to regular training programmes. Workshops or round-table discussions tailored to the needs of Roma and Sinti people can be organized, with a view to informing and educating community members regarding the economic and social rights of individuals and entrepreneurs.

Health care

Recommended action by OSCE institutions and structures:

(...)

65. The ODIHR-CPRSI and, where appropriate, other OSCE institutions and structures, including OSCE field operations, will assist participating States in launching educational initiatives to help Roma and Sinti people make full use of regular health services. They will, *inter alia*, collect, produce and disseminate relevant information on good practices.

66. The ODIHR-CPRSI will pay special attention to ensuring that Roma and Sinti people have access to programmes aimed at prevention and/or treatment of drug abuse and addiction and AIDS and related diseases.

VII. Roma and Sinti in crisis and post-crisis situations

(...)

Recommended action by OSCE institutions and structures:

(...)

114. In accordance with its mandate, the ODIHR-CPRSI is called upon to respond effectively to crisis situations by, *inter alia*, co-operating with relevant governments, inter-governmental bodies and international organizations, in particular the UNHCR, to ensure protection of Roma communities at risk.

115. The ODIHR-CPRSI will raise awareness among public officials, journalists and others of the situation of Roma and Sinti people in crisis or conflict areas.

VIII. Enhancing co-operation and co-ordination with other international organizations and NGOs 118. The ODIHR-CPRSI will continue to participate actively in the *Informal Contact Group on Roma of the Intergovernmental Organisations*\*.

(...)

\* The *Informal Contact Group on Roma of the Intergovernmental Organisations* is composed of representatives from OSCE/ODIHR, the Council of Europe, the European Commission and the European Union.

121. The ODIHR-CPRSI will seek to consolidate the “International Roma Contact Group”<sup>\*\*</sup> and will further contribute to the Council of Europe’s initiative for a possible European Forum for Roma and Travellers.

122. The ODIHR-CPRSI will provide information and co-ordination services to relevant national and international institutions, and will facilitate dialogue among them and with Roma NGOs.

123. The ODIHR-CPRSI will seek to develop relations with Roma and Sinti organizations and help them to co-ordinate their efforts and resources, both within individual States and across borders, and to avail themselves fully of opportunities provided by existing national and international policies affecting Roma and Sinti people.

124. The ODIHR-CPRSI will draw upon the experience and input of existing monitoring projects developed by other international organizations.

#### IX. The ODIHR Contact Point for Roma and Sinti Issues

125. Where necessary, the ODIHR-CPRSI will facilitate information-sharing among OSCE participating States that have developed or are seeking to improve national policies on Roma and Sinti people.

126. Upon request, ODIHR-CPRSI will advise participating States on future policies related to Roma and Sinti people and will stimulate debates between governments and Roma NGOs.

127. The ODIHR-CPRSI will support capacity-building for Roma and Sinti NGOs.

128. The ODIHR-CPRSI will establish a database of best practices in OSCE participating States.

129. The ODIHR-CPRSI should assume a proactive role in analysing measures undertaken by participating States, as well as in particular situations and incidents relating to Roma and Sinti people. Towards this end CPRSI will establish and develop direct contacts with participating States and will offer advice and opinions to them.

130. Governments concerned will co-operate with the ODIHR-CPRSI in identifying effective solutions to crisis situations.

131. The ODIHR-CPRSI will provide Roma and Sinti communities with more information on OSCE resources and activities.

132. In co-operation with relevant OSCE institutions and structures, the ODIHR will develop appropriate action aimed at tackling the root causes of trafficking in human

<sup>\*\*</sup> The International Roma Contact Group was established in October 2000 at the initiative of the ODIHR Contact Point for Roma and Sinti Issues. The Contact Group includes representatives of the International Romani Union, the Roma National Congress, elected Romani representatives, Romani experts and the ODIHR-CPRSI.

beings, especially in children, and raise awareness of its consequences among Roma and Sinti communities.

(...)

138. The ODIHR-CPRSI will disseminate information on this Plan to Roma and Sinti communities and organizations as well as to other international organizations.

Mass Media

Recommended action by OSCE institutions and structures:

(...)

41. The ODIHR-CPRSI and the RFOM will organize round tables with journalists on the image that Roma and Sinti communities have in society.

VI. Enhancing participation in public and political life

Recommended action by OSCE institutions and structures:

(...)

100. The ODIHR-CPRSI should help to organize training for and by Roma NGOs, including media organizations, for wider Roma communities on the issues of democratic processes and participation.

(...)

105. The ODIHR-CPRSI and, where appropriate, other OSCE institutions and structures, including OSCE field operations, will design programmes that encourage Roma and Sinti representatives to stand as candidates for elected bodies or will identify creative solutions that would ensure the participation of Roma and Sinti representatives in national and local decision-making processes.

*IV. Additional Tasks Related to Tolerance and Non-discrimination, Including Roma and Sinti Issues*

**Budapest 1994** (Decisions: VIII. The Human Dimension)

25. The participating States condemn manifestations of intolerance, and especially of aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism, and will continue to promote effective measures aimed at their eradication. They request the ODIHR to continue to pay special attention to these phenomena, collecting information on their various manifestations in participating States.

**Bucharest 2001** (Decisions: Decision No. 5)

The Ministerial Council

(...)

Calls on OSCE institutions, particularly the ODIHR, the High Commissioner on National Minorities, and the Representative on Freedom of the Media, to pay increased attention to manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-semitism and violent extremism, to countering intolerance and discrimination on the ground of racial or ethnic origin, religious, political or other opinion and to fostering respect for rule of law, democratic values, human rights and fundamental freedoms, including freedom of expression, thought, conscience, religion or belief;

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

### III Combating racism and discrimination

#### Legislation and law enforcement

Recommended action by OSCE institutions and structures:

20. The ODIHR and, where appropriate, other OSCE institutions and structures, including OSCE field operations, will assist participating States, at their request, in developing anti-discrimination legislation, as well as in establishing anti-discrimination bodies.

(...)

22. Upon request, the ODIHR will provide advice on how a participating State's existing mechanisms, such as ombudsman offices, commissions for combating discrimination, police disciplinary commissions, and other relevant bodies can alleviate tensions between Roma and Sinti and non-Roma communities.

#### Police

Recommended action by OSCE institutions and structures:

33. The Strategic Police Matters Unit in the Secretariat and the ODIHR will assist participating States in developing programmes and confidence-building measures — such as community policing — to improve the relations between Roma and Sinti people and the police, particularly at the local level.

#### Mass Media

Recommended action by OSCE institutions and structures:

39. In co-operation with the ODIHR as well as relevant international organizations, the Representative on Freedom of the Media (RFOM) should consider how the OSCE could contribute to the establishment of a European Roma Radio which would broadcast throughout Europe. The ODIHR and the RFOM should organize public debates, anti-discrimination campaigns and joint training programmes with and for the media.

(...)



## Health care

Recommended action by OSCE institutions and structures:

64. In co-operation with other international organizations and NGOs, the ODIHR will draw upon existing research data to identify socio-economic, political and cultural factors that have an impact on the health status of particular Roma and Sinti populations, and will advise participating States regarding public health programmes which would respond to needs identified.

## VI. Enhancing participation in public and political life

Recommended action by OSCE institutions and structures:

99. The ODIHR and, where appropriate, other OSCE institutions and structures, including OSCE field operations, will develop programmes aimed at fostering the registration necessary for full political participation.

(...)

101. The ODIHR and, where appropriate, other OSCE institutions and structures, including OSCE field operations, will develop and implement voter education and voter registration programmes.

102. The ODIHR will act as a catalyst for exchanges of information and best practices among participating States and other international organizations.

103. The ODIHR will continue and strengthen the practice of examining the involvement of Roma people in voting and election processes, and will continue the practice of including Roma and Sinti experts in its election observation missions in the OSCE area.

(...)

106. The ODIHR will devote particular attention to activities aimed at increasing access by Roma women to all areas of public and political life.

## VII. Roma and Sinti in crisis and post-crisis situations

Recommended action by OSCE institutions and structures:

113. The ODIHR will make use of its specific role in addressing conflict prevention and identifying areas of potential crisis requiring early intervention.

(...)

116. The ODIHR will assume a proactive role in analysing measures undertaken by participating States relating to Roma and Sinti people and offer its advice with a view to

better tackling those elements of tension in particular local contexts which may evolve, if not prevented, into open conflict situations.

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council

(...)

6. Encourages all participating States to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism, as discussed and recommended in the above-mentioned conferences. Recognizing the importance of legislation to combat hate crimes, participating States will inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination, and, where appropriate, seek the ODIHR's assistance in the drafting and review of such legislation;

7. Tasks the ODIHR, in full co-operation, *inter alia*, with the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI) and the European Monitoring Centre on Racism and Xenophobia (EUMC), as well as relevant NGOs, with serving as a collection point for information and statistics collected by participating States, and with reporting regularly on these issues, including in the format of the Human Dimension Implementation Meeting, as a basis for deciding on priorities for future work. The ODIHR will, *inter alia*, promote best practices and disseminate lessons learned in the fight against intolerance and discrimination;

(...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 607: Combating Anti-Semitism)

The Permanent Council.

(...)

Decides

(...)

2. To task the ODIHR to:

- Follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, anti-Semitic incidents in the OSCE area making use of all reliable information available;

- Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance;
- Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to anti-Semitism and, if requested, offer advice to participating States in their efforts to fight anti-Semitism;

(...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The Permanent Council,

(...)

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

(...)

2. To task the ODIHR to:

- Follow closely, in full co-operation with other OSCE institutions as well as the United Nations Committee on the Elimination of Racial Discrimination (UNCERD), the United Nations Office of the High Commissioner for Human Rights (UNHCHR), the European Commission against Racism and Intolerance (ECRI), the European Monitoring Centre on Racism and Xenophobia (EUMC) and other relevant international institutions and NGOs, incidents motivated by racism, xenophobia, or related intolerance, including against Muslims, and anti-Semitism in the OSCE area making use of all reliable information available;
- Report its findings to the Permanent Council and to the Human Dimension Implementation Meeting and make these findings public. These reports should also be taken into account in deciding on priorities for the work of the OSCE in the area of intolerance;
- Systematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to racism, xenophobia and discrimination and, if requested, offer advice to participating States in their efforts to fight racism, xenophobia and discrimination;

- Support the ability of civil society and the development of partnerships to address racism, xenophobia, discrimination or related intolerance, including against Muslims, and anti-Semitism (...)

#### *V. Additional Tasks Related to Gender Equality*

**Sofia 2004** (Decisions: Annex to Decision No. 14/04; 2004 OSCE Action Plan for the Promotion of Gender Equality)

V. Supporting OSCE participating States in implementing relevant commitments to promoting equality between women and men

(...)

#### 44. Priorities

(a) Developing projects in OSCE States not hosting missions

- In countries without missions, the ODIHR will identify projects to support measures in the areas of prevention of violence against women, promotion of women in the public, political, and economic spheres, and support for national gender-mainstreaming.

(b) Ensuring non-discriminatory legal and policy frameworks

- The ODIHR, in co-operation with other international organizations and relevant national bodies and institutions, will assist OSCE participating States in complying with international instruments for the promotion of gender equality and women's rights, and in reviewing legislation to ensure appropriate legal guarantees for the promotion of gender equality in accordance with OSCE and other commitments;
- The ODIHR will assist in the development and implementation of specific programmes and activities to promote women's rights, to increase the role of women at all levels of decision-making, and to promote equality between women and men throughout the OSCE area, particularly through education in gender awareness;
- The ODIHR will assist in the implementation and assessment of national strategies and action plans on measures to promote gender equality and gender-mainstreaming;

(...)

(d) Ensuring equal opportunity for participation of women in political and public life

- The ODIHR will assist participating States in developing effective measures to bring about the equal participation of women in democratic processes and will assist in developing best practices for their implementation;
- The ODIHR and the OSCE field operations will assist, as appropriate, in building up local capacities and expertise on gender issues as well as networks linking community leaders and politicians;

- The ODIHR will continue to assist participating States in promoting women's political participation. It will continue, as a part of its Election Observation Mission, to monitor and report on women's participation in electoral processes. When possible, additionally, the ODIHR will commission and publish reports specifically analysing the situation of women in electoral processes;

(g) Building national mechanisms for the advancement of women

- The ODIHR will continue to provide know-how and support for the building-up of democratic institutions for advancing gender equality, such as Ombudsman's offices at local and national levels, as appropriate;
- The ODIHR will facilitate dialogue and co-operation between civil society, media and government in promoting gender-mainstreaming.

*VI. Additional Tasks Related to Combating Trafficking in Human Beings*

**Vienna 2000** (Decisions: Decision on Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings)

The Ministerial Council

(...)

7. Calls on OSCE institutions, in particular the ODIHR, and field operations, to develop and implement anti-trafficking programmes and to promote co-ordinated efforts in the areas of prevention, prosecution and protection, in co-operation with non-governmental organizations as well as international organizations and other relevant institutions;

(...)

13. Calls on the OSCE Secretariat, in co-operation with the ODIHR, to intensify anti-trafficking training in its induction programmes for OSCE field personnel in order to enhance their capacity to monitor, report and respond to the problem of trafficking through regular OSCE activities; and to raise awareness within OSCE institutions and among OSCE personnel of the problems of trafficking; these training programmes should also be made available to participating States and other international organizations;

(...)

**Maastricht 2003** (Decisions: Annex to Decision No. 2/03 on Combating Trafficking in Human Beings; OSCE Action Plan to Combat Trafficking in Human Beings)

III. Investigation, law enforcement and prosecution

(...)

9. Legislative review and reform

9.1 The ODIHR, and where appropriate the field operations, will continue to promote and support legislative review and reform efforts in compliance with international standards.

(...)

10.4 As part of its assistance in the development of National Referral Mechanisms the ODIHR will continue to promote and encourage co-operation between law enforcement and civil society.

(...)

## 12. Training

12.1 The ODIHR and the OSCE Strategic Police Matters Unit will continue to develop training materials targeted at law enforcement authorities on trafficking and sex crimes investigation, consult with the International Law Enforcement Academy (ILEA) in Budapest regarding possibilities for incorporating this training into ILEA programs, identify law enforcement trainers to conduct training, and facilitate funding training sessions for law enforcement authorities in OSCE participating States.

## IV. Prevention of trafficking in human beings

### 8. Awareness-raising

8.1 The ODIHR and, where appropriate, field operations will continue to contribute to research efforts as well as promoting and carrying out awareness-raising initiatives in co-operation with relevant partners throughout the OSCE region.

8.2 (...) The ODIHR will enhance training activities with regard to the responsibility of the media for dealing with the topic of trafficking in a sensitive manner and without reinforcing negative stereotypes. Training will stress the complexity of the trafficking phenomenon and the need for a comprehensive response.

## V. Protection and assistance

### 11. National Referral Mechanism

11.1 Enhancing the activities of the OSCE, especially the ODIHR, in assisting participating States, upon their request, in establishing the NRM.

11.2 Tasking the OSCE Strategic Police Matters Unit, together with the ODIHR, with the further development of guidelines or a manual on the identification of suspected victims and of evidence of THB, in order to assist participating States, as appropriate.

(...)

## 14. Training

(...)

14.2 Tasking the ODIHR with the collection and dissemination of information on measures, training programmes and materials already in place in OSCE participating States.

## 15. Legislative measures

15.1 In co-ordination with the United Nations Office on Drugs and Crime, the Council of Europe and other relevant actors, the ODIHR will continue to assist participating States, upon their request, in bringing their national legislation into compliance with international norms and standards, particularly by promoting a humanitarian and compassionate approach to the victims of THB.

## VI. Follow-up and co-ordinating mechanisms

7. Tasks the ODIHR with rendering necessary technical assistance to participating States, when appropriate, in developing National Anti-Trafficking Plans of Action, including legislative and other assistance measures aimed at effective prevention and combating trafficking and protection of victims;

(...)

9. Tasks the ODIHR with the further development of its clearing-house function for the exchange of information, contacts, materials and good practices and with the enhancement of its project activities.

## *VII. Additional Tasks Related to Combating Terrorism*

**Bucharest 2001** (Annex to Decision 1 on Combating Terrorism; The Bucharest Plan of Action for Combating Terrorism)

### II. International legal obligations and political commitments

(...)

6. Office for Democratic Institutions and Human Rights (ODIHR): Will, on formal request by interested participating States and where appropriate, offer technical assistance/advice on legislative drafting necessary for the ratification of international instruments, in close co-operation with other organizations, including the United Nations Office for Drug Control and Crime Prevention (UNODCCP).

(...)

### III. Preventive action against terrorism in the OSCE area

(...)

10. Institution building, strengthening the rule of law and state authorities: ODIHR: Will continue and increase efforts to promote and assist in building democratic institutions at the request of States, *inter alia* by helping to strengthen administrative capac-

ity, local and central government and parliamentary structures, the judiciary, ombudsman institutions and civil society. Will facilitate exchanges of best practices and experience between participating States in this regard. Will continue to develop projects to solidify democratic institutions, civil society and good governance.

(...)

Strengthening national anti-terrorism legislation: (...)

18. ODIHR: Will, on request by interested participating States and where appropriate, offer technical assistance/advice on the implementation of international anti-terrorism conventions and protocols as well as on the compliance of this legislation with international standards, in accordance with Permanent Council decisions, and will seek cooperation with other organizations, especially the UNODCCP, to this end. Will consider facilitating contacts between national experts to promote exchange of information and best practices on counter-terrorism legislation.

(...)

Supporting law enforcement and fighting organized crime: (...)

22. ODIHR: Will provide continued advice to participating States, at their request, on strengthening domestic legal frameworks and institutions that uphold the rule of law, such as law enforcement agencies, the judiciary and the prosecuting authorities, bar associations and defence attorneys. Will expand its efforts to combat trafficking in human beings and to support victims of trafficking. Will, where appropriate, support prison reform and improvements in criminal procedure.

## B. The High Commissioner on National Minorities

### **Helsinki 1992** (Decisions: II. CSCE High Commissioner on National Minorities)

(1) The participating States decide to establish a High Commissioner on National Minorities.

#### Mandate

(2) The High Commissioner will act under the aegis of the CSO and will thus be an instrument of conflict prevention at the earliest possible stage.

(3) The High Commissioner will provide “early warning” and, as appropriate, “early action” at the earliest possible stage in regard to tensions involving national minority issues which have not yet developed beyond an early warning stage, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the CSCE area, affecting peace, stability or relations between participating States, requiring the attention of and action by the Council or the CSO.



(4) Within the mandate, based on CSCE principles and commitments, the High Commissioner will work in confidence and will act independently of all parties directly involved in the tensions.

(5a) The High Commissioner will consider national minority issues occurring in the State of which the High Commissioner is a national or a resident, or involving a national minority to which the High Commissioner belongs, only if all parties directly involved agree, including the State concerned.

(5b) The High Commissioner will not consider national minority issues in situations involving organized acts of terrorism.

(5c) Nor will the High Commissioner consider violations of CSCE commitments with regard to an individual person belonging to a national minority.

(6) In considering a situation, the High Commissioner will take fully into account the availability of democratic means and international instruments to respond to it, and their utilization by the parties involved.

(7) When a particular national minority issue has been brought to the attention of the CSO, the involvement of the High Commissioner will require a request and a specific mandate from the CSO.

#### Profile, appointment, support

(8) The High Commissioner will be an eminent international personality with long-standing relevant experience from whom an impartial performance of the function may be expected.

(9) The High Commissioner will be appointed by the Council by consensus upon the recommendation of the CSO for a period of three years, which may be extended for one further term of three years only.

(10) The High Commissioner will draw upon the facilities of the ODIHR in Warsaw, and in particular upon the information relevant to all aspects of national minority questions available at the ODIHR.

#### Early warning

(11) The High Commissioner will:

(11a) collect and receive information regarding national minority issues from sources described below (see Supplement paragraphs (23)-(25));

(11b) assess at the earliest possible stage the role of the parties directly concerned, the nature of the tensions and recent developments therein and, where possible, the potential consequences for peace and stability within the CSCE area;

(11c) to this end, be able to pay a visit, in accordance with paragraph (17) and Supplement paragraphs (27)-(30), to any participating State and communicate in person, subject to the provisions of paragraph (25), with parties directly concerned to obtain first-hand information about the situation of national minorities.

(12) The High Commissioner may during a visit to a participating State, while obtaining first-hand information from all parties directly involved, discuss the questions with the parties, and where appropriate promote dialogue, confidence and co-operation between them.

#### Provision of early warning

(13) If, on the basis of exchanges of communications and contacts with relevant parties, the High Commissioner concludes that there is a *prima facie* risk of potential conflict (as set out in paragraph (3)) he/she may issue an early warning, which will be communicated promptly by the Chairman-in-Office to the CSO.

(14) The Chairman-in-Office will include this early warning in the agenda for the next meeting of the CSO. If a State believes that such an early warning merits prompt consultation, it may initiate the procedure set out in Annex 2 of the Summary of Conclusions of the Berlin Meeting of the Council ("Emergency Mechanism").

(15) The High Commissioner will explain to the CSO the reasons for issuing the early warning.

#### Early action

(16) The High Commissioner may recommend that he/she be authorized to enter into further contact and closer consultations with the parties concerned with a view to possible solutions, according to a mandate to be decided by the CSO. The CSO may decide accordingly.

#### Accountability

(17) The High Commissioner will consult the Chairman-in-Office prior to a departure for a participating State to address a tension involving national minorities. The Chairman-in-Office will consult, in confidence, the participating State(s) concerned and may consult more widely.

(18) After a visit to a participating State, the High Commissioner will provide strictly confidential reports to the Chairman-in-Office on the findings and progress of the High Commissioner's involvement in a particular question.

(19) After termination of the involvement of the High Commissioner in a particular issue, the High Commissioner will report to the Chairman-in-Office on the findings, results and conclusions. Within a period of one month, the Chairman-in-Office will consult, in confidence, on the findings, results and conclusions the participating State(s)

concerned and may consult more widely. Thereafter the report, together with possible comments, will be transmitted to the CSO.

(20) Should the High Commissioner conclude that the situation is escalating into a conflict, or if the High Commissioner deems that the scope for action by the High Commissioner is exhausted, the High Commissioner shall, through the Chairman-in-Office, so inform the CSO

(21) Should the CSO become involved in a particular issue, the High Commissioner will provide information and, on request, advice to the CSO, or to any other institution or organization which the CSO may invite, in accordance with the provisions of Chapter III of this document, to take action with regard to the tensions or conflict.

(22) The High Commissioner, if so requested by the CSO and with due regard to the requirement of confidentiality in his/her mandate, will provide information about his/her activities at CSCE implementation meetings on Human Dimension issues.

### Supplement

#### Sources of information about national minority issues

(23) The High Commissioner may:

(23a) collect and receive information regarding the situation of national minorities and the role of parties involved therein from any source, including the media and non-governmental organizations with the exception referred to in paragraph (25);

(23b) receive specific reports from parties directly involved regarding developments concerning national minority issues. These may include reports on violations of CSCE commitments with respect to national minorities as well as other violations in the context of national minority issues.

(24) Such specific reports to the High Commissioner should meet the following requirements:

- they should be in writing, addressed to the High Commissioner as such and signed with full names and addresses;
- they should contain a factual account of the developments which are relevant to the situation of persons belonging to national minorities and the role of the parties involved therein, and which have taken place recently, in principle not more than 12 months previously. The reports should contain information which can be sufficiently substantiated.

(25) The High Commissioner will not communicate with and will not acknowledge communications from any person or organization which practises or publicly condones terrorism or violence.

### Parties directly concerned

(26) Parties directly concerned in tensions who can provide specific reports to the High Commissioner and with whom the High Commissioner will seek to communicate in person during a visit to a participating State are the following:

(26a) governments of participating States, including, if appropriate, regional and local authorities in areas in which national minorities reside;

(26b) representatives of associations, non-governmental organizations, religious and other groups of national minorities directly concerned and in the area of tension, which are authorized by the persons belonging to those national minorities to represent them. Conditions for travel by the High Commissioner

(27) Prior to an intended visit, the High Commissioner will submit to the participating State concerned specific information regarding the intended purpose of that visit. Within two weeks the State(s) concerned will consult with the High Commissioner on the objectives of the visit, which may include the promotion of dialogue, confidence and co-operation between the parties. After entry the State concerned will facilitate free travel and communication of the High Commissioner subject to the provisions of paragraph (25) above.

(28) If the State concerned does not allow the High Commissioner to enter the country and to travel and communicate freely, the High Commissioner will so inform the CSO.

(29) In the course of such a visit, subject to the provision of paragraph (25) the High Commissioner may consult the parties involved, and may receive information in confidence from any individual, group or organization directly concerned on questions the High Commissioner is addressing. The High Commissioner will respect the confidential nature of the information

(30) The participating States will refrain from taking any action against persons, organizations or institutions on account of their contact with the High Commissioner.

### High Commissioner and involvement of experts

(31) The High Commissioner may decide to request assistance from not more than three experts with relevant expertise in specific matters on which brief, specialized investigation and advice are required.

(32) If the High Commissioner decides to call on experts, the High Commissioner will set a clearly defined mandate and time-frame for the activities of the experts.

(33) Experts will only visit a participating State at the same time as the High Commissioner. Their mandate will be an integral part of the mandate of the High Commissioner and the same conditions for travel will apply.

(34) The advice and recommendations requested from the experts will be submitted in confidence to the High Commissioner, who will be responsible for the activities and for the reports of the experts and who will decide whether and in what form the advice and recommendations will be communicated to the parties concerned. They will be non-binding. If the High Commissioner decides to make the advice and recommendations available, the State(s) concerned will be given the opportunity to comment.

(35) The experts will be selected by the High Commissioner with the assistance of the ODIHR from the resource list established at the ODIHR as laid down in the Document of the Moscow Meeting.

(36) The experts will not include nationals or residents of the participating State concerned, or any person appointed by the State concerned, or any expert against whom the participating State has previously entered reservations. The experts will not include the participating State's own nationals or residents or any of the persons it appointed to the resource list, or more than one national or resident of any particular State.

#### **Stockholm 1992** (Decisions: 3. High Commissioner on National Minorities)

(...) The Ministers expressed their support for the High Commissioner and their readiness to co-operate with him in the execution of his complex but crucial task of identifying and containing at the earliest possible stage tensions involving national minority issues which have the potential to develop into a conflict within the CSCE area.

The Ministers encouraged the High Commissioner to analyse carefully potential areas of tension, to visit any participating State and to undertake wide-ranging discussions at all levels with parties directly involved in the issues. In this context, the High Commissioner may discuss the questions with the parties and, where appropriate, promote dialogue, confidence and co-operation between them at all levels, to enhance political solutions in line with CSCE principles and commitments.

The Ministers undertook to provide the High Commissioner with relevant information at their disposal on national minority issues, fully respecting the independence of the High Commissioner in accordance with the mandate.

#### **Rome 1993** (Decisions: III. High Commissioner on National Minorities)

Bearing in mind the close interrelationship between questions relating to national minorities and conflict prevention, the Ministers encouraged the High Commissioner on National Minorities (HCNM) to pursue his activities under his Mandate (...) The Ministers stressed the importance of participating States co-operating fully with the High Commissioner and supporting follow-up and implementation of his recommendations (...)

#### **Bucharest 2001** (Decisions: Decision No. 5)

The Ministerial Council,

(...)

Calls on OSCE institutions, particularly the ODIHR, the High Commissioner on National Minorities, and the Representative on Freedom of the Media, to pay increased attention to manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-semitism and violent extremism, to countering intolerance and discrimination on the ground of racial or ethnic origin, religious, political or other opinion and to fostering respect for rule of law, democratic values, human rights and fundamental freedoms, including freedom of expression, thought, conscience, religion or belief;

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

III Combating racism and discrimination

Legislation and law enforcement

Recommended action by OSCE institutions and structures:

(...)

21. The HCNM, within its mandate, will continue to follow the development of anti-discrimination legislation and provide advice and assistance to the participating States in this respect, as appropriate.

Police

Recommended action by OSCE institutions and structures:

(...)

35. The HCNM, the ODIHR-CPRSI and the Strategic Police Matters Unit will assist the participating States in developing codes of conduct to prevent racial profiling and improve interethnic relations.

Mass Media

Recommended action by OSCE institutions and structures:

(...)

42. The HCNM will continue to elaborate and disseminate guidelines for policy-makers on the use of the State broadcast media in multicultural communities, aimed, *inter alia*, at encouraging support for minority broadcasters, including Roma and Sinti broadcasters, and improving their access to the media.

V. Improving access to education

Recommended action by OSCE institutions and structures:

85. The HCNM will encourage participating States to comply with their commitments to provide free and equal access to public education to all members of society, and will encourage them to take steps to improve the situation of Roma and Sinti people in this respect.

86. The HCNM will continue to provide guidance on educational models, curriculum content and the teaching of, or in, the mother tongue, including the Romani language.

#### VI. Enhancing participation in public and political life

Recommended action by OSCE institutions and structures:

(...)

104. The HCNM, within its mandate, will continue to advise States on appropriate ways and means of facilitating the participation of Roma and Sinti people in all areas of public life.

#### VII. Roma and Sinti in crisis and post-crisis situations

(...)

Recommended action by OSCE institutions and structures:

(...)

117. The HCNM will continue to exercise his mandate of conflict prevention at the earliest possible stage.

**Sofia 2004** (Decisions: Annex to Decision No. 14/04, 2004 OSCE Action Plan for the Promotion of Gender Equality)

V. Supporting OSCE participating States in implementing relevant commitments to promoting equality between women and men

(...)

(d) Ensuring equal opportunity for participation of women in political and public life

(...)

- The High Commissioner on National Minorities (HCNM) will address specific issues relating to the participation in public and private life of women belonging to national minorities and, in policies and projects developed by his/her office, take steps necessary to counter the double discrimination suffered by these women, as appropriate within the context of his/her conflict prevention mandate;

### C. The Representative on Freedom of the Media

#### **Copenhagen 1997** (Annex 1: Permanent Council Decision No. 193, Mandate of the OSCE Representative on Freedom of the Media)

1. The participating States reaffirm the principles and commitments they have adhered to in the field of free media. They recall in particular that freedom of expression is a fundamental and internationally recognized human right and a basic component of a democratic society and that free, independent and pluralistic media are essential to a free and open society and accountable systems of government. Bearing in mind the principles and commitments they have subscribed to within the OSCE, and fully committed to the implementation of paragraph 11 of the Lisbon Summit Declaration, the participating States decide to establish, under the aegis of the Permanent Council, an OSCE Representative on Freedom of the Media. The objective is to strengthen the implementation of relevant OSCE principles and commitments as well as to improve the effectiveness of concerted action by the participating States based on their common values. The participating States confirm that they will co-operate fully with the OSCE Representative on Freedom of the Media. He or she will assist the participating States, in a spirit of co-operation, in their continuing commitment to the furthering of free, independent and pluralistic media.

2. Based on OSCE principles and commitments, the OSCE Representative on Freedom of the Media will observe relevant media developments in all participating States and will, on this basis, and in close co-ordination with the Chairman-in-Office, advocate and promote full compliance with OSCE principles and commitments regarding freedom of expression and free media. In this respect he or she will assume an early-warning function. He or she will address serious problems caused by, *inter alia*, obstruction of media activities and unfavourable working conditions for journalists. He or she will closely co-operate with the participating States, the Permanent Council, the Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities and, where appropriate, other OSCE bodies, as well as with national and international media associations.

3. The OSCE Representative on Freedom of the Media will concentrate, as outlined in this paragraph, on rapid response to serious non-compliance with OSCE principles and commitments by participating States in respect of freedom of expression and free media. In the case of an allegation of serious non-compliance therewith, the OSCE Representative on Freedom of the Media will seek direct contacts, in an appropriate manner, with the participating State and with other parties concerned, assess the facts, assist the participating State, and contribute to the resolution of the issue. He or she will keep the Chairman-in-Office informed about his or her activities and report to the Permanent Council on their results, and on his or her observations and recommendations.

4. The OSCE Representative on Freedom of the Media does not exercise a juridical function, nor can his or her involvement in any way prejudge national or international legal proceedings concerning alleged human rights violations. Equally, national or interna-



tional proceedings concerning alleged human rights violations will not necessarily preclude the performance of his or her tasks as outlined in this mandate.

5. The OSCE Representative on Freedom of the Media may collect and receive information on the situation of the media from all bona fide sources. He or she will in particular draw on information and assessments provided by the ODIHR. The OSCE Representative on Freedom of the Media will support the ODIHR in assessing conditions for the functioning of free, independent and pluralistic media before, during and after elections.

6. The OSCE Representative on Freedom of the Media may at all times collect and receive from participating States and other interested parties (e.g. from organizations or institutions, from media and their representatives, and from relevant NGOs) requests, suggestions and comments related to strengthening and further developing compliance with relevant OSCE principles and commitments, including alleged serious instances of intolerance by participating States which utilize media in violation of the principles referred to in the Budapest Document, Chapter VIII, paragraph 25, and in the Decisions of the Rome Council Meeting, Chapter X. He or she may forward requests, suggestions and comments to the Permanent Council, recommending further action where appropriate.

7. The OSCE Representative on Freedom of the Media will also routinely consult with the Chairman-in-Office and report on a regular basis to the Permanent Council. He or she may be invited to the Permanent Council to present reports, within this mandate, on specific matters related to freedom of expression and free, independent and pluralistic media. He or she will report annually to the Implementation Meeting on Human Dimension Issues or to the OSCE Review Meeting on the status of the implementation of OSCE principles and commitments in respect of freedom of expression and free media in OSCE participating States.

8. The OSCE Representative on Freedom of the Media will not communicate with and will not acknowledge communications from any person or organization which practises or publicly condones terrorism or violence.

9. The OSCE Representative on Freedom of the Media will be an eminent international personality with long-standing relevant experience from whom an impartial performance of the function would be expected. In the performance of his or her duty the OSCE Representative on Freedom of the Media will be guided by his or her independent and objective assessment regarding the specific paragraphs composing this mandate.

10. The OSCE Representative on Freedom of the Media will consider serious cases arising in the context of this mandate and occurring in the participating State of which he or she is a national or resident if all the parties directly involved agree, including the participating State concerned. In the absence of such agreement, the matter will be referred to the Chairman-in-Office, who may appoint a Special Representative to address this particular case.

11. The OSCE Representative on Freedom of the Media will co-operate, on the basis of regular contacts, with relevant international organizations, including the United Nations and its specialized agencies and the Council of Europe, with a view to enhancing co-ordination and avoiding duplication.

12. The OSCE Representative on Freedom of the Media will be appointed in accordance with OSCE procedures by the Ministerial Council upon the recommendation of the Chairman-in-Office after consultation with the participating States. He or she will serve for a period of three years which may be extended under the same procedure for one further term of three years.

(...)

14. The Office of the OSCE Representative on Freedom of the Media will be located in Vienna.

**Bucharest 2001** (Annex to Decision 1 on Combating Terrorism; The Bucharest Plan of Action for Combating Terrorism)

11. Promoting human rights, tolerance and multi-culturalism: (...)

12. Representative on Freedom of the Media: Will consider developing projects aimed at supporting tolerance towards people of other convictions and beliefs through the use of the media. Will promote measures aimed at preventing and fighting aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism in the media. Will continue to encourage pluralistic debate and increased media attention to promoting tolerance of ethnic, religious, linguistic and cultural diversity and will, in this context, promote broad public access to media as well as monitor hate speech.

(...)

19. Supporting law enforcement and fighting organized crime: (...)

23. Representative on Freedom of the Media: Will co-operate in supporting, on request, the drafting of legislation on the prevention of the abuse of information technology for terrorist purposes, ensuring that such laws are consistent with commitments regarding freedom of expression and the free flow of information.

**Bucharest 2001** (Decisions: Decision No. 5)

The Ministerial Council,

(...)

Calls on OSCE institutions, particularly the ODIHR, the High Commissioner on National Minorities, and the Representative on Freedom of the Media, to pay increased attention to manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-semitism and violent extremism, to countering intolerance and discrimination on the ground of racial or ethnic origin, religious, political or other opinion and to foster-

ing respect for rule of law, democratic values, human rights and fundamental freedoms, including freedom of expression, thought, conscience, religion or belief;

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03, Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

Mass Media

Recommended action by OSCE institutions and structures:

39. In co-operation with the ODIHR as well as relevant international organizations, the Representative on Freedom of the Media (RFOM) should consider how the OSCE could contribute to the establishment of a European Roma Radio which would broadcast throughout Europe. The ODIHR and the RFOM should organize public debates, anti-discrimination campaigns and joint training programmes with and for the media.

40. The RFOM should consider facilitating training seminars for Roma journalists.

41. The ODIHR-CPRSI and the RFOM will organize round tables with journalists on the image that Roma and Sinti communities have in society.

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 633: Promoting Tolerance and Media Freedom on the Internet)

4. The OSCE Representative on Freedom of the Media will continue an active role in promoting both freedom of expression and access to the Internet and will continue to observe relevant developments in all the participating States. The Representative will advocate and promote OSCE principles and commitments. This will include early warning when laws or other measures prohibiting speech motivated by racist, xenophobic, anti-Semitic or other related bias are enforced in a discriminatory or selective manner for political purposes which can lead to impeding the expression of alternative opinions and views;

**Sofia 2004** (Decisions: Annex to Decision No. 14/04, 2004 OSCE Action Plan for the Promotion of Gender Equality)

V. Supporting OSCE participating States in implementing relevant commitments to promoting equality between women and men

(...)

(d) Ensuring equal opportunity for participation of women in political and public life — The OSCE Representative on Freedom of the Media (RFOM) will be alert to allegations of serious intolerance towards women and incitement to gender discrimination in or by the media in participating States in accordance with Chapter 6 of the mandate of the RFOM. The Representative will inform the participating States of such cases in his/her regular reports.



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## 3. Restrictions and Derogations

### 3.1 Scope and Character of Legitimate Restrictions

#### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(21) The participating States will ensure that the exercise of the above-mentioned rights will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured.

#### **Copenhagen 1990**

(16) The participating States

(...)

(16.3) - stress that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture;

(...)

(24) (...) Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

### 3.2 Derogations from Obligations During a State of Public Emergency

#### Copenhagen 1990

(16) The participating States

(16.3) - stress that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture;

(...)

(24) (...) Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

(25) The participating States confirm that any derogations from obligations relating to human rights and fundamental freedoms during a state of public emergency must remain strictly within the limits provided for by international law, in particular the relevant international instruments by which they are bound, especially with respect to rights from which there can be no derogation. They also reaffirm that

(25.1) - measures derogating from such obligations must be taken in strict conformity with the procedural requirements laid down in those instruments;

(25.2) - the imposition of a state of public emergency must be proclaimed officially, publicly, and in accordance with the provisions laid down by law;

(25.3) - measures derogating from obligations will be limited to the extent strictly required by the exigencies of the situation;

(25.4) - such measures will not discriminate solely on the grounds of race, colour, sex, language, religion, social origin or of belonging to a minority.

#### Moscow 1991

(28) The participating States consider it important to protect human rights and fundamental freedoms during a state of public emergency, to take into account the relevant provisions of the Document of the Copenhagen Meeting, and to observe the international conventions to which they are parties.

(28.1) The participating States reaffirm that a state of public emergency is justified only by the most exceptional and grave circumstances, consistent with the State's international obligations and CSCE commitments. 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. If recourse to force cannot be avoided, its use must be reasonable and limited as far as possible.

(28.2) A state of public emergency may be proclaimed only by a constitutionally lawful body, duly empowered to do so. In cases where the decision to impose a state of public emergency may be lawfully taken by the executive authorities, that decision should be subject to approval in the shortest possible time or to control by the legislature.

(28.3) The decision to impose a state of public emergency will be proclaimed officially, publicly, and in accordance with provisions laid down by law. The decision will, where possible, lay down territorial limits of a state of public emergency. The State concerned will make available to its citizens information, without delay, about which measures have been taken. The state of public emergency will be lifted as soon as possible and will not remain in force longer than strictly required by the exigencies of the situation.

(28.4) A *de facto* imposition or continuation of a state of public emergency not in accordance with provisions laid down by law is not permissible.

(28.5) The participating States will endeavour to ensure that the normal functioning of the legislative bodies will be guaranteed to the highest possible extent during a state of public emergency.

(...)

(28.7) The participating States will endeavour to refrain from making derogations from those obligations from which, according to international conventions to which they are parties, derogation is possible under a state of public emergency. Measures derogating from such obligations ... will neither go further nor remain in force longer than strictly required by the exigencies of the situation; they are by nature exceptional and should be interpreted and applied with restraint (...)

(28.8) The participating States will endeavour to ensure that the legal guarantees necessary to uphold the rule of law will remain in force during a state of public emergency. They will endeavour to provide in their law for control over the regulations related to the state of public emergency, as well as the implementation of such regulations.

(28.9) The participating States will endeavour to maintain freedom of expression and freedom of information, consistent with their international obligations and commitments, with a view to enabling public discussion on the observance of human rights and fundamental freedoms as well as on the lifting of the state of public emergency. They will, in conformity with international standards regarding the freedom of expression, 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.

(28.10) 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. The Institution will inform the other participating States without delay.

\* The Council will take the decision on the institution.





## II. Specific Human Dimension Commitments



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# 1. Commitments Related to the Right of Peoples to Self-determination

## **Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle VIII)

The participating States will respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States. By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development. The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle.

## **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(4) [The participating States] also confirm that, by virtue of the principle of equal rights and self-determination of peoples and in conformity with the relevant provisions of the Final Act, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.



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## 2. Commitments Related to Structural Components of a Democratic Society

### 2.1 General Provisions

#### **Bonn 1990** (Preamble)

(...) the participating States,

Recognizing the relationship between political pluralism and market economies, and being committed to the principles concerning:

- Multiparty democracy based on free, periodic and genuine elections;
- The rule of law and equal protection under the law for all, based on respect for human rights and effective, accessible and just legal systems;
- Economic activity that accordingly upholds human dignity and is free from forced labour, discrimination against workers on grounds of race, sex, language, political opinion or religion, or denial of the rights of workers freely to establish or join independent trade unions;

Will endeavour to achieve or maintain the following (...)

#### **Copenhagen 1990**

[The participating States] recognize that pluralistic democracy and the rule of law are essential for ensuring respect for all human rights and fundamental freedoms, the development of human contacts and the resolution of other issues of a related humanitarian character. They therefore welcome the commitment expressed by all participating States to the ideals of democracy and political pluralism as well as their common determination to build democratic societies based on free elections and the rule of law.

(...)

(6) The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government (...) They recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

### **Paris 1990 (A New Era of Democracy, Peace and Unity)**

We undertake to build, consolidate and strengthen democracy as the only system of government of our nations. In this endeavour, we will abide by the following:

Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government. Respect for them is an essential safeguard against an over-mighty State. Their observance and full exercise are the foundation of freedom, justice and peace.

Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person.

Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law.

(...)

Our States will co-operate and support each other with the aim of making democratic gains irreversible.

### **Moscow 1991**

(17) The participating States

(17.1) - condemn unreservedly forces which seek to take power from a representative government of a participating State against the will of the people as expressed in free and fair elections and contrary to the justly established constitutional order;

(17.2) - will support vigorously, in accordance with the Charter of the United Nations, in case of overthrow or attempted overthrow of a legitimately elected government of a participating State by undemocratic means, the legitimate organs of that State upholding human rights, democracy and the rule of law, recognizing their common commitment to countering any attempt to curb these basic values;

### **Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

36. (...) Based on its human dimension commitments, the OSCE strives to promote conditions throughout its region in which all can fully enjoy their human rights and fundamental freedoms under the protection of effective democratic institutions, due judicial process and the rule of law. This includes secure environments and institutions for peaceful debate and expression of interests by all individuals and groups of society. Civil society has an important role to play in this regard, and the OSCE will continue to support and help strengthen civil society organizations.

### **Maastricht 2003** (OSCE Strategy Document for the Economic and Environmental Dimension)

2.2.1 Good public and corporate governance and strong institutions are essential foundations for a sound economy, which can attract investments, and thereby enable States to reduce poverty and inequality, to increase social integration and opportunities for all and to protect the environment. Good governance at all levels contributes to prosperity, stability and security. Peace, good international relations, the security and stability of the State and the security and safety of the individual within the State, based on the rule of law and respect for human rights, are crucial for the creation of the climate of confidence which is essential to ensure positive economic and social development.

2.2.2 Good governance is of critical importance for all the participating States, and we are agreed to work on a national basis, with the support of relevant international institutions, to strengthen good governance in all its aspects and to develop methods of co-operation to assist each other in achieving it.

2.2.3 Achieving good governance requires a comprehensive and long-term strategic approach, so that successes in one area are not undermined by weaknesses in others. We will co-operate in the development of our strategies for good governance and will share experience regarding best practices.

## **2.2 Elections**

*See also:*

➤ **Part I. 2.3.4 A: The Office for Democratic Institutions and Human Rights (ODIHR)**

### **Copenhagen 1990**

(5) [The participating States] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(5.1) - free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives;

(...)

(6) The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes (...)

(7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(7.1) - hold free elections at reasonable intervals, as established by law;

(7.2) - permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;

(7.3) - guarantee universal and equal suffrage to adult citizens;

(7.4) - ensure that votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public;

(7.5) - respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination;

(7.6) - respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities;

(7.7) - ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them or from casting their vote free of fear of retribution;

(7.8) - provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a nondiscriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

(7.9) - ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

(8) The participating States consider that the presence of observers, both foreign and domestic, can enhance the electoral process for States in which elections are taking place. They therefore invite observers from any other CSCE participating States and any appropriate private institutions and organizations who may wish to do so to observe



the course of their national election proceedings, to the extent permitted by law. They will also endeavour to facilitate similar access for election proceedings held below the national level. Such observers will undertake not to interfere in the electoral proceedings.

**Paris 1990** (A New Era of Democracy, Peace and Unity)

We affirm that, without discrimination, everyone (...) has the right:

(...)

to participate in free and fair elections

(...)

We decide to establish an Office for Free Elections in Warsaw to facilitate contacts and the exchange of information on elections within participating States.

**Lisbon 1996** (Summit Declaration)

9. (...) Among the acute problems within the human dimension, the continuing violations of human rights, such as (...) electoral fraud (...) continue to endanger stability in the OSCE region. We are committed to continuing to address these problems.

**Istanbul 1999** (Summit Declaration)

26. With a large number of elections ahead of us, we are committed to these being free and fair, and in accordance with OSCE principles and commitments. This is the only way in which there can be a stable basis for democratic development...we agree to follow up promptly ODIHR's election assessments and recommendations (...) We are committed to secure the full right of persons belonging to minorities to vote and to facilitate the right of refugees to participate in elections held in their countries of origin. We pledge to ensure fair competition among candidates as well as parties, including through their access to the media and respect for the right of assembly.

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

25. We reaffirm our obligation to conduct free and fair elections in accordance with OSCE commitments, in particular the Copenhagen Document 1990. We recognize the assistance the ODIHR can provide to participating States in developing and implementing electoral legislation. In line with these commitments, we will invite observers to our elections from other participating States, the ODIHR, the OSCE Parliamentary Assembly and appropriate institutions and organizations that wish to observe our election proceedings (...)

**Porto 2002** (Decisions: Decision No.7 on Election Commitments)

The Ministerial Council,

Recalling the provisions of the 1990 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE,

Noting that additional commitments...have supplemented those provisions,

Reaffirming the determination to implement these commitments,

Acknowledging that democratic elections can be conducted under a variety of electoral systems,

Recognizing the ODIHR's expertise in assisting participating States in the implementation of election-related commitments,

Taking into account PC Decision No. 509, on international standards and commitments: a practical guide to democratic elections best practice,

Calls upon participating States to strengthen their response to the ODIHR's recommendations following election observations (...)

### **Maastricht 2003** (Decisions: Decision No. 5/03 on Elections)

The Ministerial Council,

(...)

Welcoming the continuing efficient co-operation between the ODIHR and the OSCE Parliamentary Assembly in election monitoring,

Welcoming the document "Existing Commitments for Democratic Elections in OSCE Participating States: A Progress Report" (ODIHR.GAL/39/03), which was prepared by the ODIHR and submitted to the participating States in June of this year,

Recognizing in particular the need for confidence by the electorate in the entire process, for transparency of election procedures, and for accountability on the part of authorities conducting elections, calls upon participating States to further enhance their co-operation with the ODIHR in this field,

Tasks the ODIHR to consider ways to improve the effectiveness of its assistance to participating States in following up recommendations made in ODIHR election-observation reports (...)

## **2.3 Democratic Institutions**

### **2.3.1 General Provisions**

#### **Copenhagen 1990**

(3) [The participating States] reaffirm that democracy is an inherent element of the rule of law. They recognize the importance of pluralism with regard to political organizations.

(4) They confirm that they will respect each other's right freely to choose and develop, in accordance with international human rights standards, their political, social, economic and cultural systems. In exercising this right, they will ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration on Principles and other CSCE commitments.

(5) They solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(5.1) - free elections that will be held at reasonable intervals by secret ballot or by equivalent free voting procedure, under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives;

(5.2) - a form of government that is representative in character, in which the executive is accountable to the elected legislature or the electorate;

(5.3) - the duty of the government and public authorities to comply with the constitution and to act in a manner consistent with law;

(5.4) - a clear separation between the State and political parties; in particular, political parties will not be merged with the State;

(5.5) - the activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law. Respect for that system must be ensured;

(5.6) - military forces and the police will be under the control of, and accountable to, the civil authorities;

(...)

(5.8) - legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone;

(6) The participating States declare that the will of the people, freely and fairly expressed through periodic and genuine elections, is the basis of the authority and legitimacy of all government. The participating States will accordingly respect the right of their citizens to take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes. They recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

(7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(...)

(7.2) - permit all seats in at least one chamber of the national legislature to be freely contested in a popular vote;

(...)

(7.9) - ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.

(...)

(26) The participating States recognize that vigorous democracy depends on the existence as an integral part of national life of democratic values and practices as well as an extensive range of democratic institutions. They will therefore encourage, facilitate and, where appropriate, support practical co-operative endeavours and the sharing of information, ideas and expertise among themselves and by direct contacts and co-operation between individuals, groups and organizations in areas including the following:

- constitutional law, reform and development;
- electoral legislation, administration and observation;
- establishment and management of courts and legal systems;
- the development of an impartial and effective public service where recruitment and advancement are based on a merit system;
- law enforcement;
- local government and decentralization;
- access to information and protection of privacy;
- developing political parties and their role in pluralistic societies;
- free and independent trade unions;
- co-operative movements;
- developing other forms of free associations and public interest groups;
- journalism, independent media, and intellectual and cultural life;

- the teaching of democratic values, institutions and practices in educational institutions and the fostering of an atmosphere of free enquiry.

Such endeavours may cover the range of co-operation encompassed in the human dimension of the CSCE, including training, exchange of information, books and instructional materials, co-operative programmes and projects, academic and professional exchanges and conferences, scholarships, research grants, provision of expertise and advice, business and scientific contacts and programmes.

(27) The participating States will also facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law, which may also serve as focal points for co-ordination and collaboration between such institutions in the participating States. They propose that co-operation be encouraged between parliamentarians from participating States, including through existing inter-parliamentary associations and, *inter alia*, through joint commissions, television debates involving parliamentarians, meetings and round-table discussions. They will also encourage existing institutions, such as organizations within the United Nations system and the Council of Europe, to continue and expand the work they have begun in this area.

### **Moscow 1991**

(18.1) Legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives.

### **2.3.2 Decentralized Government and Special Structures and Bodies**

#### **Geneva 1991 (IV)**

Aware of the diversity and varying constitutional systems among them, which make no single approach necessarily generally applicable, the participating States note with interest that positive results have been obtained by some of them in an appropriate democratic manner by, *inter alia*:

- advisory and decision-making bodies in which minorities are represented, in
- particular with regard to education, culture and religion;
- elected bodies and assemblies of national minority affairs;
- local and autonomous administration, as well as autonomy on a territorial
- basis, including the existence of consultative, legislative and executive bodies
- chosen through free and periodic elections;
- self-administration by a national minority of aspects concerning its identity in
- situations where autonomy on a territorial basis does not apply;
- decentralized or local forms of government;

**Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(53) Will endeavour, in order to strengthen democratic participation and institution building and in developing co-operation among them, to share their respective experience on the functioning of democracy at a local and regional level, and welcome against this background the Council of Europe information and education network in this field;

(54) Will facilitate contacts and encourage various forms of co-operation between bodies at a local and regional level.

**2.3.3 Democratic Civilian Control of Military, Paramilitary, and Internal Security Forces; Intelligence Services; and the Police****Copenhagen 1990**

(5) [The participating States] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(...)

(5.6) - military forces and the police will be under the control of, and accountable to, the civil authorities;

**Moscow 1991**

(25) The participating States will

(25.1) - 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;

(25.2) - maintain and, where necessary, strengthen executive control over the use of military and paramilitary forces as well as the activities of the internal security and intelligence services and the police;

(25.3) - 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.

**Budapest 1994** (Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

20. The participating States consider the democratic political control of military, paramilitary and internal security forces as well as of intelligence services and the police to be an indispensable element of stability and security. They will further the integration of their armed forces with civil society as an important expression of democracy.

21. Each participating State will at all times provide for and maintain effective guidance to and control of its military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy. Each participating State will provide controls to ensure that such authorities fulfil their constitutional and legal responsibilities. They will clearly define the roles and missions of such forces and their obligation to act solely within the constitutional framework.

22. Each participating State will provide for its legislative approval of defence expenditures. Each participating State will, with due regard to national security requirements, exercise restraint in its military expenditures and provide for transparency and public access to information related to the armed forces.

23. Each participating State, while providing for the individual service member's exercise of his or her civil rights, will ensure that its armed forces as such are politically neutral.

24. Each participating State will provide and maintain measures to guard against accidental or unauthorized use of military means.

25. The participating States will not tolerate or support forces that are not accountable to or controlled by their constitutionally established authorities. If a participating State is unable to exercise its authority over such forces, it may seek consultations within the CSCE to consider steps to be taken.

(...)

36. Each participating State will ensure that any decision to assign its armed forces to internal security missions is arrived at in conformity with constitutional procedures. Such decisions will prescribe the armed forces' missions, ensuring that they will be performed under the effective control of constitutionally established authorities and subject to the rule of law.

### ***2.3.4 Independent National Human Rights Institutions***

#### **Copenhagen 1990**

(27) The participating States will (...) facilitate the establishment and strengthening of independent national institutions in the area of human rights and the rule of law, which may also serve as focal points for co-ordination and collaboration between such institutions in the participating States. They propose that co-operation be encouraged between parliamentarians from participating States, including through existing inter-parliamentary associations and, *inter alia*, through joint commissions, television debates involving parliamentarians, meetings and round-table discussions. They will also encourage existing institutions, such as organizations within the United Nations system and the Council of Europe, to continue and expand the work they have begun in this area.

### 2.3.5 Non-governmental Organizations

See also:

➤ Part I. 2.3.3: Individuals, Human Rights Defenders, and Non-governmental Organizations

#### **Moscow 1991**

(43) The participating States will recognize as NGOs those which declare themselves as such, according to existing national procedures, and will facilitate the ability of such organizations to conduct their national activities freely on their territories; to that effect they will

(43.1) - endeavour to seek ways of further strengthening modalities for contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions;

(43.2) - endeavour to facilitate visits to their countries by NGOs from within any of the participating States in order to observe human dimension conditions;

(43.3) - welcome NGO activities, including, *inter alia*, observing compliance with CSCE commitments in the field of the human dimension;

(43.4) - allow NGOs, in view of their important function within the human dimension of the CSCE, to convey their views to their own governments and the governments of all the other participating States during the future work of the CSCE on the human dimension.

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

27. Non-governmental organizations (NGOs) can perform a vital role in the promotion of human rights, democracy and the rule of law. They are an integral component of a strong civil society. We pledge ourselves to enhance the ability of NGOs to make their full contribution to the further development of civil society and respect for human rights and fundamental freedoms.

#### **Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

36. (...) Based on its human dimension commitments, the OSCE strives to promote conditions throughout its region in which all can fully enjoy their human rights and fundamental freedoms under the protection of effective democratic institutions, due judicial process and the rule of law. This includes secure environments and institutions for peaceful debate and expression of interests by all individuals and groups of society. Civil society has an important role to play in this regard, and the OSCE will continue to support and help strengthen civil society organizations.



### **2.3.6 Promoting Transparency, Combating Corruption, and Improving the Management of Public Resources**

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

33. We reaffirm our commitment to the rule of law. We recognize that corruption poses a great threat to the OSCE's shared values. It generates instability and reaches into many aspects of the security, economic and human dimensions. Participating States pledge to strengthen their efforts to combat corruption and the conditions that foster it, and to promote a positive framework for good government practices and public integrity. They will make better use of existing international instruments and assist each other in their fight against corruption. As part of its work to promote the rule of law, the OSCE will work with NGOs that are committed to a strong public and business consensus against corrupt practices.

#### **Maastricht 2003** (OSCE Strategy Document for the Economic and Environmental Dimension)

##### Promoting transparency and combating corruption

2.2.4 Transparency in public affairs is an essential condition for the accountability of States and for the active participation of civil society in economic processes. Transparency increases the predictability of, and confidence in an economy that is functioning on the basis of adequate legislation and with full respect for the rule of law. Free and pluralistic media which enjoy maximum editorial independence from political and financial pressure have an important role to play in ensuring such transparency.

2.2.5 We will make our governments more transparent by further developing processes and institutions for providing timely information, including reliable statistics, about issues of public interest in the economic and environmental fields to the media, the business community, civil society and citizens, with a view to promoting a well-informed and responsive dialogue. This is essential for decision-making which is responsive to changing conditions and to the needs and wishes of the population.

2.2.6. Transparency is also important for the exposure and prosecution of all forms of corruption, which undermines our economies and our societies. In addition to transparency, the fight against corruption requires the adoption by the participating States of a comprehensive and long-term anti-corruption strategy.

2.2.7 We agree to make the elimination of all forms of corruption a priority. We will consider accession to, encourage ratification of, and support full implementation of, international conventions and other instruments in the field of combating corruption, in particular those developed by the Council of Europe and the Organisation for Economic Co-operation and Development (OECD). We welcome the adoption of the UN Convention against corruption and look forward to its early signature, ratification and entry into force.

Improving the management of public resources

2.2.8 Another component of good governance is the effective management of public resources by strong and well-functioning institutions, a professional and effective civil service and sound budgetary processes. Good management of public resources, including revenue collection, budget formation and execution and public procurement, is particularly important in order to provide the best possible public and social services. We will seek to provide a solid financial basis for our public administration systems and to further strengthen their effectiveness and efficiency at all levels.

#### **Sofia 2004** (Decisions: Decision No. 11/04 on Combating Corruption)

The Ministerial Council,

(...)

Recognizing that the United Nations Convention against Corruption, adopted by the General Assembly of the United Nations on 31 October 2003 in New York, marks a major step forward in international co-operation against corruption and provides the opportunity for a global response to the problem,

Encourages the OSCE participating States, which have not yet done so, to sign and ratify the United Nations Convention against Corruption as soon as possible, in order to ensure its rapid entry into force, and implement it fully (...)

## **2.4 Rule of Law**

*See also:*

- Part I. 3: Restrictions and Derogations
- Part II. 3.1.4: Freedom from Arbitrary Arrest or Detention
- Part II. 3.1.5: Right to a Fair Trial
- Part II. 3.1.6: Right to Effective Remedies

### **2.4.1 General Provisions**

#### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(13) (...) [the participating States] will

(...)

(13.4) - effectively ensure the right of the individual to know and act upon his rights and duties in this field, and to that end publish and make accessible all laws, regulations and procedures relating to human rights and fundamental freedoms;

#### **Copenhagen 1990**

(2) [The participating States] are determined to support and advance those principles of justice which form the basis of the rule of law. They consider that the rule of law

does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression.

(3) They reaffirm that democracy is an inherent element of the rule of law (...)

(...)

(5) They solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(...)

(5.3) - the duty of the government and public authorities to comply with the constitution and to act in a manner consistent with law;

(...)

(5.5) - the activity of the government and the administration as well as that of the judiciary will be exercised in accordance with the system established by law. Respect for that system must be ensured;

(...)

(5.7) - human rights and fundamental freedoms will be guaranteed by law and in accordance with their obligations under international law;

(5.8) - legislation, adopted at the end of a public procedure, and regulations will be published, that being the condition for their applicability. Those texts will be accessible to everyone;

(5.9) - all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground;

(...)

(5.15) - any person arrested or detained on a criminal charge will have the right, so that the lawfulness of his arrest or detention can be decided, to be brought promptly before a judge or other officer authorized by law to exercise this function;

(...)

(5.18) - no one will be charged with, tried for or convicted of any criminal offence unless the offence is provided for by a law which defines the elements of the offence with clarity and precision;

(5.19) - everyone will be presumed innocent until proved guilty according to law;

(5.20) - considering the important contribution of international instruments in the field of human rights to the rule of law at a national level, the participating States reaffirm that they will consider acceding to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other relevant international instruments, if they have not yet done so.

(5.21) - in order to supplement domestic remedies and better to ensure that the participating States respect the international obligations they have undertaken, the participating States will consider acceding to a regional or global international convention concerning the protection of human rights, such as the European Convention on Human Rights or the Optional Protocol to the International Covenant on Civil and Political Rights, which provide for procedures of individual recourse to international bodies.

(...)

(12) The participating States, wishing to ensure greater transparency in the implementation of the commitments undertaken in the Vienna Concluding Document under the heading of the human dimension of the CSCE, decide to accept as a confidence building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law; it is understood that proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments.

(...)

(24) The participating States will ensure that the exercise of all the human rights and fundamental freedoms set out above will not be subject to any restrictions except those which are provided by law and are consistent with their obligations under international law, in particular the International Covenant on Civil and Political Rights, and with their international commitments, in particular the Universal Declaration of Human Rights. These restrictions have the character of exceptions. The participating States will ensure that these restrictions are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured. Any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law.

### **Moscow 1991**

(18.1) Legislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives.

(...)

(27) The participating States

(27.1) - express their intention to co-operate in the field of constitutional, administrative, commercial, civil and social welfare laws and their relevant areas, in order to develop, particularly in States where they do not yet exist, legal systems based on respect for human rights, the rule of law and democracy;

(27.2) - to this end, envisage the continuation and enhancement of bilateral and multi-lateral legal and administrative co-operation, *inter alia*, in the following fields:

- development of an efficient administrative system;
- assistance in formulating law and regulations;
- training of administrative and legal staff;
- exchange of legal works and periodicals.

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

18. The participating States emphasize that all action by public authorities must be consistent with the rule of law, thus guaranteeing legal security for the individual.

#### **2.4.2 Independence of the Judiciary and Legal Practitioners, and Impartial Operation of the Public Judicial Service**

##### **Copenhagen 1990**

(5) [The participating States] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(...)

(5.12) - the independence of judges and the impartial operation of the public judicial service will be ensured;

(5.13) - the independence of legal practitioners will be recognized and protected, in particular as regards conditions for recruitment and practice;

##### **Moscow 1991**

(19) The participating States

(19.1) - will respect the internationally recognized standards that relate to the independence of judges and legal practitioners and the impartial operation of the public judicial service including, *inter alia*, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

(19.2) - will, in implementing the relevant standards and commitments, ensure that the independence of the judiciary is guaranteed and enshrined in the constitution or the

law of the country and is respected in practice, paying particular attention to the Basic Principles on the Independence of the Judiciary, which, *inter alia*, provide for

- (i) prohibiting improper influence on judges;
- (ii) preventing revision of judicial decisions by administrative authorities, except for the rights of the competent authorities to mitigate or commute sentences imposed by judges, in conformity with the law;
- (iii) protecting the judiciary's freedom of expression and association, subject only to such restrictions as are consistent with its functions;
- (iv) ensuring that judges are properly qualified, trained and selected on a non-discriminatory basis;
- (v) guaranteeing tenure and appropriate conditions of service, including on the matter of promotion of judges, where applicable;
- (vi) respecting conditions of immunity;
- (vii) ensuring that the disciplining, suspension and removal of judges are determined according to law.

(20) For the promotion of the independence of the judiciary, the participating States will

(20.1) - recognize the important function national and international associations of judges and lawyers can perform in strengthening respect for the independence of their members and in providing education and training on the role of the judiciary and the legal profession in society;

(20.2) - promote and facilitate dialogue, exchanges and co-operation among national associations and other groups interested in ensuring respect for the independence of the judiciary and the protection of lawyers;

(20.3) - co-operate among themselves through, *inter alia*, dialogue, contacts and exchanges in order to identify where problem areas exist concerning the protection of the independence of judges and legal practitioners and to develop ways and means to address and resolve such problems;

(20.4) - co-operate on an ongoing basis in such areas as the education and training of judges and legal practitioners, as well as the preparation and enactment of legislation intended to strengthen respect for their independence and the impartial operation of the public judicial service.

**Istanbul 1999** (Charter for European Security: IV. Our Common Instruments)

45. We shall also promote the development of independent judicial systems that play a key role in providing remedies for human rights violations as well as providing advice and assistance for prison system reforms (...)

**2.4.3 Administration of Justice****A. Law Enforcement****Moscow 1991**

(21) The participating States will

(21.1) - take all necessary measures to ensure that law enforcement personnel, when enforcing public order, will act in the public interest, respond to a specific need and pursue a legitimate aim, as well as use ways and means commensurate with the circumstances, which will not exceed the needs of enforcement;

(21.2) - ensure that law enforcement acts are subject to judicial control, that law enforcement personnel are held accountable for such acts, and that due compensation may be sought, according to domestic law, by the victims of acts found to be in violation of the above commitments.

(22) The participating States will take appropriate measures to ensure that education and information regarding the prohibition of excess force by law enforcement personnel as well as relevant international and domestic codes of conduct are included in the training of such personnel.

**Budapest 1994** (Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

37. The participating States will not use armed forces to limit the peaceful and lawful exercise of their human and civil rights by persons as individuals or as representatives of groups nor to deprive them of their national, religious, cultural, linguistic or ethnic identity.

**Istanbul 1999** (Charter for European Security: IV. Our Common Instruments)

45. (...) The OSCE will also work with other international organizations in the creation of political and legal frameworks within which the police can perform its tasks in accordance with democratic principles and the rule of law.

**Bucharest 2001** (Decisions: Decision No. 9 on Police-Related Activities)

The Ministerial Council,

(...)

Affirming that effective policing is essential to uphold the rule of law and to defend democratic institutions;

(...)

1. Agrees that in developing plans for...and in enhancing OSCE police-related activities (...) the OSCE will:

(...)

- explore and build on the role of police training, particularly integrated police training, in creating police services that can enjoy the confidence of the entire population, and as a confidence-building measure (...)

#### **B. Treatment of Persons Deprived of Their Liberty**

##### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(23) The participating States will

(23.1) - ensure that no one will be subjected to arbitrary arrest, detention or exile;

(23.2) - ensure that all individuals in detention or incarceration will be treated with humanity and with respect for the inherent dignity of the human person;

(23.3) - observe the United Nations Standard Minimum Rules for the Treatment of Prisoners as well as the United Nations Code of Conduct for Law Enforcement Officials;

(23.4) - prohibit torture and other cruel, inhuman or degrading treatment or punishment and take effective legislative, administrative, judicial and other measures to prevent and punish such practices;

(23.5) - consider acceding to the Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment, if they have not yet done so;

(23.6) - protect individuals from any psychiatric or other medical practices that violate human rights and fundamental freedoms and take effective measures to prevent and punish such practices.

(24) (...) In participating States where capital punishment has not been abolished, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to their international commitments (...)

##### **Moscow 1991**

(23) The participating States will treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person and will respect the internationally recognized standards that relate to the administration of justice and the human rights of detainees.

(23.1) The participating States will ensure that



- (i) no one will be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law;
- (ii) anyone who is arrested will be informed promptly in a language which he understands of the reason for his arrest, and will be informed of any charges against him;
- (iii) any person who has been deprived of his liberty will be promptly informed about his rights according to domestic law;
- (iv) any person arrested or detained will have the right to be brought promptly before a judge or other officer authorized by law to determine the lawfulness of his arrest or detention, and will be released without delay if it is unlawful;
- (v) anyone charged with a criminal offence will have the right to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
- (vi) any person arrested or detained will have the right, without undue delay, to notify or to require the competent authority to notify appropriate persons of his choice of his arrest, detention, imprisonment and whereabouts; any restriction in the exercise of this right will be prescribed by law and in accordance with international standards;
- (vii) effective measures will be adopted, if this has not already been done, to provide that law enforcement bodies do not take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, or otherwise to incriminate himself, or to force him to testify against any other person;
- (viii) the duration of any interrogation and the intervals between them will be recorded and certified, consistent with domestic law;
- (ix) a detained person or his counsel will have the right to make a request or complaint regarding his treatment, in particular when torture or other cruel, inhuman or degrading treatment has been applied, to the authorities responsible for the administration of the place of detention and to higher authorities, and when necessary, to appropriate authorities vested with reviewing or remedial power;
- (x) such request or complaint will be promptly dealt with and replied to without undue delay; if the request or complaint is rejected or in case of inordinate delay, the complainant will be entitled to bring it before a judicial or other authority; neither the detained or imprisoned person nor any complainant will suffer prejudice for making a request or complaint;
- (xi) anyone who has been the victim of an unlawful arrest or detention will have a legally enforceable right to seek compensation.

(23.2) The participating States will

- (i) endeavour to take measures, as necessary, to improve the conditions of individuals in detention or imprisonment;
- (ii) pay particular attention to the question of alternatives to imprisonment.

#### ***2.4.4 Fulfilment of International Obligations***

**Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle X)

The participating States will fulfil in good faith their obligations under international law, both those obligations arising from the generally recognized principles and rules of international law and those obligations arising from treaties or other agreements, in conformity with international law, to which they are parties.

In exercising their sovereign rights, including the right to determine their laws and regulations, they will conform with their legal obligations under international law; they will furthermore pay due regard to and implement the provisions in the Final Act of the Conference on Security and Cooperation in Europe.

The participating States confirm that in the event of a conflict between the obligations of the members of the United Nations under the Charter of the United Nations and their obligations under any treaty or other international agreement, their obligations under the Charter will prevail, in accordance with Article 103 of the Charter of the United Nations.

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## 3. Commitments Related to Human Rights That Are Applicable to All

### 3.1 Civil and Political Rights

#### 3.1.1 General Provisions

**Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle VII)

[The participating States] will promote and encourage the effective exercise of civil, political (...) and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

**Madrid 1983** (Questions Relating to Security in Europe: Principles)

[The participating States] similarly stress their determination to develop their laws and regulations in the field of civil, political (...) and other human rights and fundamental freedoms; they also emphasize their determination to ensure the effective exercise of these rights and freedoms.

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(12) (...) [The participating States] recognize that civil, political (...) and other rights and freedoms are all of paramount importance and must be fully realized by all appropriate means.

(13) In this context they will

(...)

(13.2) - consider acceding to the International Covenant on Civil and Political Rights (...), the Optional Protocol to the Covenant on Civil and Political Rights and other relevant international instruments, if they have not yet done so;

(...)

### 3.1.2 *Right to Life/Abolition of the Death Penalty*

#### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(24) With regard to the question of capital punishment, the participating States note that capital punishment has been abolished in a number of them. In participating States where capital punishment has not been abolished, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to their international commitments. This question will be kept under consideration. In this context, the participating States will co-operate within relevant international organizations.

#### **Copenhagen 1990**

(17) The participating States

(...)

(17.2) - recall, in this context, the adoption by the General Assembly of the United Nations, on 15 December 1989, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(17.3) - note the restrictions and safeguards regarding the use of the death penalty which have been adopted by the international community, in particular article 6 of the International Covenant on Civil and Political Rights;

(17.4) - note the provisions of the Sixth Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty;

(17.5) - note recent measures taken by a number of participating States towards the abolition of capital punishment;

(17.6) - note the activities of several non-governmental organizations on the question of the death penalty;

(17.7) - will exchange information within the framework of the Conference on the Human Dimension on the question of the abolition of the death penalty and keep that question under consideration;

(17.8) - will make available to the public information regarding the use of the death penalty.

### 3.1.3 *Prohibition of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment*

#### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(23) The participating States will

(...)

(23.2) - ensure that all individuals in detention or incarceration will be treated with humanity and with respect for the inherent dignity of the human person;

(23.3) - observe the United Nations Standard Minimum Rules for the Treatment of Prisoners as well as the United Nations Code of Conduct for Law Enforcement Officials;

(23.4) - prohibit torture and other cruel, inhuman or degrading treatment or punishment and take effective legislative, administrative, judicial and other measures to prevent and punish such practices;

(23.5) - consider acceding to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, if they have not yet done so;

(23.6) - protect individuals from any psychiatric or other medical practices that violate human rights and fundamental freedoms and take effective measures to prevent and punish such practices.

### **Copenhagen 1990**

(16) The participating States

(...)

(16.2) - intend, as a matter of urgency, to consider acceding to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, if they have not yet done so, and recognizing the competences of the Committee against Torture under articles 21 and 22 of the Convention and withdrawing reservations regarding the competence of the Committee under article 20;

(16.3) - stress that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture;

(16.4) - will ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

(16.5) - will keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under their jurisdiction, with a view to preventing any cases of torture;

(16.6) - will take up with priority for consideration and for appropriate action, in accordance with the agreed measures and procedures for the effective implementation of the commitments relating to the human dimension of the CSCE, any cases of torture and

other inhuman or degrading treatment or punishment made known to them through official channels or coming from any other reliable source of information;

(16.7) - will act upon the understanding that preserving and guaranteeing the life and security of any individual subjected to any form of torture and other inhuman or degrading treatment or punishment will be the sole criterion in determining the urgency and priorities to be accorded in taking appropriate remedial action; and, therefore, the consideration of any cases of torture and other inhuman or degrading treatment or punishment within the framework of any other international body or mechanism may not be invoked as a reason for refraining from consideration and appropriate action in accordance with the agreed measures and procedures for the effective implementation of the commitments relating to the human dimension of the CSCE.

### **Paris 1990 (A New Era of Democracy, Peace and Unity)**

We affirm that, without discrimination (...) no one will be:

(...)

subject to torture or other cruel, inhuman or degrading treatment or punishment;

(...)

### **Moscow 1991**

(23.1) The participating States will ensure that

(...)

(vii) effective measures will be adopted, if this has not already been done, to provide that law enforcement bodies do not take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, or otherwise to incriminate himself, or to force him to testify against any other person;

(viii) the duration of any interrogation and the intervals between them will be recorded and certified, consistent with domestic law;

(ix) a detained person or his counsel will have the right to make a request or complaint regarding his treatment, in particular when torture or other cruel, inhuman or degrading treatment has been applied, to the authorities responsible for the administration of the place of detention and to higher authorities, and when necessary, to appropriate authorities vested with reviewing or remedial power;

(x) such request or complaint will be promptly dealt with and replied to without undue delay; if the request or complaint is rejected or in case of inordinate delay, the complainant will be entitled to bring it before a judicial or other authority; neither the detained or imprisoned person nor any complainant will suffer prejudice for making a request or complaint;

**Budapest 1994** (Decisions: VIII. The Human Dimension)

20. The participating States strongly condemn all forms of torture as one of the most flagrant violations of human rights and human dignity. They commit themselves to strive for its elimination.

They recognize the importance in this respect of international norms as laid down in international treaties on human rights, in particular the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. They also recognize the importance of national legislation aimed at eradicating torture. They commit themselves to inquire into all alleged cases of torture and to prosecute offenders. They also commit themselves to include in their educational and training programmes for law enforcement and police forces specific provisions with a view to eradicating torture. They consider that an exchange of information on this problem is an essential prerequisite. The participating States should have the possibility to obtain such information. The CSCE should in this context also draw on the experience of the Special Rapporteur on Torture and other Cruelly Inhuman or Degrading Treatment or Punishment established by the Commission on Human Rights of the United Nations and make use of information provided by NGOs.

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

21. We are committed to eradicating torture and cruel, inhumane or degrading treatment or punishment throughout the OSCE area. To this end, we will promote legislation to provide procedural and substantive safeguards and remedies to combat these practices. We will assist victims and co-operate with relevant international organizations and non-governmental organizations, as appropriate.

**3.1.4 Freedom from Arbitrary Arrest or Detention**

*See also:*

- Part II. 2.4.1: Rule of Law > General Provisions
- Part II. 2.4.3 B: Treatment of Persons Deprived of Their Liberty
- Part II. 3.1.3: Prohibition of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
- Part II. 3.1.5: Right to a Fair Trial
- Part II. 3.1.6: Right to Effective Remedies

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(23) The participating States will

(23.1) - ensure that no one will be subjected to arbitrary arrest, detention or exile;

(...)

**Copenhagen 1990**

(5.15) - any person arrested or detained on a criminal charge will have the right, so that the lawfulness of his arrest or detention can be decided, to be brought promptly before a judge or other officer authorized by law to exercise this function;

(...)

**Moscow 1991**

(23.1) The participating States will ensure that

(i) no one will be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law;

(ii) anyone who is arrested will be informed promptly in a language which he understands of the reason for his arrest, and will be informed of any charges against him;

(iii) any person who has been deprived of his liberty will be promptly informed about his rights according to domestic law;

(iv) any person arrested or detained will have the right to be brought promptly before a judge or other officer authorized by law to determine the lawfulness of his arrest or detention, and will be released without delay if it is unlawful;

(...)

(vi) any person arrested or detained will have the right, without undue delay, to notify or to require the competent authority to notify appropriate persons of his choice of his arrest, detention, imprisonment and whereabouts; any restriction in the exercise of this right will be prescribed by law and in accordance with international standards;

(vii) effective measures will be adopted, if this has not already been done, to provide that law enforcement bodies do not take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, or otherwise to incriminate himself, or to force him to testify against any other person;

(viii) the duration of any interrogation and the intervals between them will be recorded and certified, consistent with domestic law;

(ix) a detained person or his counsel will have the right to make a request or complaint regarding his treatment, in particular when torture or other cruel, inhuman or degrading treatment has been applied, to the authorities responsible for the administration of the place of detention and to higher authorities, and when necessary, to appropriate authorities vested with reviewing or remedial power;

(x) such request or complaint will be promptly dealt with and replied to without undue delay; if the request or complaint is rejected or in case of inordinate delay, the complainant will be entitled to bring it before a judicial or other authority; neither the detained



or imprisoned person nor any complainant will suffer prejudice for making a request or complaint;

(xi) anyone who has been the victim of an unlawful arrest or detention will have a legally enforceable right to seek compensation.

### 3.1.5 Right to a Fair Trial

*See also:*

- Part II. 2.4: Rule of Law
- Part II. 3.1.4: Freedom from Arbitrary Arrest or Detention
- Part II. 3.1.6: Right to Effective Remedies

### Vienna 1989 (Questions Relating to Security in Europe: Principles)

[The participating States] (...) will

(...)

(13.9) - ensure that effective remedies as well as full information about them are available to those who claim that their human rights and fundamental freedoms have been violated; they will, *inter alia*, effectively apply the following remedies:

- the right of the individual to appeal to executive, legislative, judicial or administrative organs;
- the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one's choice;
- the right to be promptly and officially informed of the decision taken on any appeal, including the legal grounds on which this decision was based. This information will be provided as a rule in writing and, in any event, in a way that will enable the individual to make effective use of further available remedies.

### Copenhagen 1990

(5) [The participating States] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(...)

(5.12) - the independence of judges and the impartial operation of the public judicial service will be ensured;

(5.13) - the independence of legal practitioners will be recognized and protected, in particular as regards conditions for recruitment and practice;

(5.14) - the rules relating to criminal procedure will contain a clear definition of powers in relation to prosecution and the measures preceding and accompanying prosecution;

(5.15) - any person arrested or detained on a criminal charge will have the right, so that the lawfulness of his arrest or detention can be decided, to be brought promptly before a judge or other officer authorized by law to exercise this function;

(5.16) - in the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone will be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law;

(5.17) - any person prosecuted will have the right to defend himself in person or through prompt legal assistance of his own choosing or, if he does not have sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(5.18) - no one will be charged with, tried for or convicted of any criminal offence unless the offence is provided for by a law which defines the elements of the offence with clarity and precision;

(5.19) - everyone will be presumed innocent until proved guilty according to law;

(...)

(12) The participating States, wishing to ensure greater transparency in the implementation of the commitments undertaken in the Vienna Concluding Document under the heading of the human dimension of the CSCE, decide to accept as a confidence building measure the presence of observers sent by participating States and representatives of non-governmental organizations and other interested persons at proceedings before courts as provided for in national legislation and international law; it is understood that proceedings may only be held in camera in the circumstances prescribed by law and consistent with obligations under international law and international commitments.

### ***3.1.6 Right to Effective Remedies***

*See also:*

- **Part II. 2.4: Rule of Law**
- **Part II. 3.1.4: Freedom from Arbitrary Arrest or Detention**
- **Part II. 3.1.5: Right to a Fair Trial**

### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(13) (...) [the participating States] will

(...)

(13.9) - ensure that effective remedies as well as full information about them are available to those who claim that their human rights and fundamental freedoms have been violated; they will, *inter alia*, effectively apply the following remedies:

- the right of the individual to appeal to executive, legislative, judicial or administrative organs;
- the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one's choice;
- the right to be promptly and officially informed of the decision taken on any appeal, including the legal grounds on which this decision was based. This information will be provided as a rule in writing and, in any event, in a way that will enable the individual to make effective use of further available remedies.

### **Copenhagen 1990**

(5) [The participating States] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(5.10) - everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity;

(5.11) - administrative decisions against a person must be fully justifiable and must as a rule indicate the usual remedies available;

(...)

(5.21) - in order to supplement domestic remedies and better to ensure that the participating States respect the international obligations they have undertaken, the participating States will consider acceding to a regional or global international convention concerning the protection of human rights, such as the European Convention on Human Rights or the Optional Protocol to the International Covenant on Civil and Political Rights, which provide for procedures of individual recourse to international bodies.

(...)

(11) The participating States further affirm that, where violations of human rights and fundamental freedoms are alleged to have occurred, the effective remedies available include

(11.1) - the right of the individual to seek and receive adequate legal assistance;

(11.2) - the right of the individual to seek and receive assistance from others in defending human rights and fundamental freedoms, and to assist others in defending human rights and fundamental freedoms;

(11.3) - the right of individuals or groups acting on their behalf to communicate with international bodies with competence to receive and consider information concerning allegations of human rights abuses.

(...)

(40) The participating States (...) will

(...)

(40.5) -recognize the right of the individual to effective remedies and endeavour to recognize, in conformity with national legislation, the right of interested persons and groups to initiate and support complaints against acts of discrimination, including racist and xenophobic acts;

#### **Paris 1990 (A New Era of Democracy, Peace and Unity)**

We will ensure that everyone will enjoy recourse to effective remedies, national or international, against any violation of his rights.

#### **Moscow 1991**

(18.2) Everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity.

(18.3) To the same end, there will be effective means of redress against administrative regulations for individuals affected thereby.

(18.4) The participating States will endeavour to provide for judicial review of such regulations and decisions.

#### **3.1.7 Conscientious Objection and Alternative Service**

#### **Copenhagen 1990**

(18) The participating States

(18.1) - note that the United Nations Commission on Human Rights has recognized the right of everyone to have conscientious objections to military service;

(18.2) - note recent measures taken by a number of participating States to permit exemption from compulsory military service on the basis of conscientious objections;

(18.3) - note the activities of several non-governmental organizations on the question of conscientious objections to compulsory military service;

(18.4) - agree to consider introducing, where this has not yet been done, various forms of alternative service, which are compatible with the reasons for conscientious objection, such forms of alternative service being in principle of a non-combatant or civilian nature, in the public interest and of a non-punitive nature;

(18.5) - will make available to the public information on this issue;

(18.6) - will keep under consideration, within the framework of the Conference on the Human Dimension, the relevant questions related to the exemption from compulsory

military service, where it exists, of individuals on the basis of conscientious objections to armed service, and will exchange information on these questions.

**Budapest 1994** (Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

28. The participating States will reflect in their laws or other relevant documents the rights and duties of armed forces personnel. They will consider introducing exemptions from or alternatives to military service.

### *3.1.8 Freedom of Thought, Conscience, Religion, or Belief*

**Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle VII)

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

(...)

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

**Helsinki 1975** (Co-operation in Humanitarian and Other Fields)

[The participating States] confirm that religious faiths, institutions and organizations, practising within the constitutional framework of the participating States, and their representatives can, in the field of their activities, have contacts and meetings among themselves and exchange information.

**Madrid 1983** (Questions Relating to Security in Europe: Principles)

The participating States (...) furthermore agree to take the action necessary to ensure the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

In this context, they will consult, whenever necessary, the religious faiths, institutions and organizations, which act within the constitutional framework of their respective countries.

They will favourably consider applications by religious communities of believers practising or prepared to practise their faith within the constitutional framework of their States, to be granted the status provided for in their respective countries for religious faiths, institutions and organizations.

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(16) In order to ensure the freedom of the individual to profess and practise religion or belief, the participating States will, *inter alia*,

(16.1) - take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers;

(16.2) - foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers;

(16.3) - grant upon their request to communities of believers, practising or prepared to practise their faith within the constitutional framework of their States, recognition of the status provided for them in their respective countries;

(16.4) - respect the right of these religious communities to

- establish and maintain freely accessible places of worship or assembly,
- organize themselves according to their own hierarchical and institutional structure,
- select, appoint and replace their personnel in accordance with their respective requirements and standards as well as with any freely accepted arrangement between them and their State,
- solicit and receive voluntary financial and other contributions;

(16.5) - engage in consultations with religious faiths, institutions and organizations in order to achieve a better understanding of the requirements of religious freedom;

(16.6) - respect the right of everyone to give and receive religious education in the language of his choice, whether individually or in association with others;

(16.7) - in this context respect, *inter alia*, the liberty of parents to ensure the religious and moral education of their children in conformity with their own convictions;

(16.8) - allow the training of religious personnel in appropriate institutions;

(16.9) - respect the right of individual believers and communities of believers to acquire, possess, and use sacred books, religious publications in the language of their choice and other articles and materials related to the practice of religion or belief,

(16.10) - allow religious faiths, institutions and organizations to produce, import and disseminate religious publications and materials;

(16.11) - favourably consider the interest of religious communities to participate in public dialogue, including through the mass media.

(17) The participating States recognize that the exercise of the above-mentioned rights relating to the freedom of religion or belief may be subject only to such limitations as are provided by law and consistent with their obligations under international law and with their international commitments. They will ensure in their laws and regulations and in their application the full and effective exercise of the freedom of thought, conscience, religion or belief.

(...)

(32) They will allow believers, religious faiths and their representatives, in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, *inter alia* through travel, pilgrimages and participation in assemblies and other religious events. In this context and commensurate with such contacts and events, those concerned will be allowed to acquire, receive and carry with them religious publications and objects related to the practice of their religion or belief.

### **Copenhagen 1990**

The participating States reaffirm that

(9.4) - everyone will have the right to freedom of thought, conscience and religion. This right includes freedom to change one's religion or belief and freedom to manifest one's religion or belief, either alone or in community with others, in public or in private, through worship, teaching, practice and observance. The exercise of these rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards;

(...)

(32) (...) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right

(...)

(32.3) - to profess and practise their religion, including the acquisition, possession and use of religious materials, and to conduct religious educational activities in their mother tongue;

(...)

### **Budapest 1994** (Decisions: VIII. The Human Dimension)

27. Reaffirming their commitment to ensure freedom of conscience and religion and to foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers, they expressed their concern about the exploitation of religion for aggressive nationalist ends.

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

9. Affirms the importance of freedom of thought, conscience, religion or belief, and condemns all discrimination and violence, including against any religious group or individual believer. Commits to ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies. Encourages the participating States to seek the assistance of the ODIHR and its Panel of Experts on Freedom of Religion or Belief. Emphasizes the importance of a continued and strengthened interfaith and intercultural dialogue to promote greater tolerance, respect and mutual understanding;

**3.1.9 Freedom of Association and the Right of Peaceful Assembly****Madrid 1983** (Questions Relating to Security in Europe: Principles)

The participating States will ensure the right of workers freely to establish and join trade unions, the right of trade unions freely to exercise their activities and other rights as laid down in relevant international instruments. They note that these rights will be exercised in compliance with the law of the State and in conformity with the State's obligations under international law. They will encourage, as appropriate, direct contacts and communication among such trade unions and their representatives.

**Sofia 1989** (Preamble)

The participating States reaffirm their respect for the right of individuals, groups and organizations concerned with environmental issues to express freely their views, to associate with others, to peacefully assemble, as well as to obtain, publish and distribute information on these issues, without legal and administrative impediments inconsistent with the CSCE provisions. These individuals, groups and organizations have the right to participate in public debates on environmental issues, as well as to establish and maintain direct and independent contacts at national and international level.

**Bonn 1990** (Preamble)

Recognizing the relationship between political pluralism and market economies, and being committed to the principles concerning:

(...)

- Economic activity that accordingly upholds human dignity and is free from (...) denial of the rights of workers freely to establish or join independent trade unions,

Will endeavour to achieve or maintain the following (...)

**Copenhagen 1990**

(7) (...) the participating States will



(7.6) - respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations (...)

(...)

(9) The participating States reaffirm that

(9.2) - everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards;

(9.3) - the right of association will be guaranteed. The right to form and - subject to the general right of a trade union to determine its own membership - freely to join a trade union will be guaranteed. These rights will exclude any prior control. Freedom of association for workers, including the freedom to strike, will be guaranteed, subject to limitations prescribed by law and consistent with international standards;

(...)

(10) (...) the participating States express their commitment to

(10.3) - ensure that individuals are permitted to exercise the right to association, including the right to form, join and participate effectively in non-governmental organizations which seek the promotion and protection of human rights and fundamental freedoms, including trade unions and human rights monitoring groups;

(...)

(32) (...) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right

(...)

(32.6) - to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations.

### **Paris 1990** (A New Era of Democracy, Peace and Unity)

We affirm that, without discrimination, every individual has the right to (...) freedom of association and peaceful assembly (...)

#### **3.1.10 Freedom of Expression, Free Media and Information**

##### **A. General Provisions**

#### **Helsinki 1975** (Co-operation in Humanitarian and Other Fields)

The participating States,

Conscious of the need for an ever wider knowledge and understanding of the various aspects of life in other participating States,

Acknowledging the contribution of this process to the growth of confidence between peoples,

Desiring, with the development of mutual understanding between the participating States and with the further improvement of their relations, to continue further efforts towards progress in this field,

Recognizing the importance of the dissemination of information from the other participating States and of a better acquaintance with such information,

(...)

Make it their aim to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries (...)

#### **Vienna 1989** (Co-operation in Humanitarian and Other Fields)

(34) (...) in accordance with the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights and their relevant international commitments concerning seeking, receiving and imparting information of all kinds, [the participating States] will ensure that individuals can freely choose their sources of information. In this context they will (...)

- allow individuals, institutions and organizations, while respecting intellectual property rights, including copyright, to obtain, possess, reproduce and distribute information material of all kinds.

To these ends they will remove any restrictions inconsistent with the abovementioned obligations and commitments.

(35) They will take every opportunity offered by modern means of communication, including cable and satellites, to increase the freer and wider dissemination of information of all kinds. They will also encourage co-operation and exchanges between their relevant institutions, organizations and technical experts, and work towards the harmonization of technical standards and norms.

(36) They will ensure in practice that official information bulletins can be freely distributed on their territory by the diplomatic and other official missions and consular posts of the other participating States.

(...)

(45) They will ensure in practice that persons belonging to national minorities or regional cultures on their territories can disseminate, have access to, and exchange information in their mother tongue.

**Sofia 1989** (Preamble)

The participating States reaffirm their respect for the right of individuals, groups and organizations concerned with environmental issues to express freely their views, to associate with others, to peacefully assemble, as well as to obtain, publish and distribute information on these issues, without legal and administrative impediments inconsistent with the CSCE provisions. These individuals, groups and organizations have the right to participate in public debates on environmental issues, as well as to establish and maintain direct and independent contacts at national and international level.

**Copenhagen 1990**

(7) (...) the participating States will

(...)

(7.7) - ensure that law and public policy work to permit political campaigning to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and the candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing them (...)

(...)

(9) The participating States reaffirm that

(9.1) - everyone will have the right to freedom of expression including the right to communication. This right will include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of this right may be subject only to such restrictions as are prescribed by law and are consistent with international standards. In particular, no limitation will be imposed on access to, and use of, means of reproducing documents of any kind, while respecting, however, rights relating to intellectual property, including copyright;

(...)

(10) (...) the participating States express their commitment to

(10.1) - respect the right of everyone, individually or in association with others, to seek, receive and impart freely views and information on human rights and fundamental freedoms, including the rights to disseminate and publish such views and information;

(10.2) - respect the rights of everyone, individually or in association with others, to study and discuss the observance of human rights and fundamental freedoms and to develop and discuss ideas for improved protection of human rights and better means for ensuring compliance with international human rights standards;

(...)

(32) (...) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will.

### **Budapest 1994** (Decisions: VIII. The Human Dimension)

36. The participating States reaffirm that freedom of expression is a fundamental human right and a basic component of a democratic society.

### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

26. We reaffirm the importance of (...) the free flow of information as well as the public's access to information. We commit ourselves to take all necessary steps to ensure the basic conditions for (...) unimpeded transborder and intra-State flow of information (...)

#### **B. Media Freedom and Working Conditions for Journalists**

*See also:*

#### ➤ **Part I. 2.3.4 C: The Representative on Freedom of the Media**

### **Helsinki 1975** (Co-operation in Humanitarian and Other Fields)

(...) Recognizing the importance of the dissemination of information from the other participating States and of a better acquaintance with such information,

Emphasizing therefore the essential and influential role of the press, radio, television, cinema and news agencies and of the journalists working in these fields,

Make it their aim to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and the exchange of information with other countries, and, to improve the conditions under which journalists from one participating State exercise their profession in another participating State, and

Express their intention in particular:

#### (a) Improvement of the Circulation of, Access to, and Exchange of Information

(...)

#### (ii) Printed Information

- To facilitate the improvement of the dissemination, on their territory, of newspapers and printed publications, periodical and non-periodical, from the other participating States.

(...)

- To contribute to the improvement of access by the public to [imported] periodical and nonperiodical printed publications (...)

(iii) Filmed and Broadcast Information

- To promote the improvement of the dissemination of filmed and broadcast information (...)

The participating States note the expansion in the dissemination of information broadcast by radio, and express the hope for the continuation of this process, so as to meet the interest of mutual understanding among peoples and the aims set forth by this Conference.

(b) Co-operation in the Field of Information

- To encourage co-operation in the field of information on the basis of short or long term agreements or arrangements. In particular:

- they will favour increased co-operation among mass media organizations. Including press agencies, as well as among publishing houses and organizations;
- they will favour co-operation among public or private, national or international radio and television organizations, in particular through the exchange of both live and recorded radio and television programmes, and through the joint production and the broadcasting and distribution of such programmes;
- they will encourage meetings and contacts both between journalists organizations and between journalists from the participating States;
- they will view favourably the possibilities of arrangements between periodical publications as well as between newspapers from the participating States, for the purpose of exchanging and publishing articles;
- they will encourage the exchange of technical information as well as the organization of joint research and meetings devoted to the exchange of experience and views between experts in the field of the press, radio and television.

(c) Improvement of Working Conditions for Journalists

The participating States, desiring to improve the conditions under which journalists from one participating State exercise their profession in another participating State, intend in particular to:

- examine in a favourable spirit and within a suitable and reasonable time scale requests from journalists for visas;
- grant to permanently accredited journalists of the participating States, on the basis of arrangements, multiple entry and exit visas for specified periods;

- facilitate the issue to accredited journalists of the participating States of permits for stay in their country of temporary residence and, if and when these are necessary, of other official papers which it is appropriate for them to have;
- ease, on a basis of reciprocity, procedures for arranging travel by journalists of the participating States in the country where they are exercising their profession, and to provide progressively greater opportunities for such travel, subject to the observance of regulations relating to the existence of areas closed for security reasons,
- ensure that requests by such journalists for such travel receive, in so far as possible, an expeditious response, taking into account the time scale of the request;
- increase the opportunities for journalists of the participating States to communicate personally with their sources, including organizations and official institutions;
- grant to journalists of the participating States the right to import, subject only to its being taken out again, the technical equipment (photographic, cinematographic, tape recorder, radio and television) necessary for the exercise of their profession;\*)
- enable journalists of the other participating States, whether permanently or temporarily accredited, to transmit completely, normally and rapidly by means recognized by the participating States to the information organs which they represent, the results of their professional activity, including tape recordings and undeveloped film, for the purpose of publication or of broadcasting on the radio or television.

The participating States reaffirm that the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them. If an accredited journalist is expelled, he will be informed of the reasons for this act and may submit an application for re-examination of his case.

### **Madrid 1983** (Co-operation in Humanitarian and Other Fields)

[The participating States] will favour the further expansion of co-operation among mass media and their representatives, especially between the editorial staffs of press agencies, newspapers, radio and television organizations as well as film companies. They will encourage a more regular exchange of news, articles, supplements and broadcasts as well as the exchange of editorial staff for better knowledge of respective practices. On the basis of reciprocity, they will improve the material and technical facilities provided for permanently or temporarily accredited television and radio reporters. Moreover, they will facilitate direct contacts among journalists as well as contacts within the framework of professional organizations.

They will decide without undue delay upon visa applications from journalists and re-examine within a reasonable time frame applications which have been refused. Moreover,

\* While recognizing that appropriate local personnel are employed by foreign journalists in many instances, the participating States note that the above provisions would be applied, subject to the observance of the appropriate rules, to persons from the other participating States, who are regularly and professionally engaged as technicians, photographers or cameramen of the press, radio, television or cinema.

journalists wishing to travel for personal reasons and not for the purpose of reporting shall enjoy the same treatment as other visitors from their country of origin.

They will grant permanent correspondents and members of their families living with them multiple entry and exit visas valid for one year.

The participating States will examine the possibility of granting, where necessary on the basis of bilateral arrangements, accreditation and related facilities to journalists from other participating States who are permanently accredited in third countries.

They will facilitate travel by journalists from other participating States within their territories, *inter alia* by taking concrete measures where necessary, to afford them opportunities to travel more extensively, with the exception of areas closed for security reasons. They will inform journalists in advance, whenever possible, if new areas are closed for security reasons.

They will further increase the possibilities and, when necessary, improve the conditions for journalists from other participating States to establish and maintain personal contacts and communication with their sources.

They will, as a rule, authorize radio and television journalists, at their request, to be accompanied by their own sound and film technicians and to use their own equipment.

Similarly, journalists may carry with them reference material, including personal notes and files, to be used strictly for their professional purposes\*.

### **Vienna 1989 (Co-operation in Humanitarian and Other Fields)**

(34) (...) They will make further efforts to facilitate the freer and wider dissemination of information of all kinds, to encourage co-operation in the field of information and to improve the working conditions for journalists.

(...)

(...) they will

- ensure that radio services operating in accordance with the ITU Radio Regulations can be directly and normally received in their States (...)

(37) They will encourage radio and television organizations, on the basis of arrangements between them, to broadcast live, especially in the organizing countries, programmes and discussions with participants from different States and to broadcast statements of and interviews with political and other personalities from the participating States.

\* In this context it is understood that import of printed matter may be subject to local regulations which will be applied with due regard to the journalists' need for adequate working material. The participating States will, where necessary, facilitate the establishment and operation, in their capitals, of press centres or institutions performing the same functions, open to the national and foreign press with suitable working facilities for the latter. They will also consider further ways and means to assist journalists from other participating States and thus to enable them to resolve practical problems they may encounter.

(38) They will encourage radio and television organizations to report on different aspects of life in other participating States and to increase the number of telebridges between their countries.

(39) Recalling that the legitimate pursuit of journalists' professional activity will neither render them liable to expulsion nor otherwise penalize them, they will refrain from taking restrictive measures such as withdrawing a journalist's accreditation or expelling him because of the content of the reporting of the journalist or of his information media.

(40) They will ensure that, in pursuing this activity, journalists, including those representing media from other participating States, are free to seek access to and maintain contacts with public and private sources of information and that their need for professional confidentiality is respected.

(41) They will respect the copyright of journalists.

(42) On the basis of arrangements between them, where necessary, and for the purpose of regular reporting, they will grant accreditation, where it is required, and multiple entry visas to journalists from other participating States, regardless of their domicile. On this basis they will reduce to a maximum of two months the period for issuing both accreditation and multiple entry visas to journalists.

(43) They will facilitate the work of foreign journalists by providing relevant information, on request, on matters of practical concern, such as import regulations, taxation and accommodation.

(44) They will ensure that official press conferences and, as appropriate, other similar official press events are also open to foreign journalists, upon accreditation, where this is required.

### **Copenhagen 1990**

(7) (...) the participating States will

(...)

(7.8) - provide that no legal or administrative obstacle stands in the way of unimpeded access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process;

### **Moscow 1991**

(26) The participating States reaffirm the right to freedom of expression, including (...) the right of the media to collect, report and disseminate information, news and opinions. Any restriction in the exercise of this right will be prescribed by law and in accordance with international standards. They further recognize that independent media are essential to a free and open society and accountable systems of government and are of particular importance in safeguarding human rights and fundamental freedoms.



(26.1) They consider that the print and broadcast media in their territory should enjoy unrestricted access to foreign news and information services. The public will enjoy similar freedom to receive and impart information and ideas without interference by public authority regardless of frontiers, including through foreign publications and foreign broadcasts. Any restriction in the exercise of this right will be prescribed by law and in accordance with international standards.

(26.2) The participating States will not discriminate against independent media with respect to affording access to information, material and facilities.

(...)

(28.9) The participating States will endeavour to maintain freedom of expression and freedom of information, consistent with their international obligations and commitments, with a view to enabling public discussion on the observance of human rights and fundamental freedoms as well as on the lifting of the state of public emergency. They will, in conformity with international standards regarding the freedom of expression, 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.

(...)

(34) The participating States will adopt, where appropriate, all feasible measures to protect journalists engaged in dangerous professional missions, particularly in cases of armed conflict, and will co-operate to that effect. These measures will include tracing mission journalists, ascertaining their fate, providing appropriate assistance and facilitating their return to their families.

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

36. The participating States reaffirm that freedom of expression is a fundamental human right and a basic component of a democratic society. In this respect, independent and pluralistic media are essential to a free and open society and accountable systems of government. They take as their guiding principle that they will safeguard this right.

37. They condemn all attacks on and harassment of journalists and will endeavour to hold those directly responsible for such attacks and harassment accountable.

38. They further note that fomenting hatred and ethnic tension through the media, especially by governments, can serve as an early warning of conflict.

#### **Lisbon 1996** (Summit Declaration)

9. (...) Among the acute problems within the human dimension, the continuing violations of human rights, such as (...) threats to independent media (...) continue to endanger stability in the OSCE region. We are committed to continuing to address these problems.

(...)

11. Freedom of the press and media are among the basic prerequisites for truly democratic and civil societies (...)

**Copenhagen 1997** (Annex 1: Permanent Council Decision No. 193, Mandate of the OSCE Representative on Freedom of the Media)

1. The participating States (...) recall in particular that freedom of expression is a fundamental and internationally recognized human right and a basic component of a democratic society and that free, independent and pluralistic media are essential to a free and open society and accountable systems of government. Bearing in mind the principles and commitments they have subscribed to within the OSCE (...), the participating States decide to establish, under the aegis of the Permanent Council, an OSCE Representative on Freedom of the Media. The objective is to strengthen the implementation of relevant OSCE principles and commitments as well as to improve the effectiveness of concerted action by the participating States based on their common values. The participating States confirm that they will co-operate fully with the OSCE Representative on Freedom of the Media. He or she will assist the participating States, in a spirit of co-operation, in their continuing commitment to the furthering of free, independent and pluralistic media (...)

**Istanbul 1999** (Summit Declaration)

27. (...) We are deeply concerned about the exploitation of media in areas of conflict to foment hatred and ethnic tension and the use of legal restrictions and harassment to deprive citizens of free media. We underline the need to secure freedom of expression, which is an essential element of political discourse in any democracy. We support the Office of the Representative on Freedom of the Media in its efforts to promote free and independent media.

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

26. We reaffirm the importance of independent media and the free flow of information as well as the public's access to information. We commit ourselves to take all necessary steps to ensure the basic conditions for free and independent media and unimpeded transborder and intra-State flow of information (...)

C. Freedom of Cultural or Artistic Expression

*See also:*

➤ Part II. 3.2.3: Cultural Rights/Cultural Heritage

**Paris 1990** (A New Era of Democracy, Peace and Unity)

We recognize the essential contribution of our common European culture and our shared values in overcoming the division of the continent. Therefore, we underline our attachment to creative freedom and to the protection and promotion of our cultural and spiritual heritage, in all its richness and diversity.

**Cracow 1991 (I. Culture and Freedom)**

1. The participating States emphasize that respect for human rights and fundamental freedoms is essential to the full development of cultural creativity.
2. The State and the public authorities will refrain from infringing upon the freedom of artistic creation.
3. The participating States undertake to promote and protect the free and unhindered development of artistic creativity; they recognize the important role of the individual artist in society and will respect and protect the integrity of creative work.
4. They recognize the need for governments to strike a balance between their dual responsibility of acting in support of, and ensuring the freedom of, cultural activity.
5. They further acknowledge that, given the variety of cultural activity in the participating States, there are many ways in which governments might choose to respond effectively to concerns relating to the cultural heritage.
6. The participating States recall their respect for freedom of expression and, in connection with the exercise of that freedom in the artistic and cultural fields, state as follows:
  - 6.1 The publication of written works, the performance and broadcasting of musical, theatrical and audiovisual works, and the exhibition of pictorial or sculptural works will not be subject to restriction or interference by the State save such restrictions as are prescribed by domestic legislation and are fully consistent with international standards.
  - 6.2 They express their conviction that the existence, in the artistic and cultural fields, of a diversity of means of dissemination independent of the State, such as publishing houses, radio broadcasting, cinema and television enterprises, theatres and galleries, helps to ensure pluralism and the freedom of artistic and cultural expression.
7. The participating States recall their commitments to unhindered access to culture, and agree as follows:
  - 7.1 While duly respecting intellectual property rights, any person or independent organization has the right to own privately, use and reproduce all kinds of cultural materials, such as books, publications and audiovisual recordings, and the means of reproducing them.

**Moscow 1991**

(35) The participating States reaffirm that guaranteeing the freedom of artistic creation and preserving the cultural heritage form part of the human dimension of the CSCE. They consider that independent intellectual and cultural life is crucial for the maintenance of free societies and democratic institutions. They will implement their commitments in the cultural field, as laid down in the Document of the Cracow Symposium on the Cultural Heritage (...)

### 3.1.11 *Freedom of Movement, Human Contacts, and Family Reunification*

*See also:*

- Part II. 4.4: Refugees, Displaced Persons, Returnees, and Stateless Persons
- Part II. 4.5: Migrant Workers

#### **Helsinki 1975** (Co-operation in Humanitarian and Other Fields)

The participating States,

Considering the development of contacts to be an important element in the strengthening of friendly relations and trust among peoples

(...)

Make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connexion,

Declare their readiness to these ends to take measures which they consider appropriate and to conclude agreements or arrangements among themselves, as may be needed, and

Express their intention now to proceed to the implementation of the following:

##### (a) Contacts and Regular Meetings on the Basis of Family Ties

In order to promote further development of contacts on the basis of family ties the participating States will favourably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families.

Applications for temporary visits to meet members of their families will be dealt with without distinction as to the country of origin or destination: existing requirements for travel documents and visas will be applied in this spirit. The preparation and issue of such documents and visas will be effected within reasonable time limits, cases of urgent necessity — such as serious illness or death — will be given priority treatment. They will take such steps as may be necessary to ensure that the fees for official travel documents and visas are acceptable.

They confirm that the presentation of an application concerning contacts on the basis of family ties will not modify the rights and obligations of the applicant or of members of his family.

##### (b) Reunification of Families

The participating States will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family, with special

attention being given to requests of an urgent character - such as requests submitted by persons who are ill or old.

They will deal with applications in this field as expeditiously as possible. They will lower where necessary the fees charged in connexion with these applications to ensure that they are at a moderate level.

Applications for the purpose of family reunification which are not granted may be renewed at the appropriate level and will be reconsidered at reasonably short intervals by the authorities of the country of residence or destination, whichever is concerned, under such circumstances fees will be charged only when applications are granted.

Persons whose applications for family reunification are granted may bring with them or ship their household and personal effects; to this end the participating States will use all possibilities provided by existing regulations.

Until members of the same family are reunited meetings and contacts between them may take place in accordance with the modalities for contacts on the basis of family ties.

The participating States will support the efforts of Red Cross and Red Crescent Societies concerned with the problems of family reunification.

They confirm that the presentation of an application concerning family reunification will not modify the rights and obligations of the applicant or of members of his family.

The receiving participating State will take appropriate care with regard to employment for persons from other participating States who take up permanent residence in that State in connexion with family reunification with its citizens and see that they are afforded opportunities equal to those enjoyed by its own citizens for education, medical assistance and social security.

#### (c) Marriage between Citizens of Different States

The participating States will examine favourably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State.

The processing and issuing of the documents required for the above purposes and for the marriage will be in accordance with the provisions accepted for family reunification.

In dealing with requests from couples from different participating States, once married, to enable them and the minor children of their marriage to transfer their permanent residence to a State in which either one is normally a resident, the participating States will also apply the provisions accepted for family reunification.

#### (d) Travel for Personal or Professional Reasons

The participating States intend to facilitate wider travel by their citizens for personal or professional reasons and to this end they intend in particular:

- gradually to simplify and to administer flexibly the procedures for exit and entry;
- to ease regulations concerning movement of citizens from the other participating States in their territory, with due regard to security requirements.

They will endeavour gradually to lower, where necessary, the fees for visas and official travel documents.

They intend to consider, as necessary, means — including, in so far as appropriate, the conclusion of multilateral or bilateral consular conventions or other relevant agreements or understandings — for the improvement of arrangements to provide consular services, including legal and consular assistance.

### **Madrid 1983** (Co-operation in Humanitarian and Other Fields)

The participating States will favourably deal with applications relating to contacts and regular meetings on the basis of family ties, reunification of families and marriage between citizens of different States and will decide upon them in the same spirit.

They will decide upon these applications in emergency cases for family meetings as expeditiously as possible, for family reunification and for marriage between citizens of different States in normal practice within six months and for other family meetings within gradually decreasing time limits.

They confirm that the presentation or renewal of applications in these cases will not modify the rights and obligations of the applicants or of members of their families concerning *inter alia* employment, housing, residence status, family support, access to social, economic or educational benefits, as well as any other rights and obligations flowing from the laws and regulations of the respective participating State.

The participating States will provide the necessary information on the procedures to be followed by the applicants in these cases and on the regulations to be observed, as well as, upon the applicant's request, provide the relevant forms.

They will, where necessary, gradually reduce fees charged in connection with these applications, including those for visas and passports, in order to bring them to a moderate level in relation to the average monthly income in the respective participating State.

Applicants will be informed as expeditiously as possible of the decision that has been reached. In case of refusal applicants will also be informed of their right to renew applications after reasonably short intervals.

### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(20) The participating States will respect fully the right of everyone

- to freedom of movement and residence within the borders of each State, and
- to leave any country, including his own, and to return to his country.

### **Vienna 1989 (Co-operation in Humanitarian and Other Fields)**

(1) In implementing the human contacts provisions of the Final Act, the Madrid Concluding Document and the present Document, [the participating States] will fully respect their obligations under international law as referred to in the subchapter of the present Document devoted to principles, in particular that everyone shall be free to leave any country, including his own, and to return to his country, as well as their international commitments in this field.

(2) They will ensure that their policies concerning entry into their territories are fully consistent with the aims set out in the relevant provisions of the Final Act, the Madrid Concluding Document and the present Document.

(3) They will take the necessary steps to find solutions as expeditiously as possible, but in any case within six months, to all applications based on the human contacts provisions of the Final Act and the Madrid Concluding Document, outstanding at the conclusion of the Vienna Follow-up Meeting.

(4) Thereafter they will conduct regular reviews in order to ensure that all applications based on the human contacts provisions of the Final Act and of the other aforementioned CSCE documents are being dealt with in a manner consistent with those provisions.

(5) They will decide upon applications relating to family meetings in accordance with the Final Act and the other aforementioned CSCE documents in as short a time as possible and in normal practice within one month.

(6) In the same manner they will decide upon applications relating to family reunification or marriage between citizens of different States, in normal practice within three months.

(7) In dealing favourably with applications relating to family meetings, they will take due account of the wishes of the applicant, in particular on the timing and sufficiently long duration of such meetings, and on travelling together with other members of his family for joint family meetings.

(8) In dealing favourably with applications relating to family meetings, they will also allow visits to and from more distant relatives.

(9) In dealing favourably with applications relating to family reunification or marriage between citizens of different States, they will respect the wishes of the applicants on the country of destination ready to accept them.

(10) They will pay particular attention to the solution of problems involving the reunification of minor children with their parents. In this context and on the basis of the relevant provisions of the Final Act and of the other aforementioned CSCE documents, they will ensure

- that an application for this purpose submitted while the child is a minor will be dealt with favourably and expeditiously in order to effect the reunification without delay, and
- that adequate arrangements are made to protect the interests and welfare of the children concerned.

(11) They will consider the scope for gradually reducing and eventually eliminating any requirement which might exist for travellers to obtain local currency in excess of actual expenditure, giving priority to persons traveling for the purpose of family meetings. They will accord such persons the opportunity in practice to bring in or to take out with them personal possessions or gifts.

(12) They will pay immediate attention to applications for travel of an urgent humanitarian nature and deal with them favourably as follows:

- They will decide within three working days upon applications relating to visits to a seriously ill or dying family member, travel to attend the funeral of a family member or travel by those who have a proven need of urgent medical treatment or who can be shown to be critically or terminally ill.
- They will decide as expeditiously as possible upon applications relating to travel by those who are seriously ill or by the elderly, and other travel of an urgent humanitarian nature.
- They will intensify efforts by their local, regional and central authorities concerned with the implementation of the above, and ensure that charges for giving priority treatment to such applications do not exceed costs actually incurred.

(13) In dealing with applications for travel for family meetings, family reunification or marriage between citizens of different States, they will ensure that acts or commissions by members of the applicant's family do not adversely affect the rights of the applicant as set forth in the relevant international instruments.

(14) They will ensure that all documents necessary for applications based on the human contacts provisions of the Final Act and of the other aforementioned CSCE documents are easily accessible to the applicant. The documents will remain valid throughout the application procedure. In the event of a renewed application the documents already submitted by the applicant in connection with previous applications will be taken into consideration.



(15) They will simplify practices and gradually reduce administrative requirements for applications based on the human contacts provisions of the Final Act and of the other aforementioned CSCE documents.

(16) They will ensure that, when applications based on the human contacts provisions of the Final Act and of the other aforementioned CSCE documents are refused for reasons specified in the relevant international instruments, the applicant is promptly provided in writing with an official notification of the grounds on which the decision was based. As a rule and in all cases where the applicant so requests, he will be given the necessary information about the procedure for making use of any effective administrative or judicial remedies against the decision available to him as envisaged in the abovementioned international instruments. In cases where exit for permanent settlement abroad is involved, this information will be provided as part of the official notification foreseen above.

(17) If in this context an individual's application for travel abroad has been refused for reasons of national security, they will ensure that, within strictly warranted time limits, any restriction on that individual's travel is as short as possible and is not applied in an arbitrary manner. They will also ensure that the applicant can have the refusal reviewed within six months and, should the need arise, at regular intervals thereafter so that any changes in the circumstances surrounding the refusal, such as time elapsed since the applicant was last engaged in work or duties involving national security, are taken into account. Before individuals take up such work or duties they will be formally notified if and how this could affect applications they might submit for such travel.

(18) Within one year of the conclusion of the Vienna Follow-up Meeting they will publish and make easily accessible, where this has not already been done, all their laws and statutory regulations concerning movement by individuals within their territory and travel between States.

(19) In dealing favourably with applications based on the human contacts provisions of the Final Act and of the other aforementioned CSCE documents, they will ensure that these are dealt with in good time in order, *inter alia*, to take due account of important family, personal or professional considerations significant for the applicant.

(20) They will deal favourably with applications for travel abroad without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, age or other status. They will ensure that any refusal does not affect applications submitted by other persons.

(21) They will further facilitate travel on an individual or collective basis for personal or professional reasons and for tourism, such as travel by delegations, groups and individuals. To this end they will reduce the time for the consideration of applications for such travel to a minimum.

(22) They will give serious consideration to proposals for concluding agreements on the issuing of multiple entry visas and the reciprocal easing of visa processing formal-

ties, and consider possibilities for the reciprocal abolition of entry visas on the basis of agreements between them.

(23) They will consider adhering to the relevant multilateral instruments as well as concluding complementary or other bilateral agreements, if necessary, in order to improve arrangements for ensuring effective consular, legal and medical assistance for citizens of other participating States temporarily on their territory.

(24) They will take any necessary measures to ensure that citizens of other participating States temporarily on their territory for personal or professional reasons, *inter alia* for the purpose of participating in cultural, scientific and educational activities, are afforded appropriate personal safety, where this is not already the case.

(...)

(31) They will ensure that the status of persons belonging to national minorities or regional cultures on their territories is equal to that of other citizens with regard to human contacts under the Final Act and the other aforementioned CSCE documents and that these persons can establish and maintain such contacts through travel and other means of communication, including contacts with citizens of other States with whom they share a common national origin or cultural heritage.

(32) They will allow believers, religious faiths and their representatives, in groups or on an individual basis, to establish and maintain direct personal contacts and communication with each other, in their own and other countries, *inter alia* through travel, pilgrimages and participation in assemblies and other religious events. In this context and commensurate with such contacts and events, those concerned will be allowed to acquire, receive and carry with them religious publications and objects related to the practice of their religion or belief.

### **Copenhagen 1990**

(9) The participating States reaffirm that

(...)

(9.5) - they will respect the right of everyone to leave any country, including his own, and to return to his country, consistent with a State's international obligations and CSCE commitments. Restrictions on this right will have the character of very rare exceptions, will be considered necessary only if they respond to a specific public need, pursue a legitimate aim and are proportionate to that aim, and will not be abused or applied in an arbitrary manner;

(...)

(10.4) - allow members of such groups and organizations to have unhindered access to and communication with similar bodies within and outside their countries and with

international organizations, to engage in exchanges, contacts and co-operation with such groups and organizations (...)

(...)

(19) The participating States affirm that freer movement and contacts among their citizens are important in the context of the protection and promotion of human rights and fundamental freedoms. They will ensure that their policies concerning entry into their territories are fully consistent with the aims set out in the relevant provisions of the Final Act, the Madrid Concluding Document and the Vienna Concluding Document. While reaffirming their determination not to recede from the commitments contained in CSCE documents, they undertake to implement fully and improve present commitments in the field of human contacts, including on a bilateral and multilateral basis. In this context they will

(19.1) - strive to implement the procedures for entry into their territories, including the issuing of visas and passport and customs control, in good faith and without unjustified delay. Where necessary, they will shorten the waiting time for visa decisions, as well as simplify practices and reduce administrative requirements for visa applications;

(19.2) - ensure, in dealing with visa applications, that these are processed as expeditiously as possible in order, *inter alia*, to take due account of important family, personal or professional considerations, especially in cases of an urgent, humanitarian nature;

(19.3) - endeavour, where necessary, to reduce fees charged in connection with visa applications to the lowest possible level.

### **Paris 1990** (A New Era of Democracy, Peace and Unity)

In accordance with our CSCE commitments, we stress that free movement and contacts among our citizens as well as the free flow of information and ideas are crucial for the maintenance and development of free societies and flourishing cultures (...)

### **Moscow 1991**

(33) The participating States will remove all legal and other restrictions with respect to travel within their territories for their own nationals and foreigners, and with respect to residence for those entitled to permanent residence, except those restrictions which may be necessary and officially declared for military, safety, ecological or other legitimate government interests, in accordance with their national laws, consistent with CSCE commitments and international human rights obligations. The participating States undertake to keep such restrictions to a minimum.

### **Budapest 1994** (Decisions: VIII. The Human Dimension)

40. They will encourage administrative authorities dealing with citizens of other States to fully implement the CSCE commitments concerning travel and will refrain from degrading treatment and other outrages against personal dignity.

### 3.1.12 *Respect for Private and Family Life*

*See also:*

➤ Part II. 3.1.11: Freedom of Movement, Human Contacts, and Family Reunification

#### **Moscow 1991**

(24) The participating States reconfirm the right to the protection of private and family life, domicile, correspondence and electronic communications. In order to avoid any improper or arbitrary intrusion by the State in the realm of the individual, which would be harmful to any democratic society, the exercise of this right will be subject only to such restrictions as are prescribed by law and are consistent with internationally recognized human rights standards. In particular, the participating States will ensure that searches and seizures of persons and private premises and property will take place only in accordance with standards that are judicially enforceable.

### 3.1.13 *Right to Nationality*

*See also:*

➤ Part II. 4.4: Refugees, Displaced Persons, Returnees, and Stateless Persons

#### **Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(55) Recognize that everyone has the right to a nationality and that no one should be deprived of his/her nationality arbitrarily;

(56) Underline that all aspects of nationality will be governed by the process of law. They will, as appropriate, take measures, consistent with their constitutional framework not to increase statelessness;

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

19. (...) We reaffirm our recognition that everyone has the right to a nationality and that no one should be deprived of his or her nationality arbitrarily. We commit ourselves to continue our efforts to ensure that everyone can exercise this right. We also commit ourselves to further the international protection of stateless persons.

### 3.1.14 *Property Rights*

#### **Bonn 1990**

The participating States (...) (w)ill endeavour to achieve or maintain the following:

(...)

- Full recognition and protection of all types of property including private property, and the right of citizens to own and use them, as well as intellectual property rights;

- The right to prompt, just and effective compensation in the event private property is taken for public use;

(...)

### **Copenhagen 1990**

(9) The participating States reaffirm that

(...)

(9.6) - everyone has the right peacefully to enjoy his property either on his own or in common with others. No one may be deprived of his property except in the public interest and subject to the conditions provided for by law and consistent with international commitments and obligations.

### **Paris 1990** (A New Era of Democracy, Peace and Unity)

We affirm that, without discrimination (...) everyone (...) has the right:

(...)

to own property alone or in association and to exercise individual enterprise (...)

## **3.2 Economic, Social, and Cultural Rights**

### **3.2.1 General Provisions**

**Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principles VII-IX)

[The participating States] will promote and encourage the effective exercise of ...economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development.

(...)

They will endeavour, in developing their cooperation, to improve the well-being of peoples and contribute to the fulfilment of their aspirations through, *inter alia*, the benefits resulting from increased mutual knowledge and from progress and achievement in the economic, scientific, technological, social, cultural and humanitarian fields. They will take steps to promote conditions favourable to making these benefits available to all; they will take into account the interest of all in the narrowing of differences in the levels of economic development, and in particular the interest of developing countries throughout the world.

**Madrid 1983** (Questions Relating to Security in Europe: Principles)

[The participating States] similarly stress their determination to develop their laws and regulations in the field of (...) economic, social, cultural and other human rights and

fundamental freedoms; they also emphasize their determination to ensure the effective exercise of these rights and freedoms.

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(12) (...) They recognize that (...) economic, social, cultural and other rights and freedoms are all of paramount importance and must be fully realized by all appropriate means.

(13) In this context they will

(13.1) - develop their laws, regulations and policies in the field of (...) economic, social, cultural and other human rights and fundamental freedoms and put them into practice in order to guarantee the effective exercise of these rights and freedoms;

(13.2) - consider acceding to (...) the International Covenant on Economic, Social and Cultural Rights and other relevant international instruments, if they have not yet done so;

(...)

(14) The participating States recognize that the promotion of economic, social, cultural rights as well as of civil and political rights is of paramount importance for human dignity and for the attainment of the legitimate aspirations of every individual.

They will therefore continue their efforts with a view to achieving progressively the full realization of economic, social and cultural rights by all appropriate means, including in particular by the adoption of legislative measures. In this context they will pay special attention to problems in the areas of employment, housing, social security, health, education and culture. They will promote constant progress in the realization of all rights and freedoms within their countries, as well as in the development of relations among themselves and with other States, so that everyone actually enjoys to the full his economic, social and cultural rights as well as his civil and political rights.

**Paris 1990** (A New Era of Democracy, Peace and Unity)

We affirm that, without discrimination (...) everyone (...) has the right:

(...)

to enjoy his economic, social and cultural rights.

**3.2.2 Economic and Social Rights**

**A. General Provisions**

**Bonn 1990**

[The participating States] will endeavour to achieve or maintain the following:

(...)

- Policies that promote social justice and improve living and working conditions;
- (...)

**Paris 1990** (A New Era of Democracy, Peace and Unity)

Economic liberty, social justice and environmental responsibility are indispensable for prosperity.

The free will of the individual, exercised in democracy and protected by the rule of law, forms the necessary basis for successful economic and social development. We will promote economic activity which respects and upholds human dignity.

Freedom and political pluralism are necessary elements in our common objective of developing market economies towards sustainable economic growth, prosperity, social justice, expanding employment and efficient use of economic resources. The success of the transition to market economy by countries making efforts to this effect is important and in the interest of us all. It will enable us to share a higher level of prosperity which is our common objective. We will co-operate to this end.

**Istanbul 1999** (Charter for European Security: II. Our Common Challenges)

5. Acute economic problems and environmental degradation may have serious implications for our security (...) We will strengthen our responses to such threats through continued economic and environmental reforms, by stable and transparent frameworks for economic activity and by promoting market economies, while paying due attention to economic and social rights (...)

**Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

14. Deepening economic and social disparities, lack of rule of law, weak governance in public and corporate spheres, corruption, widespread poverty and high unemployment are among the economic factors, which threaten stability and security. They can provide a breeding ground for other major threats. Environmental degradation, unsustainable use of natural resources, mismanagement of wastes and pollution affect ecological systems and have a substantial negative impact on the health, welfare, stability and security of States. Ecological disasters may also have such effects. Problems of governance connected to these factors have a direct undermining effect and at the same time reduce the capacity to ensure sustainable economic and social development as well as to effectively address economic and environmental challenges and threats to security and stability.

**Maastricht 2003** (OSCE Strategy Document for the Economic and Environmental Dimension)

2.2 Strengthening good governance

(...)

## Social conditions

2.2.13 Good governance and sustainable development imply policies and systems that promote social partnership and cohesion. We will work for improved access for all to basic social benefits, such as affordable health services, pensions and education, and for adequate levels of protection of socially vulnerable groups, and the prevention of social exclusion.

2.2.14 We are determined to take measures to improve social conditions, including by identifying and targeting vulnerable groups in society, providing adequate and effective safety nets, strengthening health services, increasing employment opportunities and implementing rehabilitation programmes.

(...)

## 2.3 Ensuring sustainable development

2.3.3 We support the efforts of the participating States to implement policies of poverty reduction and sustainable development, including the national poverty reduction programmes in countries with economies in transition. We will encourage the provision of the necessary advice and assistance by international organizations and institutions having the relevant expertise and resources.

## B. Workers' Rights

*See also:*

➤ **Part II. 4.5: Migrant Workers**

### **Madrid 1983** (Questions Relating to Security in Europe: Principles)

The participating States will ensure the right of workers freely to establish and join trade unions, the right of trade unions freely to exercise their activities and other rights as laid down in relevant international instruments. They note that these rights will be exercised in compliance with the law of the State and in conformity with the State's obligations under international law. They will encourage, as appropriate, direct contacts and communication among such trade unions and their representatives.

### **Bonn 1990** (Preamble)

(...) the participating States,

Recognizing the relationship between political pluralism and market economies, and being committed to the principles concerning:

(...)

- Economic activity that accordingly upholds human dignity and is free from forced labour, discrimination against workers on grounds of race, sex, language, political



opinion or religion, or denial of the rights of workers freely to establish or join independent trade unions,

Will endeavour to achieve or maintain the following (...)

### **Copenhagen 1990**

(9) The participating States reaffirm that

(...)

(9.3) - the right of association will be guaranteed. The right to form and - subject to the general right of a trade union to determine its own membership - freely to join a trade union will be guaranteed. These rights will exclude any prior control. Freedom of association for workers, including the freedom to strike, will be guaranteed, subject to limitations prescribed by law and consistent with international standards;

### **3.2.3 Cultural Rights/Cultural Heritage**

*See also:*

- **Part II. 3.1.10 C: Freedom of Cultural or Artistic Expression**
- **Part II. 4.1: National Minorities**
- **Part II. 4.2: Roma and Sinti**
- **Part II. 5.3.5: Promotion of Tolerance, Understanding, and Respect, Including Remembrance**
- **Vol. 2: Helsinki 1975** (Co-operation in Humanitarian and Other Fields > 3. Co-operation and Exchanges in the Field of Culture)
- **Vol. 2: Madrid 1983** (Co-operation in Humanitarian and Other Fields > Co-operation and Exchanges in the Field of Culture)
- **Vol. 2: Vienna 1989** (Co-operation in Humanitarian and Other Fields > Co-operation and Exchanges in the Field of Culture)
- **Vol. 2: Cracow 1991** (Principal Areas of Preservation and Co-operation)

### **Cracow 1991** (Preamble)

[The participating States] take note of the interrelationship between cultural life and the well-being of their peoples, and the special importance that this has for democratic countries in transition towards a market economy. They encourage support, as already undertaken, and the on-going assistance to those countries in preserving and protecting their cultural heritage.

(...)

Regional cultural diversity is an expression of the richness of the common cultural identity of the participating States. Its preservation and protection contribute to building a democratic, peaceful and united Europe.

(...)

## II. Culture and Heritage

10. The participating States express their deeply-held conviction that the cultural heritage of each one of them constitutes an inalienable part of their civilization, their memory and their common history, to be transmitted to future generations.

11. The participating States take note of the definitions of archaeological property, of the cultural heritage and of the architectural heritage in the relevant international documents of the Council of Europe and UNESCO.

12. The complete and lasting documentation of sites, structures, cultural landscapes, objects and cultural systems, including historical, religious and cultural monuments, as they presently exist, is one of the most important legacies to the cultural heritage that can be provided for future generations.

13. The participating States also recognize as vital elements of their common cultural heritage, the heritage of those cultures which, because of language barriers, climate and geographical distance, limited population or turns of history and political circumstances, have not been widely accessible.

14. The participating states will endeavour to protect the cultural heritage, in compliance with relevant international agreements and with their domestic legislation.

15. The participating States will pay heed to the preservation, enhancement and restoration of the cultural heritage when drawing up cultural, environmental and regional and urban planning policies. They further note the importance of relating individual conservation projects to their authentic urban or rural environment, where appropriate and whenever possible.

16. The participating States recognize the importance of making their cultural heritage as widely accessible as possible. In doing so, they will pay particular attention to the needs of the handicapped.

16.1 They will endeavour to safeguard the heritage from damage which may be caused by management of and public access to it.

16.2 They will promote public awareness of the value of the heritage and the need to protect it.

16.3 They will seek, wherever possible, to facilitate access for researchers and scholars to relevant primary documents and archive materials.

17. The participating States note favourably the role of non-governmental associations in promoting awareness of the heritage and the need for its protection.

18. Partnerships among diverse groups at the local, regional and national level, from both the private and the public sector, are valuable for ensuring the effective and representative preservation of the cultural heritage. The preservation and interpretation of

the values and the cultural heritage of diverse groups will be enhanced with the involvement of those groups, which is conducive to the tolerance and respect for different cultures which are of paramount importance.

19. The participating States recognize the usefulness and importance of exchanging information on preserving the cultural heritage and acknowledge that the use of data banks, on a national and multilateral level, could make a useful contribution to this work.

### **Moscow 1991**

(35) The participating States reaffirm that guaranteeing the freedom of artistic creation and preserving the cultural heritage form part of the human dimension of the CSCE. They consider that independent intellectual and cultural life is crucial for the maintenance of free societies and democratic institutions. They will implement their commitments in the cultural field, as laid down in the Document of the Cracow Symposium on the Cultural Heritage (...)

#### **3.2.4 Right to Education**

*See also:*

- **Vol. 2: Helsinki 1975** (Co-operation in Humanitarian and Other Fields > 4. Co-operation and Exchanges in the Field of Education)
- **Vol. 2: Madrid 1983** (Co-operation in Humanitarian and Other Fields > Co-operation and Exchanges in the Field of Education)
- **Vol. 2: Vienna 1989** (Co-operation in Humanitarian and Other Fields > Co-operation and Exchanges in the Field of Education)

### **Vienna 1989** (Co-operation in Humanitarian and Other Fields)

(63) [The participating States] will ensure access by all to the various types and levels of education without discrimination as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

### **Copenhagen 1990**

(34) The participating States will endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue (...)

In the context of the teaching of history and culture in educational establishments, they will also take account of the history and culture of national minorities.



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## 4. Commitments Related to Human Rights with a Focus on Specific Groups

### 4.1 National Minorities

*See also:*

- Part I. 2.3.4 B: The High Commissioner on National Minorities
- Part II. 4.2: Roma and Sinti
- Part II. 5: Commitments Related to Equality, Tolerance, and Non-discrimination

#### *4.1.1 Protection of Human Rights and Fundamental Freedoms, Including Equality of Opportunity and Non-discrimination*

**Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle VII)

The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

**Madrid 1983** (Questions Relating to Security in Europe: Principles)

[The participating States] stress also the importance of constant progress in ensuring the respect for and actual enjoyment of the rights of persons belonging to national minorities as well as protecting their legitimate interests as provided for in the Final Act.

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(18) The participating States will exert sustained efforts to implement the provisions of the Final Act and of the Madrid Concluding Document pertaining to national minorities. They will take all the necessary legislative, administrative, judicial and other measures and apply the relevant international instruments by which they may be bound, to

ensure the protection of human rights and fundamental freedoms of persons belonging to national minorities within their territory. They will refrain from any discrimination against such persons and will contribute to the realization of their legitimate interests and aspirations in the field of human rights and fundamental freedoms.

### **Copenhagen 1990**

(30) The participating States recognize that the questions relating to national minorities can only be satisfactorily resolved in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms, equal rights and status for all citizens, the free expression of all their legitimate interests and aspirations, political pluralism, social tolerance and the implementation of legal rules that place effective restraints on the abuse of governmental power.

(...)

They further reaffirm that respect for the rights of persons belonging to national minorities as part of universally recognized human rights is an essential factor for peace, justice, stability and democracy in the participating States.

(31) Persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law.

The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms.

(32) To belong to a national minority is a matter of a person's individual choice and no disadvantage may arise from the exercise of such choice.

(...)

Persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No disadvantage may arise for a person belonging to a national minority on account of the exercise or non-exercise of any such rights.

(...)

(35) The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.

(...)

(36) The participating States recognize the particular importance of increasing constructive co-operation among themselves on questions relating to national minorities.

Such co-operation seeks to promote mutual understanding and confidence, friendly and good-neighbourly relations, international peace, security and justice.

Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law.

(37) None of these commitments may be interpreted as implying any right to engage in any activity or perform any action in contravention of the purposes and principles of the Charter of the United Nations, other obligations under international law or the provisions of the Final Act, including the principle of territorial integrity of States.

(38) The participating States, in their efforts to protect and promote the rights of persons belonging to national minorities, will fully respect their undertakings under existing human rights conventions and other relevant international instruments and consider adhering to the relevant conventions, if they have not yet done so, including those providing for a right of complaint by individuals.

(39) The participating States will co-operate closely in the competent international organizations to which they belong, including the United Nations and, as appropriate, the Council of Europe, bearing in mind their on-going work with respect to questions relating to national minorities.

#### **Paris 1990 (A New Era of Democracy, Peace and Unity)**

(...) We further acknowledge that the rights of persons belonging to national minorities must be fully respected as part of universal human rights (...)

#### **Geneva 1991**

II.

The participating States stress the continued importance of a thorough review of implementation of their CSCE commitments relating to persons belonging to national minorities.

They emphasize that human rights and fundamental freedoms are the basis for the protection and promotion of rights of persons belonging to national minorities (...)

Issues concerning national minorities, as well as compliance with international obligations and commitments concerning the rights of persons belonging to them, are matters of legitimate international concern and consequently do not constitute exclusively an internal affair of the respective State.

They note that not all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities.

## III.

(...) the participating States consider that when issues relating to the situation of national minorities are discussed within their countries, they themselves should have the effective opportunity to be involved, in accordance with the decision-making procedures of each State (...)

They consider that special efforts must be made to resolve specific problems in a constructive manner and through dialogue by means of negotiations and consultations with a view to improving the situation of persons belonging to national minorities.

They recognize that the promotion of dialogue between States, and between States and persons belonging to national minorities, will be most successful when there is a free flow of information and ideas between all parties. They encourage unilateral, bilateral and multilateral efforts by governments to explore avenues for enhancing the effectiveness of their implementation of CSCE commitments relating to national minorities.

The participating States further consider that respect for human rights and fundamental freedoms must be accorded on a non-discriminatory basis throughout society. In areas inhabited mainly by persons belonging to a national minority, the human rights and fundamental freedoms of persons belonging to that minority, of persons belonging to the majority population of the respective State, and of persons belonging to other national minorities residing in these areas will be equally protected.

(...)

They will permit the competent authorities to inform the Office for Free Elections of all scheduled public elections on their territories, including those held below national level. The participating States will consider favourably, to the extent permitted by law, the presence of observers at elections held below the national level, including in areas inhabited by national minorities, and will endeavour to facilitate their access.

## IV.

The participating States will create conditions for persons belonging to national minorities to have equal opportunity to be effectively involved in the public life, economic activities, and building of their societies.

In accordance with paragraph 31 of the Copenhagen Document, the participating States will take the necessary measures to prevent discrimination against individuals, particularly in respect of employment, housing and education, on the grounds of belonging or not belonging to a national minority. In that context, they will make provision, if they have not yet done so, for effective recourse to redress for individuals who have experienced discriminatory treatment on the grounds of their belonging or not belonging to a national minority, including by making available to individual victims of discrimination a broad array of administrative and judicial remedies.

(...)



The participating States affirm that persons belonging to a national minority will enjoy the same rights and have the same duties of citizenship as the rest of the population.

(...)

They recognize that ...measures, which take into account, *inter alia*, historical and territorial circumstances of national minorities, are particularly important in areas where democratic institutions are being consolidated and national minorities issues are of special concern.

Aware of the diversity and varying constitutional systems among them, which make no single approach necessarily generally applicable, the participating States note with interest that positive results have been obtained by some of them in an appropriate democratic manner by, *inter alia*:

(...)

- bilateral and multilateral agreements and other arrangements regarding national minorities;

(...)

- creation of government research agencies to review legislation and disseminate information related to equal rights and non-discrimination;

(...)

- governmental assistance for addressing local difficulties relating to discriminatory practices (e.g. a citizens relations service);
- encouragement of grassroots community relations efforts between minority communities, between majority and minority communities, and between neighbouring communities sharing borders, aimed at helping to prevent local tensions from arising and address conflicts peacefully should they arise; and
- encouragement of the establishment of permanent mixed commissions, either inter-State or regional, to facilitate continuing dialogue between the border regions concerned.

The participating States are of the view that these or other approaches, individually or in combination, could be helpful in improving the situation of national minorities on their territories.

V.

The participating States respect the right of persons belonging to national minorities to exercise and enjoy their rights alone or in community with others, to establish and maintain organizations and associations within their country, and to participate in international non-governmental organizations (...)

## VI.

The participating States, concerned by the proliferation of acts of racial, ethnic and religious hatred, anti-semitism, xenophobia and discrimination, stress their determination to condemn, on a continuing basis, such acts against anyone.

In this context, they reaffirm their recognition of the particular problems of Roma (gypsies). They are ready to undertake effective measures in order to achieve full equality of opportunity between persons belonging to Roma ordinarily resident in their State and the rest of the resident population. They will also encourage research and studies regarding Roma and the particular problems they face. They will take effective measures to promote tolerance, understanding, equality of opportunity and good relations between individuals of different origins within their country (...)

**Moscow 1991**

(37) The participating States confirm the provisions and commitments of all CSCE documents, in particular the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, concerning questions relating to national minorities and the rights of persons belonging to them, and the Report of the Geneva CSCE Meeting of Experts on National Minorities, and call for their full and early implementation. They believe that, in particular, the use of the new and expanded CSCE mechanisms and procedures will contribute to further protection and promotion of the rights of persons belonging to national minorities.

**Helsinki 1992** (Decisions: II. CSCE High Commissioner on National Minorities)

(1) The participating States decide to establish a High Commissioner on National Minorities (...)

**Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(23) Reaffirm in the strongest terms their determination to implement in a prompt and faithful manner all their CSCE commitments (...) regarding questions relating to national minorities and rights of persons belonging to them;

(24) Will intensify in this context their efforts to ensure the free exercise by persons belonging to national minorities, individually or in community with others, of their human rights and fundamental freedoms, including the right to participate fully, in accordance with the democratic decision-making procedures of each State, in the political, economic, social and cultural life of their countries (...)

(25) Will continue through unilateral, bilateral and multilateral efforts to explore further avenues for more effective implementation of their relevant CSCE commitments, including those related to the protection and the creation of conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities;

(26) Will address national minority issues in a constructive manner, by peaceful means and through dialogue among all parties concerned on the basis of CSCE principles and commitments;

(27) Will refrain from resettling and condemn all attempts, by the threat or use of force, to resettle persons with the aim of changing the ethnic composition of areas within their territories (...)

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

21. The participating States confirm their determination consistently to advance the implementation of the provisions of the Final Act and all other CSCE documents relating to the protection of the rights of persons belonging to national minorities. They commend the work of the HCNM in this field.

22. The participating States welcome the international efforts to improve protection of the rights of persons belonging to national minorities. They take note of the adoption, within the Council of Europe, of a Framework Convention on the Protection of National Minorities, which builds upon CSCE standards in this context. They stressed that the Convention is also open — by invitation — to signature by States which are not members of the Council of Europe and they may consider examining the possibility of becoming parties to this Convention.

#### **Lisbon 1996** (Declaration on a Common and Comprehensive Security Model for Europe for the Twenty-First Century)

(10) (...)

- As an important contribution to security we reaffirm our determination to fully respect and implement all our commitments relating to the rights of persons belonging to national minorities. We reaffirm our will to co-operate fully with the High Commissioner on National Minorities. We are ready to respond to a request by any participating State seeking solutions to minority issues on its territory.

#### **Istanbul 1999** (Summit Declaration)

30. We reaffirm our commitment to ensure that laws and policies fully respect the rights of persons belonging to national minorities (...) We also support the adoption and full implementation of comprehensive anti-discrimination legislation to promote full equality of opportunities for all (...) We reaffirm that we will increase our efforts to implement the recommendations of the High Commissioner on National Minorities.

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

The protection and promotion of the rights of persons belonging to national minorities are essential factors for democracy, peace, justice and stability within, and between, participating States (...) Full respect for human rights, including the rights of persons belonging to national minorities, besides being an end in itself, may not undermine, but strengthen territorial integrity and sovereignty (...) We condemn violence against any

minority. We pledge to take measures to promote tolerance and to build pluralistic societies where all, regardless of their ethnic origin, enjoy full equality of opportunity (...)

#### **4.1.2 Effective Participation in Public and Political Life**

##### **Copenhagen 1990**

(35) The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.

The participating States note the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned.

##### **Geneva 1991**

III.

Respecting the right of persons belonging to national minorities to effective participation in public affairs, the participating States consider that when issues relating to the situation of national minorities are discussed within their countries, they themselves should have the effective opportunity to be involved, in accordance with the decision-making procedures of each State. They further consider that appropriate democratic participation of persons belonging to national minorities or their representatives in decision-making or consultative bodies constitutes an important element of effective participation in public affairs.

They consider that special efforts must be made to resolve specific problems in a constructive manner and through dialogue by means of negotiations and consultations with a view to improving the situation of persons belonging to national minorities. They recognize that the promotion of dialogue between States, and between States and persons belonging to national minorities, will be most successful when there is a free flow of information and ideas between all parties (...)

IV.

The participating States will create conditions for persons belonging to national minorities to have equal opportunity to be effectively involved in the public life, economic activities, and building of their societies.

(...)

Aware of the diversity and varying constitutional systems among them, which make no single approach necessarily generally applicable, the participating States note with

interest that positive results have been obtained by some of them in an appropriate democratic manner by, *inter alia*:

- advisory and decision-making bodies in which minorities are represented, in particular with regard to education, culture and religion;
- elected bodies and assemblies of national minority affairs;
- local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative, legislative and executive bodies chosen through free and periodic elections;
- self-administration by a national minority of aspects concerning its identity in situations where autonomy on a territorial basis does not apply;
- decentralized or local forms of government;

(...)

The participating States are of the view that these or other approaches, individually or in combination, could be helpful in improving the situation of national minorities on their territories.

#### **Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(...)

(24) Will intensify in this context their efforts to ensure the free exercise by persons belonging to national minorities, individually or in community with others, of their human rights and fundamental freedoms, including the right to participate fully, in accordance with the democratic decision-making procedures of each State, in the political, economic, social and cultural life of their countries including through democratic participation in decision-making and consultative bodies at the national, regional and local level, *inter alia*, through political parties and associations (...)

#### **Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

(...)

10. Ensures the advancement of the implementation of the OSCE commitments on national minorities, and recognizes the importance of the recommendations of the High Commissioner on National Minorities on (...) public participation (...)

### **4.1.3 Cultural, Linguistic, and Religious Identity, and Education**

#### **Helsinki 1975 (Co-operation in Humanitarian and Other Fields)**

(...) The participating States, recognizing the contribution that national minorities or regional cultures can make to co-operation among them in various fields of culture/education, intend, when such minorities or cultures exist within their territory, to facilitate this contribution, taking into account the legitimate interests of their members.

#### **Vienna 1989 (Questions Relating to Security in Europe: Principles)**

(19) [The participating States] will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory.

(...)

#### **Vienna 1989 (Co-operation in Humanitarian and Other Fields)**

(45) [The participating States] will ensure in practice that persons belonging to national minorities or regional cultures on their territories can disseminate, have access to, and exchange information in their mother tongue.

(...)

(59) [The participating States] will ensure that persons belonging to national minorities or regional cultures on their territories can maintain and develop their own culture in all its aspects, including language, literature and religion; and that they can preserve their cultural and historical monuments and objects.

(...)

(68) [The participating States] will ensure that persons belonging to national minorities or regional cultures on their territories can give and receive instruction on their own culture, including instruction through parental transmission of language, religion and cultural identity to their children.

#### **Copenhagen 1990**

(32) (...) Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right

(32.1) - to use freely their mother tongue in private as well as in public;

(32.2) - to establish and maintain their own educational, cultural and religious institutions, organizations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;

(...)

(32.3) - to profess and practise their religion, including the acquisition, possession and use of religious materials, and to conduct religious educational activities in their mother tongue;

(...)

(33) The participating States will protect the ethnic, cultural, linguistic and religious identity of national minorities on their territory and create conditions for the promotion of that identity. They will take the necessary measures to that effect after due consultations, including contacts with organizations or associations of such minorities, in accordance with the decision-making procedures of each State.

Any such measures will be in conformity with the principles of equality and non-discrimination with respect to the other citizens of the participating State concerned.

(34) The participating States will endeavour to ensure that persons belonging to national minorities, notwithstanding the need to learn the official language or languages of the State concerned, have adequate opportunities for instruction of their mother tongue or in their mother tongue, as well as, wherever possible and necessary, for its use before public authorities, in conformity with applicable national legislation.

In the context of the teaching of history and culture in educational establishments, they will also take account of the history and culture of national minorities.

(35) The participating States will respect the right of persons belonging to national minorities to effective participation in public affairs, including participation in the affairs relating to the protection and promotion of the identity of such minorities.

The participating States note the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned.

### **Paris 1990 (A New Era of Democracy, Peace and Unity)**

We affirm that the ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right freely to express, preserve and develop that identity without any discrimination and in full equality before the law.

(...)

Determined to foster the rich contribution of national minorities to the life of our societies, we undertake further to improve their situation. We reaffirm our deep conviction

that friendly relations among our peoples, as well as peace, justice, stability and democracy, require that the ethnic, cultural, linguistic and religious identity of national minorities be protected and conditions for the promotion of that identity be created (...)

### **Geneva 1991 (IV)**

The participating States are convinced that the preservation of the values and of the cultural heritage of national minorities requires the involvement of persons belonging to such minorities and that tolerance and respect for different cultures are of paramount importance in this regard. Accordingly, they confirm the importance of refraining from hindering the production of cultural materials concerning national minorities, including by persons belonging to them.

Aware of the diversity and varying constitutional systems among them, which make no single approach necessarily generally applicable, the participating States note with interest that positive results have been obtained by some of them in an appropriate democratic manner by, *inter alia*:

- advisory and decision-making bodies in which minorities are represented, in particular with regard to education, culture and religion;

(...)

- self-administration by a national minority of aspects concerning its identity in situations where autonomy on a territorial basis does not apply;

(...)

- for persons belonging to national minorities, provision of adequate types and levels of education in their mother tongue with due regard to the number, geographic settlement patterns and cultural traditions of national minorities;

- funding the teaching of minority languages to the general public, as well as the inclusion of minority languages in teacher-training institutions, in particular in regions inhabited by persons belonging to national minorities;

- in cases where instruction in a particular subject is not provided in their territory in the minority language at all levels, taking the necessary measures to find means of recognizing diplomas issued abroad for a course of study completed in that language;

(...)

- provision of financial and technical assistance to persons belonging to national minorities who so wish to exercise their right to establish and maintain their own educational, cultural and religious institutions, organizations and associations;

(...)



The participating States are of the view that these or other approaches, individually or in combination, could be helpful in improving the situation of national minorities on their territories.

**Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(...)

(25) Will continue through unilateral, bilateral and multilateral efforts to explore further avenues for more effective implementation of their relevant CSCE commitments, including those related to the protection and the creation of conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities (...)

**Istanbul 1999** (Summit Declaration)

30. We reaffirm our commitment to ensure that laws and policies fully respect the rights of persons belonging to national minorities, in particular in relation to issues affecting cultural identity. Specifically, we emphasize the requirement that laws and policies regarding the educational, linguistic and participatory rights of persons belonging to national minorities conform to applicable international standards and conventions (...)

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

19. (...) Various concepts of autonomy as well as other approaches ...which are in line with OSCE principles, constitute ways to preserve and promote the ethnic, cultural, linguistic and religious identity of national minorities within an existing State (...)

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

10. Ensures the advancement of the implementation of the OSCE commitments on national minorities, and recognizes the importance of the recommendations of the High Commissioner on National Minorities on education (...) and language, including on its use in broadcast media, and the relevant recommendations of the Representative on Freedom of the Media in this regard;

**4.1.4 Human Contacts, Free Media and Information**

**Vienna 1989** (Co-operation in Humanitarian and Other Fields)

(31) [The participating States] will ensure that the status of persons belonging to national minorities or regional cultures on their territories is equal to that of other citizens with regard to human contacts under the Final Act and the other aforementioned CSCE documents and that these persons can establish and maintain such contacts through travel and other means of communication, including contacts with citizens of other States with whom they share a common national origin or cultural heritage.

(...)

(45) [The participating States] will ensure in practice that persons belonging to national minorities or regional cultures on their territories can disseminate, have access to, and exchange information in their mother tongue.

### **Copenhagen 1990**

(32) (...) Persons belonging to a national minority (...) have the right

(...)

(32.4) - to establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with whom they share a common ethnic or national origin, cultural heritage or religious beliefs;

(...)

### **Geneva 1991**

IV.

Aware of the diversity and varying constitutional systems among them, which make no single approach necessarily generally applicable, the participating States note with interest that positive results have been obtained by some of them in an appropriate democratic manner by, *inter alia*:

(...)

- encouragement of grassroots community relations efforts between minority communities, between majority and minority communities, and between neighbouring communities sharing borders, aimed at helping to prevent local tensions from arising and address conflicts peacefully should they arise; and
- encouragement of the establishment of permanent mixed commissions, either inter-State or regional, to facilitate continuing dialogue between the border regions concerned.

The participating States are of the view that these or other approaches, individually or in combination, could be helpful in improving the situation of national minorities on their territories.

(...)

VII.

Convinced that the protection of the rights of persons belonging to national minorities necessitates free flow of information and exchange of ideas, the participating States emphasize the importance of communication between persons belonging to national minorities without interference by public authorities and regardless of frontiers. The

exercise of such rights may be subject only to such restrictions as are prescribed by law and are consistent with international standards. They reaffirm that no one belonging to a national minority, simply by virtue of belonging to such a minority, will be subject to penal or administrative sanctions for having had contacts within or outside his/her own country.

In access to the media, they will not discriminate against anyone based on ethnic, cultural, linguistic or religious grounds. They will make information available that will assist the electronic mass media in taking into account, in their programmes, the ethnic, cultural, linguistic and religious identity of national minorities.

They reaffirm that establishment and maintenance of unimpeded contacts among persons belonging to a national minority, as well as contacts across frontiers by persons belonging to a national minority with persons with whom they share a common ethnic or national origin, cultural heritage or religious belief, contributes to mutual understanding and promotes good-neighbourly relations.

They therefore encourage transfrontier co-operation arrangements on a national, regional and local level, *inter alia*, on local border crossings, the preservation of and visits to cultural and historical monuments and sites, tourism, the improvement of traffic, the economy, youth exchange, the protection of the environment and the establishment of regional commissions.

They will also encourage the creation of informal working arrangements (e.g. workshops, committees both within and between the participating States) where national minorities live, to discuss issues of, exchange experience on, and present proposals on, issues related to national minorities.

With a view to improving their information about the actual situation of national minorities, the participating States will, on a voluntary basis distribute, through the CSCE Secretariat, information to other participating States about the situation of national minorities in their respective territories, as well as statements of national policy in that respect.

The participating States will deposit with the CSCE Secretariat copies of the contributions made in the Plenary of the CSCE Meeting of Experts on National Minorities which they wish to be available to the public.

#### **4.1.5 Role of Organizations and Associations**

##### **Copenhagen 1990**

(30) (...) [The participating States] also recognize the important role of non-governmental organizations, including political parties, trade unions, human rights organizations and religious groups, in the promotion of tolerance, cultural diversity and the resolution of questions relating to national minorities.

(...)

Persons belonging to national minorities (...) have the right

(32.2) - to establish and maintain their own educational, cultural and religious institutions, organizations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;

(...)

(32.6) - to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations.

### **Geneva 1991**

IV.

Aware of the diversity and varying constitutional systems among them, which make no single approach necessarily generally applicable, the participating States note with interest that positive results have been obtained by some of them in an appropriate democratic manner by, *inter alia*:

(...)

- provision of financial and technical assistance to persons belonging to national minorities who so wish to exercise their right to establish and maintain their own educational, cultural and religious institutions, organizations and associations; (...)

The participating States are of the view that these or other approaches (...) could be helpful in improving the situation of national minorities on their territories.

V.

The participating States respect the right of persons belonging to national minorities to exercise and enjoy their rights alone or in community with others, to establish and maintain organizations and associations within their country, and to participate in international non-governmental organizations.

The participating States reaffirm, and will not hinder the exercise of, the right of persons belonging to national minorities to establish and maintain their own educational, cultural and religious institutions, organizations and associations.

In this regard, they recognize the major and vital role that individuals, nongovernmental organizations, and religious and other groups play in fostering crosscultural understanding and improving relations at all levels of society, as well as across international frontiers.

They believe that the first-hand observations and experience of such organizations, groups, and individuals can be of great value in promoting the implementation of CSCE commitments relating to persons belonging to national minorities. They therefore will

encourage and not hinder the work of such organizations, groups and individuals and welcome their contributions in this area.

#### **4.1.6 Protection Against Hate-Related Crime**

##### **Geneva 1991**

The participating States, concerned by the proliferation of acts of racial, ethnic and religious hatred, anti-semitism, xenophobia and discrimination, stress their determination to condemn, on a continuing basis, such acts against anyone. In this context, they reaffirm their recognition of the particular problems of Roma (gypsies) (...)

Further, the participating States will take effective measures, including the adoption, in conformity with their constitutional law and their international obligations, if they have not already done so, of laws that would prohibit acts that constitute incitement to violence based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-semitism, and policies to enforce such laws.

Moreover, in order to heighten public awareness of prejudice and hatred, to improve enforcement of laws against hate-related crime and otherwise to further efforts to address hatred and prejudice in society, they will make efforts to collect, publish on a regular basis, and make available to the public, data about crimes on their respective territories that are based on prejudice as to race, ethnic identity or religion, including the guidelines used for the collection of such data. These data should not contain any personal information.

They will consult and exchange views and information at the international level, including at future meetings of the CSCE, on crimes that manifest evidence of prejudice and hate.

## **4.2 Roma and Sinti**

*See also:*

- Part I. 2.3.4 A: The Office for Democratic Institutions and Human Rights (ODIHR)
- Part I. 2.3.4 A. III: ODIHR Contact Point for Roma and Sinti Issues
- Part II. 5: Commitments Related to Equality, Tolerance, and Non-discrimination

### **4.2.1 Protection of Human Rights and Fundamental Freedoms, Including Equality of Opportunity and Non-discrimination**

#### **Geneva 1991 (VI)**

[The participating States] are ready to undertake effective measures in order to achieve full equality of opportunity between persons belonging to Roma ordinarily resident in their State and the rest of the resident population. They will also encourage research and studies regarding Roma and the particular problems they face.

**Budapest 1994** (Decisions: VIII. The Human Dimension)

23. The participating States decide to appoint within the ODIHR a contact point for Roma and Sinti (Gypsies) issues (...)

24. The participating States welcome the activities related to Roma and Sinti (Gypsies) issues in other international organizations and institutions, in particular those undertaken in the Council of Europe.

**Istanbul 1999** (Summit Declaration)

31. (...) We commit ourselves to ensure that laws and policies fully respect the rights of Roma and Sinti and, where necessary, to promote anti-discrimination legislation to this effect (...)

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

20. We recognize the particular difficulties faced by Roma and Sinti and the need to undertake effective measures in order to achieve full equality of opportunity, consistent with OSCE commitments, for persons belonging to Roma and Sinti. We will reinforce our efforts to ensure that Roma and Sinti are able to play a full and equal part in our societies, and to eradicate discrimination against them.

**Maastricht 2003** (Decisions: Decision No. 3/03 on the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

The Ministerial Council,

(...)

Recognizing the particular difficulties faced by Roma and Sinti people and the need to undertake effective measures in order to eradicate discrimination against them and to bring about equality of opportunities, consistent with OSCE commitments,

Recognizing that progress has been achieved in national legislation and in programmes for action and that substantial efforts have been undertaken by the participating States to this end,

Aware at the same time that resolute action is still required to improve the situation of the Roma and Sinti population across the OSCE region,

(...)

Convinced that Roma and Sinti populations should have an ever-increasing degree of ownership of the policies focusing on them,

Decides to endorse the Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area, adopted by the Permanent Council in its Decision No. 566 on 27 November 2003, and annexed to this Decision.

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

II. General context: for Roma, with Roma

4. Each national policy or implementation strategy should: (1) respond to the real problems, needs and priorities of Roma and Sinti communities; (2) be comprehensive; (3) introduce a balanced and sustainable approach to combining human rights goals with social policies; and (4) maximize Roma ownership of the policies that affect them. (...) Implementation strategies should also include mechanisms to ensure that national policies are implemented at the local level.

5. The guiding principle in the efforts of participating States and relevant OSCE institutions should be that each policy and implementation strategy should be elaborated and implemented with the active participation of Roma and Sinti communities. Roma and Sinti people should work alongside local, national and international authorities in the development of these strategies. Equally, Roma communities should be equal partners and should share the responsibility for the betterment of their welfare.

6. The particular situation of Roma and Sinti women should be taken into account in the design and implementation of all policies and programmes. Where consultative and other mechanisms exist to facilitate Roma and Sinti people's participation in such policy-making processes, women should be able to participate on an equal basis with men. Roma women's issues should be systematically mainstreamed in all relevant policies designed for the population as a whole.

III. Combating racism and discrimination

Legislation and law enforcement

Recommended action by participating States:

(...)

8. Adopt and implement effective anti-discrimination legislation to combat racial and ethnic discrimination in all fields, including, *inter alia*, access to housing, citizenship and residence, education, employment, health and social services. Involve Roma and Sinti representatives in the design, implementation and evaluation processes.

9. The anti-discrimination legislation should ensure:

- Prohibition of both direct and indirect racial discrimination;
- Imposition of effective, proportionate and dissuasive sanctions for discriminatory acts or practices;

(...)

- Equal access to effective remedies (judicial, administrative, conciliation or mediation procedures).

10. It should be ensured that national legislation prohibits all kinds of discriminatory acts and that all cases of suspected discrimination are thoroughly and objectively investigated.

11. Create, where appropriate, specialized institutions to ensure the implementation of such legislation, as well as domestic mechanisms to monitor and report regularly and with transparency on the progress achieved in its implementation. Encourage participation of Roma and Sinti representatives in such bodies, whose work should be accessible to the public.

12. Develop, where necessary, comprehensive national strategies or action plans to improve the situation of Roma and Sinti people, which include specific measures to tackle discrimination in all fields of life.

13. Assess on a regular basis, especially at the local level, the results of these strategies and involve Roma and Sinti communities in the evaluation process.

(...)

15. Document, consistent with national and international standards on the protection of data, all types and relevant cases of discrimination in order to better assess the situation and respond to the needs of Roma and Sinti people.

(...)

17. Ensure no impunity for perpetrators of discriminatory ...acts, *inter alia*, by taking prompt and effective investigative and punitive action on the part of the police.

18. Facilitate access to justice for Roma and Sinti people through measures such as legal aid and the provision of information in the Romani language.

19. Take into account in all measures and programmes, the situation of Roma and Sinti women, who are often victims of discrimination on the basis of both ethnicity and sex.

(...)

Mass Media

Recommended action by participating States:

37. In order to foster freedom of expression, encourage training of Roma and Sinti journalists and their employment in media outlets with a view to facilitating wider access to the media for Roma and Sinti people.

IX. The ODIHR Contact Point for Roma and Sinti Issues



(...)

136. With a view to facilitating the implementation review process, OSCE participating States are encouraged to provide information on recent developments in the situation of Roma and Sinti people and/or measures inspired by this Action Plan at the Human Dimension Implementation Meetings, prior to Review Conferences and to the Permanent Council, where appropriate.

137. All relevant OSCE institutions and structures, including OSCE field operations, will continue to interact closely with participating States in order to assist them in implementing the Action Plan.

#### **4.2.2 Effective Participation in Public and Political Life**

##### **Helsinki 1992** (Decisions: VI. The Human Dimension)

[The participating States]

(35) Reaffirm (...) the need to develop appropriate programmes addressing problems of their respective nationals belonging to Roma and other groups traditionally identified as Gypsies and to create conditions for them to have equal opportunities to participate fully in the life of society, and will consider how to co-operate to this end.

##### **Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

#### VI. Enhancing participation in public and political life

Recommended action by participating States:

87. Participating States must be proactive in ensuring that Roma and Sinti people, like any other inhabitants, have all the necessary documents, including birth certificates, identity documents and health insurance certificates. In resolving problems related to the lack of basic documents, participating States are strongly advised to work in partnership with Roma and Sinti civil organizations.

88. Participating States are encouraged to take into account the following basic conditions for ensuring effective participation by Roma and Sinti people in public and political life:

- Early involvement:

Any initiative relating to Roma and Sinti people should involve them at the earliest stages in the development, implementation and evaluation phases;

- Inclusiveness:

Roma and Sinti people should be included in formal consultative processes, and the effectiveness of mechanisms established for their participation in shaping major policy initiatives should be ensured by involving them in a broadly representative process;

- Transparency:

Programmes and proposals should be circulated sufficiently in advance of decision-making deadlines to allow for meaningful analysis and input from representatives of Roma and Sinti communities;

- Meaningful participation by Roma and Sinti people at all levels of government:

Participation by Roma and Sinti people in local government is essential for the effective implementation of policies affecting them;

- Ownership:

Roma and Sinti people play an essential and irreplaceable role in ensuring that the right to participate in the political process is observed in practice.

89. Elected officials should establish close working relations with Roma and Sinti communities.

90. Establish mechanisms to ensure equal, direct and open communication between Roma and Sinti representatives and government authorities, including advisory and consultative bodies.

91. Facilitate interaction between political leaders at the local and national levels and diverse Roma groups.

92. Organize election-awareness campaigns so as to increase participation of the Roma electorate in elections.

93. Ensure that Roma voters can make free and informed choices in elections.

94. Take measures to guarantee the equal voting rights of women, including by enforcing prohibitions on so-called “family voting”.

95. Encourage Roma and Sinti people to engage more actively in public service, including, where necessary, through the introduction of special measures to promote their participation in the civil service.

96. Encourage the representation of Roma and Sinti people in elected and appointed office at all levels of government.

97. Empower and integrate Roma and Sinti individuals into decision-making processes of States and localities as elected representatives of their communities and as citizens of their respective countries.

98. Promote Roma women’s participation in public and political life; Roma women should be able to participate on an equal basis with men in consultative and other mechanisms designed to increase access to all areas of public and political life.

### 4.2.3 Access to Education

#### **Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

##### V. Improving access to education

Education is a prerequisite to the participation of Roma and Sinti people in the political, social and economic life of their respective countries on a footing of equality with others. Strong immediate measures in this field, particularly those that foster school attendance and combat illiteracy, should be assigned the highest priority both by decision-makers and by Roma and Sinti communities. Educational policies should aim to integrate Roma and Sinti people into mainstream education by providing full and equal access at all levels, while remaining sensitive to cultural differences.

Recommended action by participating States:

67. Ensure that national legislation includes adequate provisions banning racial segregation and discrimination in education and provides effective remedies for violations of such legislation.

68. Consult Roma and Sinti representatives when designing educational policies affecting them.

69. Actively promote equal opportunities in the field of education for Roma and Sinti children, particularly by providing them with language-related or other assistance.

70. Take special measures to enhance the quality and effectiveness of education for Roma and Sinti children. Encourage increased representation of Roma and Sinti people among school teachers.

71. Include Roma history and culture in educational texts, with particular consideration given to the experience of Roma and Sinti people during the Holocaust.

72. Consider measures to ensure the respect, protection and promotion of the Romani language and its teaching, and of Roma culture as an integral part of the Roma and Sinti cultural heritage.

73. Develop and implement comprehensive school desegregation programmes aiming at: (1) discontinuing the practice of systematically routing Roma children to special schools or classes (e.g., schools for mentally disabled persons, schools and classes exclusively designed for Roma and Sinti children); and (2) transferring Roma children from special schools to mainstream schools.

74. Allocate financial resources for the transfer of the Roma children to mainstream education and for the development of school support programmes to ease the transition to mainstream education.

75. Facilitate Roma children's access to mainstream education by taking measures such as:

(a) Taking measures to eradicate manifestations of prejudice against Roma and Sinti people in schools;

(b) Training of educators regarding multicultural education and ways of dealing with ethnically mixed classes;

(c) Developing strategies to gain wider community support for the desegregation of schools;

(d) Providing support to bridge the gap between Roma and Sinti children and other pupils, including through pre-school programmes designed to prepare Roma and Sinti children for primary school;

(e) Providing support to increase the number of mediators/trainers and teachers from within the Roma communities.

76. Develop and implement anti-racist curricula for schools, and anti-racism campaigns for the media.

77. Develop policies that address the full range of factors which contribute to low-school attendance by Roma and Sinti children. This includes, *inter alia*, ensuring that Roma and Sinti families have the necessary documentation for registration as any other inhabitants.

78. Consider elaborating social support programmes for low-income Roma families with school-aged children.

79. Promote regular school attendance by Roma and Sinti children, *inter alia*, through the involvement of family and social mediators, the promotion of awareness by Roma and Sinti parents and elders of their responsibility to facilitate children's school attendance and, in particular, equal access to education for girls.

80. Pay special attention to providing Roma and Sinti girls with equal opportunities for educational and social inclusion and develop programmes to counter their particularly high drop-out rate.

81. Consider developing appropriate programmes for those who have not completed primary school or are illiterate.

82. Develop, where necessary, scholarship programmes for Roma students and encourage their increased participation in existing scholarship programmes.

83. Encourage computer literacy among Roma and Sinti people through the setting up of information web-sites.

84. Evaluate periodically the effectiveness of educational policies.

#### 4.2.4 Socio-economic Issues

##### **Istanbul 1999** (Summit Declaration)

31. (...) We underline the importance of careful attention to the problems of the social exclusion of Roma and Sinti. These issues are primarily a responsibility of the participating States concerned.

##### **Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

###### Housing and living conditions

Recommended action by participating States:

43. Put in place mechanisms and institutional procedures to clarify property rights, resolve questions of ownership and regularize the legal status of Roma and Sinti people living in circumstances of unsettled legality (e.g., Roma neighbourhoods lacking land rights or which are not included in the urban plans of the main locality; families and houses without legal residence status in settlements where the people have been living *de facto* for decades).

44. Involve Roma and Sinti people in the design of housing policies, as well as in the construction, rehabilitation and/or maintenance of public housing projects meant to benefit them. Ensure that housing projects do not foster ethnic and/or racial segregation.

45. Consider the possibility of guaranteeing loans to participating States that may be available from international organizations and financial institutions for low-income housing projects.

46. Promote the option of co-operative housing schemes for Roma communities and provide appropriate training for the maintenance of such facilities.

###### Unemployment and economic problems

Recommended action by participating States:

48. Promote increased representation of qualified Roma and Sinti people in public employment.

49. Develop training programmes to prepare under-represented groups such as Roma and Sinti for employment in local public administration and other areas, and develop policies to encourage employment of the graduates of these programmes as civil servants.

50. Reassess the impact of subsidized employment programmes, paying particular attention to their educational components, to ensure that these will aim to increase the competitiveness of Roma and Sinti people on the labour market.

51. Develop policies and programmes, including vocational training, to improve the marketable skills and employability of Roma and Sinti people, particularly young people and women.

52. Adopt social policies that strengthen incentives to seek employment, as a sustainable way to avoid dependency on social benefits.

#### Health care

##### Recommended action by participating States:

58. Ensure that Roma and Sinti people have access to health care services on a non-discriminatory basis.

59. Promote awareness about the specific needs of the Roma and Sinti population amongst health care personnel.

60. Address the high incidence of disease and malnutrition among Roma communities.

61. Encourage access by Roma and Sinti populations to general public health services at an early stage by:

(a) Informing Roma and Sinti people about the availability of such services and telling them how to take advantage of them;

(b) Strengthening the confidence of Roma and Sinti people towards public health care providers, including through: punishing incidents of direct or indirect discrimination experienced by Roma and Sinti; training health care workers to understand relevant aspects of Roma culture; and supporting mediators who can play an important role in bridging the gap between Roma communities and public health care service providers.

62. Pay special attention to the health of women and girls, *inter alia*, by:

(a) Promoting and/or developing programmes aimed at providing information on health care (including nutrition, neonatal care and domestic violence, etc.);

(b) Improving access to gynaecological health care, including prenatal, delivery and postnatal health care services, *inter alia*, through the provision of information and training.

63. Pay special attention to the health of Roma and Sinti children through the provision of appropriate paediatric care, including preventive measures such as offering vaccinations in Roma settlements.

#### 4.2.5 Racism and Discrimination

##### A. Combating Racism and Stereotypes

##### **Copenhagen 1990**

(40) The participating States clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds. In this context, they also recognize the particular problems of Roma (gypsies).

##### **Geneva 1991 (VI)**

The participating States, concerned by the proliferation of acts of racial, ethnic and religious hatred, anti-semitism, xenophobia and discrimination, stress their determination to condemn, on a continuing basis, such acts against anyone.

In this context, they reaffirm their recognition of the particular problems of Roma (gypsies). They are ready to undertake effective measures in order to achieve full equality of opportunity between persons belonging to Roma ordinarily resident in their State and the rest of the resident population. They will also encourage research and studies regarding Roma and the particular problems they face.

##### **Istanbul 1999 (Summit Declaration)**

31. We deplore violence and other manifestations of racism and discrimination against minorities, including the Roma and Sinti (...)

##### **Maastricht 2003 (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)**

Legislation and law enforcement

Recommended action by participating States:

7. Consider ratifying the relevant international treaties as soon as possible, if they have not already done so, *inter alia*, the International Convention on the Elimination of All Forms of Racial Discrimination.

(...)

14. Endeavour, by encouraging a genuine dialogue or consultations or through other appropriate means, to improve the relations between Roma and Sinti people and other inhabitants, with a view to promoting tolerance and overcoming prejudices and negative stereotypes on both sides.

(...)

Police

Recommended action by participating States:

26. Develop policies that promote awareness among law-enforcement institutions regarding the situation of Roma and Sinti people and that counter prejudice and negative stereotypes.

27. Develop training programmes to prevent excessive use of force and to promote awareness of and respect for human rights.

28. Develop policies: (1) to improve relations between Roma and Sinti communities and the police, so as to prevent police abuse and violence against Roma and Sinti people; and (2) to improve trust and confidence in the police among Roma and Sinti people.

(...)

30. Assess the gap between international standards on police and currently existing national practices in consultation with national police forces, NGOs and representatives of Roma and Sinti communities.

31. Elaborate, where appropriate, and in close partnership with international organizations and Roma NGOs, policy statements, codes of conduct, practical guidance manuals and training programmes.

32. Encourage Roma and Sinti people to work in law-enforcement institutions as a sustainable means of promoting tolerance and diversity.

Mass Media

Recommended action by participating States:

36. Launch information and awareness-raising campaigns with a view to countering prejudices and negative stereotypes of Roma and Sinti people.

(...)

38. Encourage the media to show positive aspects and present a balanced portrayal of Roma life, refrain from stereotyping Roma and Sinti people and avoid inciting tension between various ethnic groups. Organize round tables between media representatives and Roma and Sinti representatives to promote this objective.

B. Protection Against Hate-Related Crimes

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

Legislation and law enforcement

9. (...) anti-discrimination legislation should ensure:

(...)



- Imposition of heavier sentences for racially motivated crimes by both private individuals and public officials;
- Equal access to effective remedies (judicial, administrative, conciliation or mediation procedures). (...)

11. Create, where appropriate, specialized institutions to ensure the implementation of such legislation, as well as domestic mechanisms to monitor and report regularly and with transparency on the progress achieved in its implementation. Encourage participation of Roma and Sinti representatives in such bodies, whose work should be accessible to the public.

(...)

16. Ensure the vigorous and effective investigation of acts of violence against Roma and Sinti people, especially where there are reasonable grounds to suspect that they were racially motivated, and prosecute those responsible in accordance with domestic law and consistent with relevant standards of human rights.

17. Ensure no impunity for perpetrators of ... violent acts, *inter alia*, by taking prompt and effective investigative and punitive action on the part of the police.

18. Facilitate access to justice for Roma and Sinti people through measures such as legal aid and the provision of information in the Romani language.

Police

Recommended action by participating States:

(...)

27. Develop training programmes to prevent excessive use of force and to promote awareness of and respect for human rights.

28. Develop policies: (1) to improve relations between Roma and Sinti communities and the police, so as to prevent police abuse and violence against Roma and Sinti people; and (2) to improve trust and confidence in the police among Roma and Sinti people.

29. Develop policies and procedures to ensure an effective police response to racially motivated violence against Roma and Sinti people.

30. Assess the gap between international standards on police and currently existing national practices in consultation with national police forces, NGOs and representatives of Roma and Sinti communities.

31. Elaborate, where appropriate, and in close partnership with international organizations and Roma NGOs, policy statements, codes of conduct, practical guidance manuals and training programmes.

#### 4.2.6 Crisis and Post-Crisis Situations

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03: Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

VII. Roma and Sinti in crisis and post-crisis situations

(...)

Recommended action by participating States:

107. Consult Roma and Sinti populations when defining crisis situations in order to facilitate adequate procedures and to identify specific geographical areas from which refugees and internally displaced persons flee, as well as to ensure that the specific situation of Roma and Sinti people are addressed.

108. Ensure that Roma and Sinti populations in a forced displacement situation (refugees and IDPs) are duly registered and provided with the relevant documents.

109. The participating States should ensure that programmes are in place to promote informed choice regarding the decision of Roma and Sinti refugees and IDPs concerning durable solutions to their situations, including the exercise of their right to safe, decent and sustainable return. Such programmes should provide concrete information regarding each subject of concern to refugees and IDPs and should be made available in the relevant languages.

110. Ensure that Roma and Sinti refugees are treated in accordance with the relevant international norms and standards of protection, and in a non-discriminatory manner.

111. Make use of the ODIHR's role in conflict prevention and identification of areas of early intervention, and draw on the expertise of the OSCE HCNM in this regard.

112. Pay special attention to the needs of Roma and Sinti women and children in crisis and post-crisis situations, particularly by providing them with access to health care, housing and schooling.

#### 4.3 Indigenous Populations

**Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(29) Noting that persons belonging to indigenous populations may have special problems in exercising their rights, agree that their CSCE commitments regarding human rights and fundamental freedoms apply fully and without discrimination to such persons.

## 4.4 Refugees, Displaced Persons, Returnees, and Stateless Persons

*See also:*

- › Part II. 3.1.11: Freedom of Movement, Human Contacts, and Family Reunification
- › Part II. 3.1.13: Right to Nationality
- › Part II. 4.2: Roma and Sinti
- › Part II. 7: Commitments Related to International Humanitarian Law

### **Vienna 1989** (Questions Related to Security in Europe: Principles)

(22) [The participating States] (...) will allow all refugees who so desire to return in safety to their homes.

### **Helsinki 1992** (Summit Declaration)

14. In times of conflict the fulfilment of basic human needs is most at risk (...) We recognize that the refugee problems resulting from these conflicts require the co-operation of all of us. We express our support for and solidarity with those countries which bear the brunt of the refugee problems resulting from these conflicts. In this context we recognize the need for co-operation and concerted action.

### **Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

- (39) Express their concern over the problem of refugees and displaced persons;
- (40) Emphasize the importance of preventing situations that may result in mass flows of refugees and displaced persons and stress the need to identify and address the root causes of displacement and involuntary migration;
- (41) Recognize the need for international co-operation in dealing with mass flows of refugees and displaced persons;
- (42) Recognize that displacement is often a result of violations of CSCE commitments, including those relating to the Human Dimension;
- (43) Reaffirm the importance of existing international standards and instruments related to the protection of and assistance to refugees and will consider acceding to the Convention relating to the Status of Refugees and the Protocol, if they have not already done so;
- (44) Recognize the importance of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, as well as of non-governmental organizations involved in relief work, for the protection of and assistance to refugees and displaced persons;

(45) Welcome and support unilateral, bilateral and multilateral efforts to ensure protection of and assistance to refugees and displaced persons with the aim of finding durable solutions;

### **Stockholm 1992** (Decisions: 2. The CSCE as a Community of Values)

The increasing problem of refugees and displaced persons is an issue of major concern to all participating States, particularly in conflicts where the fulfilment of basic human needs is most at risk. The Ministers deplored the plight of civil populations most affected in such conflicts and called on all participating States to contribute to a concerted effort to share the common burden. All Governments are accountable to each other for their behaviour towards their citizens and towards their neighbours. Individuals are to be held personally accountable for war crimes and acts in violation of international humanitarian law.

### **Budapest 1994** (Decisions: VIII. The Human Dimension)

32. The participating States express their concern at mass migratory movements in the CSCE region, including millions of refugees and displaced persons, due mainly to war, armed conflict, civil strife and grave human rights violations (...) they decide to expand their co-operation with appropriate international bodies in this respect (...)

### **Lisbon 1996** (Summit Declaration)

9. (...) Among the acute problems within the human dimension, the continuing violations of human rights, such as involuntary migration (...) continue to endanger stability in the OSCE region. We are committed to continuing to address these problems.

10. Against the background of recent refugee tragedies in the OSCE region and taking into account the issue of forced migration, we again condemn and pledge to refrain from any policy of 'ethnic cleansing' or mass expulsion. Our States will facilitate the return, in safety and in dignity, of refugees and internally displaced persons, according to international standards. Their reintegration into their places of origin must be pursued without discrimination (...)

### **Istanbul 1999** (Summit Declaration)

We are committed to facilitate the right of refugees to participate in elections held in their countries of origin.

### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

19. (...) We reaffirm our recognition that everyone has the right to a nationality and that no one should be deprived of his or her nationality arbitrarily. We commit ourselves to continue our efforts to ensure that everyone can exercise this right. We also commit ourselves to further the international protection of stateless persons.

(...)

22. We reject any policy of ethnic cleansing or mass expulsion. We reaffirm our commitment to respect the right to seek asylum and to ensure the international protection of refugees as set out in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as to facilitate the voluntary return of refugees and internally displaced persons in dignity and safety. We will pursue without discrimination the reintegration of refugees and internally displaced persons in their places of origin. In order to enhance the protection of civilians in times of conflict, we will seek ways of reinforcing the application of international humanitarian law.

**Bucharest 2001** (Annex to Decision 1 on Combating Terrorism: The Bucharest Plan of Action for Combating Terrorism)

15. Addressing the issue of protracted displacement: Participating States/ODIHR/HCNM/Representative on Freedom of the Media: Will explore strengthened OSCE potential for contributing to durable solutions, supporting and closely co-operating with other relevant organizations, primarily the Office of the United Nations High Commissioner for Refugees. Will closely monitor situations of protracted displacement.

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

(...)

12. Undertakes, in this context, to combat, subject to national legislation and international commitments, discrimination, where existing, against asylum seekers and refugees, and calls on the ODIHR to reinforce its activities in this respect;

13. Takes into account the UN Guiding Principles on Internal Displacement as a useful framework for the work of the OSCE and the endeavors of participating States in dealing with internal displacement;

**Sofia 2004** (Decisions: Annex to Decision No. 14/04, 2004 OSCE Action Plan for the Promotion of Gender Equality)

As recommended in the Guidelines on International Protection on Gender-Related Persecution within the context of Article 1A (2) of the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol relating to the Status of Refugees, introduce procedural practices, if States have not already done so, that ensure that proper consideration is given to women claimants in refugee status determination procedures and that the range of claims of gender-related persecution are accorded due recognition;

## 4.5 Migrant Workers

*See also:*

➤ Part II. 3.1.11: Freedom of Movement, Human Contacts, and Family Reunification

**Helsinki 1975** (Co-operation in the Field of Economics, of Science and Technology and of the Environment)

The participating States,

Considering that the movements of migrant workers in Europe have reached substantial proportions, and that they constitute an important economic, social and human factor for host countries as well as for countries of origin,

Recognizing that workers' migrations have also given rise to a number of economic, social, human and other problems in both the receiving countries and the countries of origin,

Taking due account of the activities of the competent international organizations, more particularly the International Labour Organisation, in this area, are of the opinion that the problems arising bilaterally from the migration of workers in Europe as well as between the participating States should be dealt with by the parties directly concerned, in order to resolve these problems in their mutual interest, in the light of the concern of each State involved to take due account of the requirements resulting from its socio-economic situation, having regard to the obligation of each State to comply with the bilateral and multilateral agreements to which it is party, and with the following aims in view:

- to encourage the efforts of the countries of origin directed towards increasing the possibilities of employment for their nationals in their own territories, in particular by developing economic co-operation appropriate for this purpose and suitable for the host countries and the countries of origin concerned;
- to ensure, through collaboration between the host country and the country of origin, the conditions under which the orderly movement of workers might take place, while at the same time protecting their personal and social welfare and, if appropriate, to organize the recruitment of migrant workers and the provision of elementary language and vocational training;
- to ensure equality of rights between migrant workers and nationals of the host countries with regard to conditions of employment and work and to social security, and to endeavour to ensure that migrant workers may enjoy satisfactory living conditions, especially housing conditions;
- to endeavour to ensure, as far as possible, that migrant workers may enjoy the same opportunities as nationals of the host countries of finding other suitable employment in the event of unemployment;

- to regard with favour the provision of vocational training to migrant workers and, as far as possible, free instruction in the language of the host country, in the framework of their employment;
- to confirm the right of migrant workers to receive, as far as possible, regular information in their own language, covering both their country of origin and the host country;
- to ensure that the children of migrant workers established in the host country have access to the education usually given there, under the same conditions as the children of that country and, furthermore, to permit them to receive supplementary education in their own language, national culture, history and geography;
- to bear in mind that migrant workers, particularly those who have acquired qualifications, can by returning to their countries after a certain period of time help to remedy any deficiency of skilled labour in their country of origin;
- to facilitate, as far as possible, the reuniting of migrant workers with their families;
- to regard with favour the efforts of the countries of origin to attract the savings of migrant workers, with a view to increasing, within the framework of their economic development, appropriate opportunities for employment, thereby facilitating the reintegration of these workers on their return home.

**Madrid 1983** (Co-operation in the Field of Economics, of Science and Technology and of the Environment)

In the context of the provisions of the Final Act concerning migrant labour in Europe, the participating States note that recent developments in the world economy have affected the situation of migrant workers. In this connection, the participating States express their wish that host countries and countries of origin, guided by a spirit of mutual interest and cooperation, intensify their contacts with a view to improving further the general situation of migrant workers and their families, *inter alia* the protection of their human rights including their economic, social and cultural rights while taking particularly into account the special problems of second generation migrants. They will also endeavour to provide or promote, where reasonable demand exists, adequate teaching of the language and culture of the countries of origin.

The participating States recommend that, among other measures for facilitating the social and economic reintegration of returning migrant labour, the payment of pensions as acquired or established under the social security system to which such workers have been admitted in the host country should be ensured by appropriate legislative means or reciprocal agreements.

**Vienna 1989** (Co-operation in the Field of Economics, of Science and Technology and of the Environment)

(40) The participating States emphasize the need for effective implementation of the provisions of the Final Act and the Madrid Concluding Document relating to migrant workers and their families in Europe. They invite host countries and countries of origin to make efforts to improve further the economic, social, cultural and other conditions of life for migrant workers and their families legally residing in the host countries. They recommend that host countries and countries of origin should promote their bilateral co-operation in relevant fields with a view to facilitating the reintegration of migrant workers and their families returning to their country of origin.

(41) The participating States will (...) consider favourably applications for family reunification as well as family contacts and visits involving migrant workers from other participating States legally residing in the host countries.

(42) The participating States will ensure that migrant workers from other participating States, and their families, can freely enjoy and maintain their national culture and have access to the culture of the host country.

(43) Aiming at ensuring effective equality of opportunity between the children of migrant workers and the children of their own nationals regarding access to all forms and levels of education, the participating States affirm their readiness to take measures needed for the better use and improvement of educational opportunities. Furthermore, they will encourage or facilitate, where reasonable demand exists, supplementary teaching in their mother tongue for the children of migrant workers.

(44) The participating States recognize that issues of migrant workers have their human dimension.

**Copenhagen 1990**

(22) The participating States reaffirm that the protection and promotion of the rights of migrant workers have their human dimension. In this context, they

(22.1) - agree that the protection and promotion of the rights of migrant workers are the concern of all participating States and that as such they should be addressed within the CSCE process;

(22.2) - reaffirm their commitment to implement fully in their domestic legislation the rights of migrant workers provided for in international agreements to which they are parties;

(22.3) - consider that, in future international instruments concerning the rights of migrant workers, they should take into account the fact that this issue is of importance for all of them;



**Paris 1990** (A New Era of Democracy, Peace and Unity)

We recognize that the issues of migrant workers and their families legally residing in host countries have economic, cultural and social aspects as well as their human dimension. We reaffirm that the protection and promotion of their rights, as well as the implementation of relevant international obligations, is our common concern.

**Moscow 1991**

(38) The participating States recognize the need to ensure that the rights of migrant workers and their families lawfully residing in the participating States are respected and underline their right to express freely their ethnic, cultural, religious and linguistic characteristics. The exercise of such rights may be subject to such restrictions as are prescribed by law and are consistent with international standards.

(38.1) They condemn all acts of discrimination on the ground of race, colour and ethnic origin, intolerance and xenophobia against migrant workers. They will, in conformity with domestic law and international obligations, take effective measures to promote tolerance, understanding, equality of opportunity and respect for the fundamental human rights of migrant workers and adopt, if they have not already done so, measures that would prohibit acts that constitute incitement to violence based on national, racial, ethnic or religious discrimination, hostility or hatred.

(38.2) They will adopt appropriate measures that would enable migrant workers to participate in the life of the society of the participating States.

(38.3) They note that issues which concern the human dimension of migrant workers residing on their territory could, as any other issue of the human dimension, be raised under the human dimension mechanism.

**Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(36) Reiterate that human rights and fundamental freedoms are universal, that they are also enjoyed by migrant workers wherever they live and stress the importance of implementing all CSCE commitments on migrant workers and their families lawfully residing in the participating States;

(37) Will encourage the creation of conditions to foster greater harmony in relations between migrant workers and the rest of the society of the participating State in which they lawfully reside. To this end, they will seek to offer, *inter alia*, measures to facilitate the familiarization of migrant workers and their families with the languages and social life of the respective participating State in which they lawfully reside so as to enable them to participate in the life of the society of the host country;

(38) Will, in accordance with their domestic policies, laws and international obligations seek, as appropriate, to create the conditions for promoting equality of opportunity in respect of working conditions, education, social security and health services,

housing, access to trade unions as well as cultural rights for lawfully residing and working migrant workers.

### **Budapest 1994** (Decisions: VIII. The Human Dimension)

29. They decided that appropriate measures should be taken to better prevent racist attacks and other manifestations of violent intolerance against migrant workers and their families.

(...)

31. They will continue to promote the integration of migrant workers in the societies in which they are lawfully residing. They recognize that a successful process of integration also depends on its active pursuit by the migrants themselves and decided therefore to encourage them in this regard.

### **Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council

(...)

11. Undertakes to combat discrimination against migrant workers (...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The participating states commit to:

(...)

- Take steps, in conformity with their domestic law and international obligations, against discrimination, intolerance and xenophobia against migrants and migrant workers;
- Consider undertaking activities to raise public awareness of the enriching contribution of migrants and migrant workers to society;

(...)

## **4.6 Persons with Disabilities**

### **Moscow 1991**

(41) The participating States decide

(41.1) - to ensure protection of the human rights of persons with disabilities;

(41.2) - to take steps to ensure the equal opportunity of such persons to participate fully in the life of their society;

(41.3) - to promote the appropriate participation of such persons in decision-making in fields concerning them;

(41.4) - to encourage services and training of social workers for the vocational and social rehabilitation of persons with disabilities;

(41.5) - to encourage favourable conditions for the access of persons with disabilities to public buildings and services, housing, transport, and cultural and recreational activities.

## 4.7 Children

*See also:*

- Part II. 3.1.11: Freedom of Movement, Human Contacts, and Family Reunification
- Part II. 3.2.4: Right to Education
- Part II. 4.2: Roma and Sinti
- Part II. 4.4: Refugees, Displaced Persons, Returnees, and Stateless Persons
- Part II. 4.5: Migrant Workers
- Part II. 6.2: Prevention of Trafficking in Human Beings

### Copenhagen 1990

(13) The participating States decide to accord particular attention to the recognition of the rights of the child, his civil rights and his individual freedoms, his economic, social and cultural rights, and his right to special protection against all forms of violence and exploitation. They will consider acceding to the Convention on the Rights of the Child, if they have not yet done so, which was opened for signature by States on 26 January 1990. They will recognize in their domestic legislation the rights of the child as affirmed in the international agreements to which they are Parties.

### Istanbul 1999 (Summit Declaration)

28. In the year of the 10th anniversary of the adoption of the Convention on the Rights of the Child, and putting the OSCE's Copenhagen commitments into practice, we commit ourselves to actively promote children's rights and interests, especially in conflict and post-conflict situations. We will regularly address the rights of children in the work of the OSCE (...) We will pay particular attention to the physical and psychological well-being of children involved in or affected by armed conflict.

### Istanbul 1999 (Charter for European Security: III. Our Common Response)

24. We will undertake measures to (...) end violence against (...) children as well as sexual exploitation and all forms of trafficking in human beings. In order to prevent such crimes we will, among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protec-

tion of victims. We will also develop and implement measures to promote the rights and interests of children in armed conflict and post-conflict situations, including refugees and internally displaced children. We will look at ways of preventing forced or compulsory recruitment for use in armed conflict of persons under 18 years of age.

#### 4.8 Armed Forces Personnel

##### **Budapest 1994** (Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

27. Each participating State will ensure that the recruitment or call-up of personnel for service in its military, paramilitary and security forces is consistent with its obligations and commitments in respect of human rights and fundamental freedoms.

28. The participating States will reflect in their laws or other relevant documents the rights and duties of armed forces personnel. They will consider introducing exemptions from or alternatives to military service.

(...)

32. Each participating State will ensure that military, paramilitary and security forces personnel will be able to enjoy and exercise their human rights and fundamental freedoms as reflected in CSCE documents and international law, in conformity with relevant constitutional and legal provisions and with the requirements of service.

33. Each participating State will provide appropriate legal and administrative procedures to protect the rights of all its forces personnel.

#### 4.9 Persons in Detention or Prison

*See also:*

- Part II. 2.4: Rule of Law
- Part II. 3.1.4: Freedom from Arbitrary Arrest or Detention

##### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

The participating States will

(...)

(23.2) - ensure that all individuals in detention or incarceration will be treated with humanity and with respect for the inherent dignity of the human person;

(23.3) - observe the United Nations Standard Minimum Rules for the Treatment of Prisoners as well as the United Nations Code of Conduct for Law Enforcement Officials;

**Copenhagen 1990**

(15) The participating States will act in such a way as to facilitate the transfer of sentenced persons and encourage those participating States which are not Parties to the Convention on the Transfer of Sentenced Persons, signed at Strasbourg on 21 November 1983, to consider acceding to the Convention.

**Moscow 1991**

(23) The participating States will treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person and will respect the internationally recognized standards that relate to the administration of justice and the human rights of detainees.

(...)

(vi) any person arrested or detained will have the right, without undue delay, to notify or to require the competent authority to notify appropriate persons of his choice of his arrest, detention, imprisonment and whereabouts; any restriction in the exercise of this right will be prescribed by law and in accordance with international standards;

(vii) effective measures will be adopted, if this has not already been done, to provide that law enforcement bodies do not take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, or otherwise to incriminate himself, or to force him to testify against any other person;

(viii) the duration of any interrogation and the intervals between them will be recorded and certified, consistent with domestic law;

(ix) a detained person or his counsel will have the right to make a request or complaint regarding his treatment, in particular when torture or other cruel, inhuman or degrading treatment has been applied, to the authorities responsible for the administration of the place of detention and to higher authorities, and when necessary, to appropriate authorities vested with reviewing or remedial power;

(x) such request or complaint will be promptly dealt with and replied to without undue delay; if the request or complaint is rejected or in case of inordinate delay, the complainant will be entitled to bring it before a judicial or other authority; neither the detained or imprisoned person nor any complainant will suffer prejudice for making a request or complaint;

(...)

(23.2) The participating States will

(i) endeavour to take measures, as necessary, to improve the conditions of individuals in detention or imprisonment;

(ii) pay particular attention to the question of alternatives to imprisonment.



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## 5. Commitments Related to Equality, Tolerance, and Non-discrimination

### 5.1 Equality and Non-discrimination Clauses

#### **Helsinki 1975** (Questions Relating to Security in Europe: 1.(a) Declaration on Principles Guiding Relations between Participating States – Principle VII)

The participating States will respect human rights and fundamental freedoms (...) for all without distinction as to race, sex, language or religion.

#### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(13.7) - ensure human rights and fundamental freedoms to everyone within their territory and subject to their jurisdiction, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

(13.8) - ensure that no individual exercising, expressing the intention to exercise or seeking to exercise these rights and freedoms or any member of his family, will as a consequence be discriminated against in any manner;

#### **Copenhagen 1990**

(5) [The participating States] solemnly declare that among those elements of justice which are essential to the full expression of the inherent dignity and of the equal and inalienable rights of all human beings are the following:

(...)

(5.9) - all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law will prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground;

(...)

(25.3) - measures derogating from obligations will be limited to the extent strictly required by the exigencies of the situation;

(25.4) - such measures will not discriminate solely on the grounds of race, colour, sex, language, religion, social origin or of belonging to a minority.

(...)

(31) Persons belonging to national minorities have the right to exercise fully and effectively their human rights and fundamental freedoms without any discrimination and in full equality before the law.

The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms.

## 5.2 Equal Rights of Men and Women

### **Madrid 1983** (Questions Relating to Security in Europe: Principles)

[The participating States] stress the importance of ensuring equal rights of men and women; accordingly, they agree to take all actions necessary to promote equally effective participation of men and women in political, economic, social and cultural life.

### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(15) The participating States confirm their determination to ensure equal rights of men and women. Accordingly, they will take all measures necessary, including legislative measures, to promote equally effective participation of men and women in political, economic, social and cultural life. They will consider the possibility of acceding to the Convention on the Elimination of All Forms of Discrimination Against Women, if they have not yet done so.

### **Moscow 1991**

(40) The participating States recognize that full and true equality between men and women is a fundamental aspect of a just and democratic society based on the rule of law. They recognize that the full development of society and the welfare of all its members require equal opportunity for full and equal participation of men and women. In this context they will

(40.1) - ensure that all CSCE commitments relating to the protection and promotion of human rights and fundamental freedoms are applied fully and without discrimination with regard to sex;

(40.2) - comply with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), if they are parties, and, if they have not already done so,



consider ratifying or acceding to this Convention; States that have ratified or acceded to this Convention with reservations will consider withdrawing them;

(40.3) - effectively implement the obligations in international instruments to which they are parties and take appropriate measures to implement the United Nations Nairobi Forward-looking Strategies for the Advancement of Women (FLS);

(40.4) - affirm that it is their goal to achieve not only *de jure* but *de facto* equality of opportunity between men and women and to promote effective measures to that end;

(40.5) - establish or strengthen national machinery, as appropriate, for the advancement of women in order to ensure that programmes and policies are assessed for their impact on women;

(40.6) - encourage measures effectively to ensure full economic opportunity for women, including non-discriminatory employment policies and practices, equal access to education and training, and measures to facilitate combining employment with family responsibilities for female and male workers; and will seek to ensure that any structural adjustment policies or programmes do not have an adversely discriminatory effect on women;

(40.7) - seek to eliminate all forms of violence against women, and all forms of traffic in women and exploitation of prostitution of women including by ensuring adequate legal prohibitions against such acts and other appropriate measures;

(40.8) - encourage and promote equal opportunity for full participation by women in all aspects of political and public life, in decision-making processes and in international co-operation in general;

(40.9) - recognize the vital role women and women's organizations play in national and international efforts to promote and enhance women's rights by providing, *inter alia*, direct services and support to women and encouraging a meaningful partnership between governments and these organizations for the purpose of advancing equality for women;

(40.10) - recognize the rich contribution of women to all aspects of political, cultural, social and economic life and promote a broad understanding of these contributions, including those made in the informal and unpaid sectors;

(40.11) - take measures to encourage that information regarding women and women's rights under international and domestic law is easily accessible;

(40.12) - develop educational policies, consistent with their constitutional systems, to support the participation of women in all areas of study and work, including non-traditional areas, and encourage and promote a greater understanding of issues relating to equality between men and women;

(40.13) - ensure the collection and analysis of data to assess adequately, monitor and improve the situation of women; these data should not contain any personal information.

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

23. The full and equal exercise by women of their human rights is essential to achieve a more peaceful, prosperous and democratic OSCE area. We are committed to making equality between men and women an integral part of our policies, both at the level of our States and within the Organization.

(...)

24. We will undertake measures to eliminate all forms of discrimination against women, and to end violence against women and children as well as sexual exploitation and all forms of trafficking in human beings (...)

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council

(...)

2. Decides to enhance the efforts being made to increase women's participation and the role of women in furthering democratization and economic development, and to consider integrating the provisions of the OSCE Action Plan on Gender Issues where applicable into national policies. Further decides to enhance its efforts to achieve gender balance at all levels within the OSCE, taking full account also in this respect of the principle of recruiting staff from all participating States on a fair basis (...)

**Sofia 2004** (Decisions: Decision No. 14/04 on the 2004 OSCE Action Plan for the Promotion of Gender Equality)

The Ministerial Council,

(...)

Recognizing that equal rights of women and men and the protection of their human rights are essential to peace, sustainable democracy, economic development and therefore to security and stability in the OSCE region,

(...)

Mindful of the need to appropriately reflect a gender perspective in the activities conducted under the auspices of the OSCE, and for participating States to take all necessary measures to encourage gender awareness raising and to promote equality in rights and full and equal participation of women and men in society, the aim being to promote the practice of gender equality and gender-mainstreaming\* in the OSCE area, which is essential to comprehensive security,

(...)

Decides to endorse the 2004 Action Plan for the Promotion of Gender Equality adopted by the Permanent Council in its Decision No. 638 on 2 December 2004, and annexed to this Decision.

**Sofia 2004** (Decisions: Annex to Decision No. 14/04: 2004 OSCE Action Plan for the Promotion of Gender Equality)

(...)

3. Effective gender-mainstreaming\* with the goal of achieving gender equality, is important if full use is to be made of the human capital in the OSCE area. Gender equality contributes to comprehensive security, which is a goal of OSCE activities in all three dimensions. Gender-mainstreaming is a way of contributing to attaining this goal. The gender perspective should therefore be taken into account in the Organization's activities, projects and programmes, in order for the Organization to achieve gender equality within its own operations as well as in the participating States. It is the joint responsibility of the participating States, the Chairman-in-Office, the Secretary General, and the Heads of institutions and missions to promote equality between women and men as an integral element of policies and practices of the OSCE. In this effort it shall be borne in mind that if gender equality is to become a reality in any area and at any level of society, both men and women will benefit from such a change.

(...)

8. Gender-mainstreaming requires consistent, systematic, attention to gender perspectives (...) based on a cross-dimensional approach, and also adequate monitoring and review mechanisms (...)

IV. Promoting Gender Equality in Participating States

41. Participating States, individually and collectively, bear the primary responsibility and are accountable to their citizens for the implementation of their commitments on equality of rights and equal opportunities for women and men. They have committed themselves to making equality between women and men an integral part of policies both at State level and within the Organization. They will ensure the full use of the appropriate OSCE fora for reviewing the implementation of OSCE commitments on equality between women and men.

42. Participating States are therefore recommended to:

\* "Mainstreaming a gender perspective is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality." See Official Records of the General Assembly, Fifty-Second Session, Supplement No. 3 (A/52/3/Rev.1), chapter IV, paragraph 4.

- Ensure that the Organization develops policies which effectively promote gender equality and that new proposals and initiatives take a gender perspective into account;
  - Establish or strengthen existing mechanisms for ensuring gender equality, inter alia by making available the services of an impartial and independent person or body, such as an Ombudsman/Human Rights Commissioner, to address gender related discrimination against individual citizens;
  - Adhere to and fully implement the international standards and commitments they have undertaken concerning equality, non-discrimination and women's and girls' rights;
  - Comply with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), if they are parties, or, if they have not already done so, consider ratifying or acceding to this Convention. States that have ratified or acceded to this Convention with reservations will consider withdrawing them. States parties to the CEDAW are also called upon to consider ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women;
  - If they are parties to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), and/or the International Covenant on Economic, Social and Cultural Rights (ICESCR), report regularly and on time to the respective bodies, and include women's organizations in the preparation of their reports;
  - Take further action where necessary in order to ensure a safe environment for their citizens and the right to equal protection under the law (...)
- (...)
- Draw on the experience of the OSCE to develop cross-dimensional gender equality policies and strategies, and include in the follow-up to such policies, inter alia, the utilization of gender analysis and monitoring mechanisms to assess the impact of gender policies and strategies, so that constraints on their full implementation may be identified and addressed.

### 5.3 Combating Acts Motivated by Prejudice, Intolerance, and Hatred

#### 5.3.1 General Provisions

##### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(16) (...) the participating States will, *inter alia*,

(16.1) - take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political,

economic, social and cultural life, and to ensure the effective equality between believers and non-believers;

### **Copenhagen 1990**

(40) The participating States clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, anti-semitism, xenophobia and discrimination against anyone as well as persecution on religious and ideological grounds. In this context, they also recognize the particular problems of Roma (gypsies).

They declare their firm intention to intensify the efforts to combat these phenomena in all their forms and therefore will

(...)

(40.2) -commit themselves to take appropriate and proportionate measures to protect persons or groups who may be subject to threats or acts of discrimination, hostility or violence as a result of their racial, ethnic, cultural, linguistic or religious identity, and to protect their property;

### **Helsinki 1992 (Summit Declaration)**

12. (...) we reject racial, ethnic and religious discrimination in any form. Freedom and tolerance must be taught and practised.

### **Helsinki 1992 (Decisions: VI. The Human Dimension)**

The participating States

(30) Express their concern over recent and flagrant manifestations of intolerance, discrimination, aggressive nationalism, xenophobia, anti-semitism and racism and stress the vital role of tolerance, understanding and co-operation in the achievement and preservation of stable democratic societies;

### **Rome 1993 (Decisions: X. Declaration on Aggressive Nationalism, Racism, Chauvinism, Xenophobia and Anti-Semitism)**

1. (...) the Ministers noted with deep concern the growing manifestations of aggressive nationalism, such as territorial expansionism, as well as racism, chauvinism, xenophobia and anti-semitism. These run directly counter to the principles and commitments of the CSCE.

2. The Ministers also noted that these phenomena can lead to violence, secessionism by the use of force and ethnic strife, and in their worst instances to the barbaric practices of mass deportation, ethnic cleansing and violence against innocent civilians.

3. Aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism create ethnic, political and social tensions within and between States. They also undermine international stability and worldwide efforts to place universal human rights on a firm foundation.

4. The Ministers focused attention on the need for urgent action to enforce the strict observance of the norms of international humanitarian law, including the prosecution and punishment of those guilty of war crimes and other crimes against humanity.

5. The Ministers agreed that the CSCE must play an important role in these efforts. The clear standards of behaviour reflected in CSCE commitments include active support for the equal rights of all individuals in accordance with international law and for the protection of national minorities.

#### **Budapest 1994** (Decisions: VIII. The Human Dimension)

25. The participating States condemn manifestations of intolerance, and especially of aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism, and will continue to promote effective measures aimed at their eradication (...) They condemn all crimes committed in the pursuit of so-called “ethnic cleansing” and will continue to give their effective support to the International War Crimes Tribunal for the former Yugoslavia in The Hague.

26. They commend the Council of Europe’s plan of action on racism, xenophobia, anti-semitism and intolerance. In following up the Rome Council’s Declaration, CSCE institutions will explore possibilities for joint work with the Council of Europe, as well as the United Nations and other international organizations.

27. Reaffirming their commitment to ensure freedom of conscience and religion and to foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers, they expressed their concern about the exploitation of religion for aggressive nationalist ends.

#### **Lisbon 1996** (Summit Declaration)

9. (...) Among the acute problems within the human dimension, the continuing violations of human rights, such as (...) manifestations of aggressive nationalism, racism, chauvinism, xenophobia and anti-Semitism, continue to endanger stability in the OSCE region. We are committed to continuing to address these problems.

10. Against the background of recent refugee tragedies in the OSCE region and taking into account the issue of forced migration, we again condemn and pledge to refrain from any policy of ‘ethnic cleansing’ or mass expulsion. Our States will facilitate the return, in safety and in dignity, of refugees and internally displaced persons, according to international standards. Their reintegration into their places of origin must be pursued without discrimination.

#### **Istanbul 1999** (Charter for European Security: IV. Our Common Instruments)

19. (...) We commit ourselves to counter such threats to security as violations of human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief and manifestations of intolerance, aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism.

(...)

22. We reject any policy of ethnic cleansing or mass expulsion.

(...)

44. We will work to enhance the OSCE's role in civilian police-related activities (...) Such activities may comprise:

- Police monitoring, including with the aim of preventing police from carrying out such activities as discrimination based on religious and ethnic identity;

(...)

- Creating a police service with a multi-ethnic and/or multi-religious composition that can enjoy the confidence of the entire population;

**Bucharest 2001** (Annex to Decision 1 on Combating Terrorism; The Bucharest Plan of Action for Combating Terrorism)

11. Participating States/Permanent Council/ODIHR/High Commissioner on National Minorities (HCNM)/Representative on Freedom of the Media: (...) Will provide early warning of and appropriate responses to violence, intolerance, extremism and discrimination against these [ethnic, religious, linguistic and other] groups and, at the same time, promote their respect for the rule of law, democratic values and individual freedoms.

**Porto 2002** (Decisions: Decision No. 6 on Tolerance and Non-Discrimination)

The Ministerial Council,

(...)

Reiterating that democracy and protection of human rights and fundamental freedoms are essential safeguards of tolerance and non-discrimination and constitute important factors for stability, security, co-operation and peaceful development throughout the entire OSCE region, and that conversely tolerance and non-discrimination are important elements in the promotion of human rights

(...)

Noting that promoting tolerance and non-discrimination can also contribute to eliminating the basis for hate speech and aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism,

Recognizing the responsibility of participating States for promoting tolerance and non-discrimination,

1.(a) Condemns in strongest terms all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism, as well as hate speech and occurrences of discrimination based on religion or belief;

(...)

2. Decides to intensify efforts to maintain and strengthen tolerance and non-discrimination, with the assistance of OSCE institutions and in co-operation with relevant international organizations and civil society, by such means as the exchanges of information and best practice;

(...)

5. Condemns, in particular, discrimination on religious grounds and undertakes to endeavour to prevent and protect against attacks directed at any religious group, whether on persons or on places of worship or religious objects;

6. Condemns in particular the recent increase in anti-Semitic incidents in the OSCE area, recognizing the role that the existence of anti-Semitism has played throughout history as a major threat to freedom;

7. Also condemns the recent increase in acts of discrimination and violence against Muslims in the OSCE area and rejects firmly the identification of terrorism and extremism with a particular religion or culture;

8. Decides to take strong public positions against hate speech and other manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism, as well as occurrences of discrimination based on religion or belief;

### **Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

Threats to security and stability in the twenty-first century

(...)

12. Practices related to discrimination and intolerance both threaten the security of individuals and may give rise to wider-scale conflict and violence. They can have their root in issues such as ethnic and religious tensions, aggressive nationalism, chauvinism and xenophobia, and may also stem from racism, anti-Semitism and violent extremism, as well as lack of respect for the rights of persons belonging to national minorities.

13. The mobility of migrant populations and the emergence of societies with many coexisting cultures in all parts of the OSCE region present growing opportunities as well as challenges. Failure to integrate societies and failure also by everyone who resides in them to respect the rights of all can undermine stability.

(...)



Addressing threats related to discrimination and intolerance

36. Discrimination and intolerance are among the factors that can provoke conflicts, which undermine security and stability. Based on its human dimension commitments, the OSCE strives to promote conditions throughout its region in which all can fully enjoy their human rights and fundamental freedoms under the protection of effective democratic institutions, due judicial process and the rule of law. This includes secure environments and institutions for peaceful debate and expression of interests by all individuals and groups of society. Civil society has an important role to play in this regard, and the OSCE will continue to support and help strengthen civil society organizations.

(...)

38. The participating States and OSCE bodies and institutions are committed to stepping up their efforts to counter threats arising from discrimination and intolerance. Harmonious relations between ethnic, religious, linguistic and other groups and the rights of persons belonging to national minorities will be actively promoted (...) Violence, intolerance, extremism and discrimination against these groups, including migrant workers, asylum seekers and other immigrants, must be counteracted and persons responsible for such actions held accountable. At the same time, the respect of persons belonging to such groups for the rule of law, democratic values and individual freedoms is essential.

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

(...)

Reaffirming its commitment to promote tolerance and combat discrimination, and its concern about all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism in all participating States, as well as discrimination based, *inter alia*, on race, color, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status,

Urging the relevant authorities in all participating States to continue to condemn publicly, at the appropriate level and in the appropriate manner, violent acts motivated by discrimination and intolerance,

Affirming its commitment to increase its efforts for the promotion of tolerance and non-discrimination in all fields (...)

8. Recognizes the need to combat hate crimes, which can be fuelled by racist, xenophobic, and anti-Semitic propaganda on the internet (...)

9. Affirms the importance of freedom of thought, conscience, religion or belief, and condemns all discrimination and violence, including against any religious group or individ-

ual believer. Commits to ensure and facilitate the freedom of the individual to profess and practice a religion or belief, alone or in community with others, where necessary through transparent and non-discriminatory laws, regulations, practices and policies. Encourages the participating States to seek the assistance of the ODIHR and its Panel of Experts on Freedom of Religion or Belief (...)

11. Undertakes to combat discrimination against migrant workers. Further undertakes to facilitate the integration of migrant workers into the societies in which they are legally residing. Calls on the ODIHR to reinforce its activities in this respect;

12. Undertakes, in this context, to combat, subject to national legislation and international commitments, discrimination, where existing, against asylum seekers and refugees, and calls on the ODIHR to reinforce its activities in this respect;

13. Takes into account the UN Guiding Principles on Internal Displacement as a useful framework for the work of the OSCE and the endeavours of participating States in dealing with internal displacement (...)

15. Decides to intensify the co-operation of the OSCE with relevant international organizations such as the United Nations, the Council of Europe and the European Union, as well as with civil society and relevant non-governmental organizations to promote tolerance and non-discrimination (...)

**Sofia 2004** (Ministerial Declaration on the Sixtieth Anniversary of the End of World War II)

We have learned from history the danger of intolerance, discrimination, extremism and hatred on ethnic, racial and religious grounds. We are committed to combat these threats, including through the OSCE, and we reject any attempts to justify them.

We strongly condemn any denial of the Holocaust. We condemn all forms of ethnic cleansing. We confirm our adherence to the UN Convention on the Prevention and Punishment of the Crime of Genocide adopted on 9 December 1948. We call on the participating States to take every possible action to ensure that attempts to commit genocide are prevented today and in the future. The perpetrators of such crimes should be brought to justice.

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 607: Combating Anti-Semitism)

The Ministerial Council,

(...)

2. Endorses the Permanent Council Decisions on Combating Anti-Semitism (PC.DEC/607) and on Tolerance and the Fight against Racism, Xenophobia and Discrimination (PC.DEC/621) and the Permanent Council Decision on Promoting Tolerance and Media Freedom on the Internet (PC.DEC/633), annexed to this decision;

3. Further decides to intensify efforts for the implementation of these three decisions, which include commitments in the fields of, *inter alia*, education, media, legislation, law enforcement, migration and religious freedom;

(...)

5. Welcomes the intention of the Chairman-in-Office to appoint, in accordance with Porto Ministerial Council Decision No. 8, three personal representatives as part of the overall fight of the OSCE in combating discrimination and promoting tolerance (...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 607: Combating Anti-Semitism)

The Permanent Council,

(...)

In order to reinforce our common efforts to combat anti-Semitism across the OSCE region,

Decides,

1. The participating States commit to:

- Strive to ensure that their legal systems foster a safe environment free from anti-Semitic harassment, violence or discrimination in all fields of life;
- Combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic propaganda in the media and on the Internet;
- Encourage and support international organization and NGO efforts in these areas (...)
- (...)
- Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problem of anti-Semitism;
- Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;

(...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The Permanent Council,

(...)

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

(...)

- Take steps to combat acts of discrimination and violence against Muslims in the OSCE area;
- Take steps, in conformity with their domestic law and international obligations, against discrimination, intolerance and xenophobia against migrants and migrant workers;
- Consider undertaking activities to raise public awareness of the enriching contribution of migrants and migrant workers to society;
- Combat hate crimes, which can be fuelled by racist, xenophobic and anti-Semitic propaganda in the media and on the Internet, and appropriately denounce such crimes publicly when they occur;

(...)

- Encourage and support international organization and NGO efforts in these areas;

(...)

- Examine the possibility of establishing within countries appropriate bodies to promote tolerance and to combat racism, xenophobia, discrimination or related intolerance, including against Muslims, and anti-Semitism;

(...)

- Work with the OSCE Parliamentary Assembly to determine appropriate ways to review periodically the problems of racism, xenophobia and discrimination;
- Encourage development of informal exchanges among experts in appropriate fora on best practices and experiences in law enforcement and education;

(...)

### ***5.3.2 International Instruments***

#### **Copenhagen 1990**

(40) (...) [The participating States] (...) will

(40.6) - consider adhering, if they have not yet done so, to the international instruments which address the problem of discrimination and ensure full compliance with the obligations therein, including those relating to the submission of periodic reports;

(40.7) - consider, also, accepting those international mechanisms which allow States and individuals to bring communications relating to discrimination before international bodies.

**Helsinki 1992** (Decisions: VI. The Human Dimension)

[The participating States]

(32) Will consider adhering to the International Convention on the Elimination of All Forms of Racial Discrimination, if they have not already done so;

**Sofia 2004** (Ministerial Declaration on the Sixtieth Anniversary of the End of World War II)

(...) We confirm our adherence to the UN Convention on the Prevention and Punishment of the Crime of Genocide adopted on 9 December 1948 (...)

**5.3.3 Legislation and Enforcement of Laws and Policies**

**Copenhagen 1990**

(40) (...) [The participating States] (...) will

(40.1) - take effective measures, including the adoption, in conformity with their constitutional systems and their international obligations, of such laws as may be necessary, to provide protection against any acts that constitute incitement to violence against persons or groups based on national, racial, ethnic or religious discrimination, hostility or hatred, including anti-semitism;

(...)

(40.5) - recognize the right of the individual to effective remedies and endeavour to recognize, in conformity with national legislation, the right of interested persons and groups to initiate and support complaints against acts of discrimination, including racist and xenophobic acts;

**Helsinki 1992** (Decisions: VI. The Human Dimension)

[The participating States]

(33) Will consider taking appropriate measures within their constitutional framework and in conformity with their international obligations to assure to everyone on their territory protection against discrimination on racial, ethnic and religious grounds, as well as to protect all individuals, including foreigners, against acts of violence, including on any of these grounds. Moreover, they will make full use of their domestic legal processes, including enforcement of existing laws in this regard;

(...)

**Budapest 1994** (Decisions: VIII. The Human Dimension)

25. The participating States condemn manifestations of intolerance, and especially of aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism, and will continue to promote effective measures aimed at their eradication (...) They will seek to strengthen or adopt appropriate legislation to this end and take the necessary measures to ensure that existing legislation is effectively implemented, in a way that would deter manifestations of these phenomena. They also stress that action to combat these phenomena should be seen as an integral part of integration policy and education.

**Porto 2002** (V. Decisions: Decision No. 6 on Tolerance and Non-discrimination)

The Ministerial Council,

9. Calls on relevant authorities of participating States to investigate promptly and impartially acts of violence, especially where there are reasonable grounds to suspect that they were motivated by aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism, as well as attacks motivated by hatred against a particular religion or belief, and to prosecute those responsible in accordance with domestic law and consistent with relevant international standards of human rights;

(...)

**Maastricht 2003** (Decisions: Annex to Decision No. 3/03, Action Plan on Improving the Situation of Roma and Sinti within the OSCE Area)

In order to counter prejudice (...) and to effectively elaborate and implement policies to combat discrimination and racial violence, the following actions are recommended:

Legislation and law enforcement

Recommended action by participating States:

7. Consider ratifying the relevant international treaties as soon as possible, if they have not already done so, *inter alia*, the International Convention on the Elimination of All Forms of Racial Discrimination.

8. Adopt and implement effective anti-discrimination legislation to combat racial and ethnic discrimination in all fields, including, *inter alia*, access to housing, citizenship and residence, education, employment, health and social services. Involve Roma and Sinti representatives in the design, implementation and evaluation processes.

9. The anti-discrimination legislation should ensure:

- Prohibition of both direct and indirect racial discrimination;
- Imposition of effective, proportionate and dissuasive sanctions for discriminatory acts or practices;

- Imposition of heavier sentences for racially motivated crimes by both private individuals and public officials;
- Equal access to effective remedies (judicial, administrative, conciliation or mediation procedures).

10. It should be ensured that national legislation prohibits all kinds of discriminatory acts and that all cases of suspected discrimination are thoroughly and objectively investigated.

11. Create, where appropriate, specialized institutions to ensure the implementation of such legislation, as well as domestic mechanisms to monitor and report regularly and with transparency on the progress achieved in its implementation (...)

**Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

(...)

6. (...) Recognizing the importance of legislation to combat hate crimes, participating States will inform the ODIHR about existing legislation regarding crimes fuelled by intolerance and discrimination, and, where appropriate, seek the ODIHR's assistance in the drafting and review of such legislation;

(...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The Permanent Council,

(...)

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

- Consider enacting or strengthening, where appropriate, legislation that prohibits discrimination based on, or incitement to hate crimes motivated by, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

(...)

- Consider establishing training programmes for law enforcement and judicial officials on legislation and enforcement of legislation relating to hate crimes;

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 633: Promoting Tolerance and Media Freedom on the Internet)

The Permanent Council,

(...)

Decides that:

(...)

2. Participating States should investigate and, where applicable, fully prosecute violence and criminal threats of violence, motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet;

3. Participating States should train law enforcement agents and prosecutors on how to address crimes motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet and should share information on successful training programmes as part of the exchange of best practices;

#### **5.3.4 Data Collection and Monitoring**

##### **Geneva 1991 (VI)**

Moreover, in order to heighten public awareness of prejudice and hatred, to improve enforcement of laws against hate-related crime and otherwise to further efforts to address hatred and prejudice in society, [the participating States] will make efforts to collect, publish on a regular basis, and make available to the public, data about crimes on their respective territories that are based on prejudice as to race, ethnic identity or religion, including the guidelines used for the collection of such data. These data should not contain any personal information.

##### **Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

41. Full use will be made of ODIHR's monitoring capacity, and operational co-operation with other monitoring bodies in such areas as data collection, information sharing and joint analysis will be promoted in order to have the fullest picture of developments. This will enable the OSCE to efficiently target work towards areas of highest priority.

##### **Maastricht 2003** (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

(...)



6. Encourages all participating States to collect and keep records on reliable information and statistics on hate crimes, including on forms of violent manifestations of racism, xenophobia, discrimination, and anti-Semitism, as discussed and recommended in the above-mentioned conferences (...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 607: Combating Anti-Semitism)

The Permanent Council,

(...)

In order to reinforce our common efforts to combat anti-Semitism across the OSCE region,

Decides,

1. The participating States commit to:

- Collect and maintain reliable information and statistics about anti-Semitic crimes, and other hate crimes, committed within their territory, report such information periodically to the OSCE Office for Democratic Institutions and Human Rights (ODIHR), and make this information available to the public;

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The Permanent Council,

(...)

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

(...)

- Collect and maintain reliable information and statistics about hate crimes motivated by racism, xenophobia and related discrimination and intolerance, committed within their territory, report such information periodically to the OSCE Office for Democratic Institutions and Human Rights (ODIHR) and make this information available to the public;

### 5.3.5 Promotion of Tolerance, Understanding, and Respect, Including Remembrance

**Helsinki 1975** (Questions Relating to Security in Europe: 1. (b) Matters Related to Giving Effect to Certain of the Above Principles)

(i) The participating States,

(...)

Declare that they are resolved to respect and carry out, in their relations with one another, *inter alia*, the following provisions which are in conformity with the Declaration on Principles Guiding Relations between Participating States:

(...)

- To promote, by all means which each of them considers appropriate, a climate of confidence and respect among peoples consonant with their duty to refrain from propaganda for wars of aggression or for any threat or use of force inconsistent with the purposes of the United Nations and with the Declaration on Principles Guiding Relations between Participating States, against another participating State.

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(16) In order to ensure the freedom of the individual to profess and practise religion or belief, the participating States will, *inter alia*,

(...)

(16.2) - foster a climate of mutual tolerance and respect between believers of different communities as well as between believers and non-believers;

**Vienna 1989** (Co-operation in Humanitarian and Other Fields; Co-operation and Exchanges in the Field of Culture)

(61) Taking duly into account the originality and diversity of their respective cultures, they will encourage efforts to explore common features and to foster greater awareness of their cultural heritage. Accordingly they will encourage initiatives which may contribute to a better knowledge of the cultural heritage of the other participating States in all its forms, including regional aspects and folk art.

**Copenhagen 1990**

(36) (...) Every participating State will promote a climate of mutual respect, understanding, co-operation and solidarity among all persons living on its territory, without distinction as to ethnic or national origin or religion, and will encourage the solution of problems through dialogue based on the principles of the rule of law.

(...)

(40) (...) [The participating States] (...) will

(...)

(40.3) - take effective measures, in conformity with their constitutional systems, at the national, regional and local levels to promote understanding and tolerance, particularly in the fields of education, culture and information;

(40.4) - endeavour to ensure that the objectives of education include special attention to the problem of racial prejudice and hatred and to the development of respect for different civilizations and cultures;

### **Paris 1990** (A New Era of Democracy, Peace and Unity)

We recognize the essential contribution of our common European culture and our shared values in overcoming the division of the continent. Therefore, we underline our attachment to creative freedom and to the protection and promotion of our cultural and spiritual heritage, in all its richness and diversity.

### **Cracow 1991** (Preamble)

The participating States express their deeply held conviction that they share common values forged by history and based, *inter alia*, on respect for the individual, freedom of conscience, religion or belief, freedom of expression, recognition of the importance of spiritual and cultural values, commitment to the rule of law, tolerance and openness to dialogue with other cultures.

(...)

The participating States respect the irreplaceable uniqueness of all their cultures and will endeavour to promote continued cultural dialogue among themselves and with the rest of the world. They reaffirm their belief that respect for cultural diversity promotes understanding and tolerance among individuals and groups.

They consider that the regional aspects of culture should in themselves constitute a factor in the understanding between peoples.

Regional cultural diversity is an expression of the richness of the common cultural identity of the participating States. Its preservation and protection contribute to building a democratic, peaceful and united Europe.

(...)

## II. Culture and Heritage

18. Partnerships among diverse groups at the local, regional and national level, from both the private and the public sector, are valuable for ensuring the effective and representative preservation of the cultural heritage. The preservation and interpretation of the values and the cultural heritage of diverse groups will be enhanced with the involvement of those groups, which is conducive to the tolerance and respect for different cultures which are of paramount importance.

(...)

### III. Principal Areas of Preservation and Co-operation

27. Bearing in mind the important role that regional aspects of culture may play in linking people across national borders, the participating States will favour regional co-operation at the level of local and national authorities as well as non-governmental organizations with a view to fostering good-neighbourly relations.

(...)

31. The participating States will strive to preserve and protect those monuments and sites of remembrance, including most notably extermination camps, and the related archives, which are themselves testimonials to tragic experiences in their common past. Such steps need to be taken in order that those experiences may be remembered, may help to teach present and future generations of these events, and thus ensure that they are never repeated.

32. The interpretation of sensitive sites of remembrance can serve as a valuable means of promoting tolerance and understanding among people and will take into account social and cultural diversity.

#### **Geneva 1991 (VI)**

[The participating States] will take effective measures to promote tolerance, understanding, equality of opportunity and good relations between individuals of different origins within their country.

#### **Moscow 1991**

(38.1) (...) They will, in conformity with domestic law and international obligations, take effective measures to promote tolerance, understanding, equality of opportunity and respect for the fundamental human rights of migrant workers (...)

#### **Helsinki 1992 (Summit Declaration)**

12. (...) Economic decline, social tension, aggressive nationalism, intolerance, xenophobia and ethnic conflicts threaten stability in the CSCE area (...)

There is still much work to be done in building democratic and pluralistic societies, where diversity is fully protected and respected in practice. Consequently, we reject racial, ethnic and religious discrimination in any form. Freedom and tolerance must be taught and practised.

#### **Helsinki 1992 (Decisions: VI. The Human Dimension)**

The participating States

(30) Express their concern over recent and flagrant manifestations of intolerance, discrimination, aggressive nationalism, xenophobia, anti-semitism and racism and stress

the vital role of tolerance, understanding and co-operation in the achievement and preservation of stable democratic societies;

(...)

(34) Will consider developing programmes to create the conditions for promoting non-discrimination and cross-cultural understanding which will focus on human rights education, grass-roots action, cross-cultural training and research;

**Rome 1993** (Decisions: IV. The Human Dimension)

1. (...) Concerned by the root causes of tension stemming from historical prejudices, the Ministers called for efforts, *inter alia*, through education, to promote tolerance and consciousness of belonging to a system of common values. The Ministers stressed that implementation of human dimension commitments must be a focus of attention in the CSCE's conflict prevention efforts.

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

19. (...) We condemn violence against any minority. We pledge to take measures to promote tolerance and to build pluralistic societies where all, regardless of their ethnic origin, enjoy full equality of opportunity.

**Bucharest 2001** (Annex to Decision 1 on Combating Terrorism: The Bucharest Plan of Action for Combating Terrorism)

11. Promoting human rights, tolerance and multi-culturalism: Participating States/Permanent Council/ODIHR/High Commissioner on National Minorities (HCNM)/Representative on Freedom of the Media: Will promote and enhance tolerance, co-existence and harmonious relations between ethnic, religious, linguistic and other groups as well as constructive co-operation among participating States in this regard (...)

**Bucharest 2001** (Decisions: Decision No. 5)

The Ministerial Council,

(...)

Calls on participating States to promote tolerance and non-discrimination (...) through awareness raising campaigns and education;

(...)

**Porto 2002** (Charter on Preventing and Combating Terrorism)

21. Acknowledge the positive role the media can play in promoting tolerance and understanding among religions, beliefs, cultures and peoples (...)

**Porto 2002** (Decisions: Decision No. 6 on Tolerance and Non-discrimination)

The Ministerial Council,

(...) Reiterating that democracy and protection of human rights and fundamental freedoms are essential safeguards of tolerance and non-discrimination and constitute important factors for stability, security, co-operation and peaceful development throughout the entire OSCE region, and that conversely tolerance and non-discrimination are important elements in the promotion of human rights,

Recalling the continuing work of the OSCE structures and institutions in the field of promoting human rights, tolerance, non-discrimination and multiculturalism, in particular by the human dimension meetings and activities, projects and programmes including those of participating States,

Stressing the positive role of multicultural and inter-religious dialogue in creating better understanding among nations and peoples,

Noting that promoting tolerance and non-discrimination can also contribute to eliminating the basis for hate speech and aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism,

Recognizing the responsibility of participating States for promoting tolerance and non-discrimination,

(...)

1. (...) (b) Undertakes to further promote multicultural, interethnic and inter-religious dialogue in which governments and civil society will be encouraged to participate actively;

(...)

2. Decides to intensify efforts to maintain and strengthen tolerance and non-discrimination, with the assistance of OSCE institutions and in co-operation with relevant international organizations and civil society, by such means as the exchanges of information and best practice;

(...)

4. Commits to take appropriate measures, in conformity with respective constitutional systems, at national, regional and local levels to promote tolerance and non-discrimination as well as to counter prejudices and misrepresentation, particularly in the field of education, culture and information;

**Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

40. The OSCE's efforts will in particular be targeted at the younger generation in order to build up their understanding of the need for tolerance and the importance of reconciliation and peaceful coexistence. Their outlook and perspective on the future are key. Where appropriate, the OSCE will therefore take on a stronger role in the field of education. An area such as human rights education would deserve particular attention.

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 607: Combating Anti-Semitism)

The Permanent Council,

(...)

In order to reinforce our common efforts to combat anti-Semitism across the OSCE region

Decides,

1. The participating States commit to:

- Promote, as appropriate, educational programmes for combating anti-Semitism;
- Promote remembrance of and, as appropriate, education about the tragedy of the Holocaust, and the importance of respect for all ethnic and religious groups;

(...)

**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

1. The participating States commit to:

(...)

- Promote and enhance, as appropriate, educational programmes for fostering tolerance and combating racism, xenophobia and discrimination;
- Promote and facilitate open and transparent interfaith and intercultural dialogue and partnerships towards tolerance, respect and mutual understanding
- Encourage the promotion of tolerance, dialogue, respect and mutual understanding through the Media, including the Internet;

(...)

### 5.3.6 Role of the Media

#### **Istanbul 1999** (Summit Declaration)

27. We commit ourselves to ensuring the freedom of the media as a basic condition for pluralistic and democratic societies. We are deeply concerned about the exploitation of media in areas of conflict to foment hatred and ethnic tension and the use of legal restrictions and harassment to deprive citizens of free media (...)

#### **Porto 2002** (Charter on Preventing and Combating Terrorism)

22. Commit themselves to combat hate speech and to take the necessary measures to prevent the abuse of the media and information technology for terrorist purposes, ensuring that such measures are consistent with domestic and international law and OSCE commitments;

#### **Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

37. (...) While fully respecting freedom of expression, the OSCE will strive to combat hate crime which can be fuelled by racist, xenophobic and anti-Semitic propaganda on the Internet.

#### **Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The Permanent Council,

(...)

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

(...)

- Encourage the promotion of tolerance, dialogue, respect and mutual understanding through the Media, including the Internet;

(...)



**Sofia 2004** (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 633: Promoting Tolerance and Media Freedom on the Internet)

The Permanent Council,

(...)

Decides that:

1. Participating States should take action to ensure that the Internet remains an open and public forum for freedom of opinion and expression, as enshrined in the Universal Declaration of Human Rights, and to foster access to the Internet both in homes and in schools;

2. Participating States should investigate and, where applicable, fully prosecute violence and criminal threats of violence, motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet;

3. Participating States should train law enforcement agents and prosecutors on how to address crimes motivated by racist, xenophobic, anti-Semitic or other related bias on the Internet and should share information on successful training programmes as part of the exchange of best practices;

(...)

5. Participating States should study the effectiveness of laws and other measures regulating Internet content, specifically with regard to their effect on the rate of racist, xenophobic and anti-Semitic crimes;

6. Participating States should encourage and support analytically rigorous studies on the possible relationship between racist, xenophobic and anti-Semitic speech on the Internet and the commission of crimes motivated by racist, xenophobic, anti-Semitic or other related bias;

7. The OSCE will foster exchanges directed toward identifying effective approaches for addressing the issue of racist, xenophobic and anti-Semitic propaganda on the Internet that do not endanger the freedom of information and expression. The OSCE will create opportunities, including during the annual Human Dimension Implementation Meeting, to promote sharing of best practices;

8. Participating States should encourage the establishment of programmes to educate children and youth about expression motivated by racist, xenophobic, anti-Semitic or other related bias they may encounter on the Internet. Also, as appropriate, participating States and Internet service providers should take steps to increase parental awareness of widely available filtering software that enables parents to exercise greater supervision and control over their children's use of the Internet. Materials on successful edu-

cational programmes and filtering software should be widely disseminated as part of the exchange of best practices;

9. Participating States should welcome continued and increased efforts by NGOs to monitor the Internet for racist, xenophobic and anti-Semitic content, as well as NGOs' efforts to share and publicize their findings.

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## 6. Commitments Related to Specific Threats to Human Security

### 6.1 Prevention of Gender-Based Persecution, Violence, and Exploitation

*See also:*

- Part II. 4.4: Refugees, Displaced Persons, Returnees, and Stateless Persons
- Part II. 5.2: Equal Rights of Men and Women
- Part II. 6.2: Prevention of Trafficking in Human Beings
- Part II. 7: Commitments Related to International Humanitarian Law

#### **Moscow 1991**

[The participating States shall]

(40.7) - seek to eliminate all forms of violence against women, and exploitation of prostitution of women including by ensuring adequate legal prohibitions against such acts and other appropriate measures;

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

24. We will undertake measures to (...) end violence against women (...) as well as sexual exploitation... In order to prevent such crimes we will, among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protection of victims.

#### **Bucharest 2001** (Decisions: Decision No. 8)

The Ministerial Council,

(...)

Convinced of women's potential to contribute to conflict prevention, reconciliation and peace-building processes,

Confirming the commitment to protect and promote the rights of women and being aware of the vulnerability of women especially in conflict and post-conflict situations,

Determined to combat all forms of violence against women, including domestic violence,

Recognizing the need for rehabilitation centres for women affected by violence,

(...)

Calls for the implementation of the Action Plan on Gender Issues;

**Sofia 2004** (Decisions: Annex to Decision No. 14/04, 2004 OSCE Action Plan for the Promotion of Gender Equality)

- Take further action where necessary in order to ensure a safe environment for their citizens and the right to equal protection under the law, notably by increasing activities aimed at eliminating all forms of violence against women (...)
- Support national and international efforts to bring to justice those who have perpetrated crimes against women which under applicable rules of international law are recognized as war crimes or crimes against humanity, and ensure that existing national legislation on violence against women is enforced, and that new legislation is drafted where necessary;
- As recommended in the Guidelines on International Protection on Gender-Related Persecution within the context of Article 1A (2) of the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol relating to the Status of Refugees, introduce procedural practices, if States have not already done so, that ensure that proper consideration is given to women claimants in refugee status determination procedures and that the range of claims of gender-related persecution are accorded due recognition;

(...)

## 6.2 Prevention of Trafficking in Human Beings

*See also:*

➤ Part I. 2.2.4 C: Mechanism to Assist Participating States in Combating Trafficking in Human Beings

### 6.2.1 General Provisions Regarding Prevention

**Moscow 1991**

(40) The participating States (...) will

(...)

(40.7) - seek to eliminate all (...) forms of traffic in women and exploitation of prostitution of women including by ensuring adequate legal prohibitions against such acts and other appropriate measures;

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

24. We will undertake measures to (...) end (...) sexual exploitation and all forms of trafficking in human beings. In order to prevent such crimes we will, among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts and strengthen the protection of victims.

**Vienna 2000** (Decisions: Decision on Enhancing the OSCE'S Efforts to Combat Trafficking in Human Beings)

The Ministerial Council,

(...)

Recognizing that trafficking in human beings is an increasing problem and convinced of the necessity for the OSCE to enhance its efforts to combat trafficking in human beings throughout the OSCE region, including in conflict and post-conflict situations, and to contribute to national, regional and international anti-trafficking efforts in defence of human rights and the fight against transnational organized crime,

1. Reaffirms that trafficking in human beings is an abhorrent human rights abuse and a serious crime that demands a more comprehensive and co-ordinated response from participating States and the international community, as well as a more coherent and co-operative approach among countries, in particular those of origin, transit and destination;

2. Welcomes the adoption, by the United Nations General Assembly, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime as well as the definition of trafficking in persons contained therein and calls upon all participating States to sign and ratify the United Nations Protocol as well as the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography;

3. Recognizes the primary responsibility of participating States in combating trafficking based on an integrated and co-ordinated approach which includes prevention of trafficking, protection of victims and prosecution of traffickers and their accomplices;

4. Stresses the role of national parliaments in the enactment, among others, of laws necessary to combat trafficking in human beings and welcomes articles 106 and 107 of the Parliamentary Assembly's Bucharest Declaration on trafficking in persons;

5. Agrees to strengthen the activities of the OSCE to combat trafficking and emphasizes the need for intensified co-operation between different OSCE institutions as well

as between the OSCE and other international organizations, such as relevant United Nations agencies, the International Organization for Migration, the Council of Europe, the European Union and Interpol;

6. Supports the work of the Stability Pact Task Force on Trafficking in Human Beings and calls in particular for the governments of the region concerned to play an active role in the Task Force;

(...)

8. Undertakes to raise awareness, including with assistance from the ODIHR, non-governmental organizations and other relevant institutions, through, where necessary, establishing training programmes among public officials, including law enforcement, judiciary, consular and immigration officials, about all aspects of trafficking;

9. Commits to take necessary measures, including by adopting and implementing legislation, to criminalize trafficking in human beings, including appropriate penalties, with a view to ensuring effective law enforcement response and prosecution. Such legislation should take into account a human rights approach to the problem of trafficking, and include provision for the protection of the human rights of victims, ensuring that victims of trafficking do not face prosecution solely because they have been trafficked;

11. Encourages the nomination, where appropriate, of governmental representatives on trafficking to co-ordinate national activities and to ensure regional and international co-operation and to make this contact information available to other participating States;

(...)

#### **Bucharest 2001** (Decisions: Decision No. 6)

The Ministerial Council,

Reiterating its commitment to combat all forms of trafficking in human beings, which affects all participating States,

Affirming its commitment to developing co-operation and interaction among participating States on anti-trafficking measures and related crimes,

Calls on participating States to sign and ratify the United Nations Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;

(...)

Encourages information exchange with a view to strengthening investigation, law enforcement and crime prevention;

Calls on participating States to accelerate taking the necessary measures to fulfil their Vienna ministerial commitments which include prevention of trafficking, protection of victims and prosecution of traffickers and their accomplices.

**Porto 2002** (Declaration on Trafficking in Human Beings)

I.

We, the members of the Ministerial Council of the OSCE, declare that trafficking in human beings represents a dangerous threat to security in the OSCE area and beyond.

We declare that trafficking in human beings and other modern forms of slavery constitute an abhorrent violation of the dignity and rights of human beings.

We recognize that trafficking in human beings represents a serious and rapidly expanding area of transnational organized crime, generating huge profits for criminal networks that may also be associated with criminal acts such as trafficking in drugs and arms, as well as smuggling of migrants.

We recall and reaffirm our full adherence to the OSCE's commitments to combating trafficking in human beings (...) and declare our determination to strengthen co-operation in addressing trafficking in human beings in countries of origin, transit and destination.

(...) We declare that ratification and full implementation of both these instruments [United Nations Convention Against Transnational Organized Crime and to its supplementary Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children] would enhance the international and national legal framework and enforcement capacities for combating trafficking in human beings. We strongly encourage States to consider concurrent ratification and full implementation of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, also supplementing the above-mentioned Convention (...)

We recognize the need to address root causes of trafficking and to reduce the economic and social inequalities and disadvantages, which also provoke illegal migration, and which may be exploited by organized criminal networks for their profit. We also recognize the need to fight corruption, which facilitates the operation of such networks. (...)

We recognize that, in countries of destination, demand for the activities of persons trafficked for the purposes of sexual exploitation, forced labour, slavery or other practices similar to slavery is an integral factor in trafficking in human beings. We urge countries of destination to take measures to effectively address such a demand as a key element in their strategy for effectively preventing and combating trafficking in human beings, and to exercise zero tolerance towards sexual exploitation, slavery and all forms of exploitation of forced labour, irrespective of its nature.

We are deeply concerned about reports of involvement by some mission members of international organizations in activities related to trafficking in human beings, par-

ticularly in post-conflict countries. We reiterate the importance of Permanent Council Decision No. 426, of 12 July 2001, on trafficking in human beings and encourage the adoption and implementation of relevant measures such as the 'OSCE Code of Conduct for Mission Members.' We will not tolerate international staff members being involved in any illegal activities, inciting this criminal trade or behaving in contravention of this Code of Conduct. We commit ourselves to take all practicable measures to ensure the accountability of international staff members to their respective national, and when appropriate local, authorities for such activities.

We express our concern about the increase in trafficking in minors and, recognizing the special needs of children, we support more research and exchange of information on trafficking in children and, with due regard to the best interest of the child as the primary consideration in all actions concerning children, call for the elaboration of special measures to protect trafficked minors from further exploitation, mindful of their psychological and physical well-being.

We will strive for adequate measures to prevent trafficking in human beings in our countries, taking the form, *inter alia*, of target-oriented awareness raising campaigns and education in countries of origin and transit, directed in particular towards youth and other vulnerable groups, and will seek to develop appropriate campaigns in countries of destination, to organize training for relevant officials and government employees in the areas of law enforcement, border control, criminal justice and social services, and to recommend full co-operation with NGOs in this field.

(...)

We reiterate the need for national strategies in order to unite efforts directed towards combating trafficking in human beings and to enhance co-ordination among national, international and regional organizations in this field. This need could be met through measures such as appointing inter-ministerial bodies and national co-ordinators or, as appropriate, other relevant bodies or mechanisms.

III.

We agree to intensify co-operation, based on a multidimensional approach, among the relevant OSCE structures and institutions, as well as among the OSCE and other relevant international organizations and actors, including the United Nations and its specialized agencies, the Council of Europe, the European Union and the International Organization for Migration, and task the Permanent Council with examining how better to assure such a co-operation with a view to combating trafficking in human beings.

(...)

**Maastricht 2003** (Decisions: Decision No. 2/03 on Combating Trafficking in Human Beings)

The Ministerial Council,

(...)



1. Decides to endorse the OSCE Action Plan to Combat Trafficking in Human Beings as annexed to this Decision; and
2. Establishes, under the aegis of the Permanent Council, an OSCE mechanism to provide assistance to participating States to combat trafficking in human beings. The mechanism will consist of two parts, complementing the activities of each other: a Special Representative appointed by the Chairmanship-in-Office, and a special unit in the OSCE Secretariat (...)

**Maastricht 2003** (Decisions: Annex to Decision No. 2/03 on Combating Trafficking in Human Beings; OSCE Action Plan to Combat Trafficking in Human Beings)

IV. Prevention of trafficking in human beings

(...)

1. Data collection and research

1.1 Collecting separate data related to women, men and children victims of trafficking, and improving research into and analysis of subjects such as the character and scale of THB and the trafficking and exploitation mechanisms deployed by the organized criminal groups, in order to develop effective and well-targeted prevention measures on trafficking in human beings. Promoting more research and exchange of information on trafficking in children.

1.2 Identifying the most vulnerable segments of the population and developing specially designed awareness-raising campaigns for them.

1.3 Conducting more far-reaching analysis of the root causes of THB, its demand and supply factors, its networks and its economic consequences, and its link with illegal migration.

2. Border measures

2.1 Without prejudice to international commitments in relation to the free movement of people, strengthening, to the extent possible, border controls as may be necessary to prevent and detect THB.

2.2 Adopting legislative or other appropriate measures to prevent, as far as possible, means of transport operated by commercial carriers from being used in committing offences, as defined by the provisions against trafficking.

2.3 Where appropriate, and without prejudice to applicable international conventions, obliging commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of valid travel documents. In accordance with domestic law, taking the necessary measures to provide for sanctions in case of violation.

3. Economic and social policies aimed at addressing root causes of THB

### 3.1 In countries of origin:

- Considering as priority goals: the fostering of social-economic and political stability, and the reduction both of migration caused by deep poverty and of supply factors of trafficking. Policies followed in pursuit of these goals should also promote both economic development and social inclusion;
- Improving children's access to educational and vocational opportunities and increasing the level of school attendance, in particular by girls and minority groups;
- Enhancing job opportunities for women by facilitating business opportunities for small and medium-sized enterprises (SMEs). Organizing SMEs training courses, and targeting them particularly at high-risk groups.

### 3.2 In countries of destination:

- Implementing measures to reduce "the invisibility of exploitation". A multi-agency programme of monitoring, administrative controls and intelligence gathering on the labour markets, and, where applicable, on the sex industry, will contribute greatly to this objective;
- Considering the liberalization by governments of their labour markets with a view to increasing employment opportunities for workers with a wide range of skills levels;
- Addressing the problem of unprotected, informal and often illegal labour, with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration;
- Tackling underground economic activities which undermine economies and enhance trafficking.

### 3.3 Whether in countries of origin or countries of destination:

- Taking measures to raise levels of social protection and to create employment opportunities for all;
- Taking appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of gender equality, the right to equal pay for equal work and the right to equality in employment opportunities;
- Addressing all forms of discrimination against minorities;
- Developing programmes that offer livelihood options and include basic education, literacy, communication and other skills, and reduce barriers to entrepreneurship;
- Encouraging gender sensitization and education on equal and respectful relationships between the sexes, thus preventing violence against women;

- Ensuring that policies are in place which allow women equal access to and control over economic and financial resources;
- Promoting flexible financing and access to credit, including micro-credit with low interest;
- Promoting good governance and transparency in economic transactions;
- Adopting or strengthening legislative, educational, social, cultural or other measures, and, where applicable, penal legislation, including through bilateral and multilateral co-operation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, and that leads to trafficking.

#### 4. Awareness-raising

4.1 Undertaking, in co-operation with civil society and NGOs, information campaigns to generate public awareness about trafficking in its various forms, including the methods employed by traffickers and the risks to victims.

4.2 Increasing awareness about trafficking among immigration authorities and consular and diplomatic personnel so that they use this knowledge in their daily contacts with potential victims.

4.3 Encouraging national embassies to disseminate information on relevant national legislation such as family law, labour law and immigration law as is of interest to potential migrants, including through NGOs.

4.4 Increasing awareness of other relevant target groups, including policy makers, law enforcement officers, and other relevant professionals such as medical, social services and employment officials, and in the private sector, to THB, to enhance their readiness to address it adequately and to strengthen their institutional capacity to counter it.

4.5 Encouraging the consular and visa sections of the diplomatic missions to use printed and other materials in their work with at-risk individuals.

4.6 Raising awareness of the media. The perception of the problem of trafficking in human beings brought forward by the media should include a clear explanation of the phenomenon and a realistic portrayal of the victims. To maximize public knowledge and awareness, anti-trafficking campaigns should be conducted with media professionals.

4.7 Targeting awareness-raising campaigns also at the most vulnerable groups, including persons belonging to national minorities, children, migrants and internally displaced persons (IDPs).

4.8 Extending awareness-raising campaigns to smaller towns and villages whose populations may be at particular risk.

4.9 Working in schools and universities as well as directly with families to reach young people and to raise their awareness about trafficking.

4.10 Addressing, also through the media, the need to reduce the demand for the activities of persons trafficked for sexual exploitation, forced labour, slavery or other practices similar to slavery and, in this connection, promoting zero tolerance towards all forms of trafficking.

4.11 Establishing well-publicized telephone “hotlines” in the countries of origin, transit and destination, which should serve three purposes: to act as an independent source of advice and guidance to potential victims who may be considering job opportunities or other offers to go abroad, to act as a first point of contact providing access to a referral mechanism for victims of THB, and, furthermore, to facilitate the anonymous reporting of cases or suspected cases of THB.

## 5. Legislative measures

5.1 Adopting or reviewing laws, administrative controls and procedures relating to the licensing and operation of sectors of business that, according to intelligence, may be involved in trafficking, such as employment, tourist, au pair, adoption or mail-order bride agencies, as well as hotels and escort services.

5.2 Ensuring that measures adopted for the purpose of preventing and combating trafficking in persons do not have an adverse impact on the rights and dignity of persons, including their freedom of movement.

(...)

## VI. Follow-up and co-ordinating mechanisms

Besides monitoring the implementation of the OSCE commitments by participating States through existing OSCE mechanisms, including the annual Human Dimension Implementation Meeting, Review Conferences and relevant human dimension events, The Permanent Council recommends the following actions at the national level:

1. To consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements;
2. To consider establishing Anti-Trafficking Commissions (task forces) or similar bodies responsible for co-ordinating activities within a country among State agencies and NGOs, and for elaborating measures to prevent THB, to punish perpetrators of THB and to protect its victims;
3. To improve co-operation between State institutions and national NGOs active in rendering protection and assistance to the victims of THB, combating violence against women and children, promoting gender equality and raising awareness in human rights issues;

**Sofia 2004** (Decisions: Decision No. 13/04 on the Special Needs for Child Victims of Trafficking for Protection and Assistance)

The Ministerial Council,

(...)

Recalling the principles of protection and respect for human rights as reflected in the 1989 United Nations Convention on the Rights of the Child, and its related 2000 Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, as well as the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption,

Mindful of the primary responsibility of participating States in combating trafficking based on an integrated and co-ordinated approach which includes prevention of trafficking, protection of victims and prosecution of traffickers and their accomplices,

Reaffirming that the general principles of, *inter alia*, the best interests of the child, non-discrimination, participation and survival and development provide the framework for all actions concerning children,

Dedicated to further strengthening the efforts by the OSCE to combat trafficking in human beings, and to continue an active implementation of the Action Plan to Combat Trafficking in Human Beings, as well as to continue the Organization's support to the participating States, on their request, in carrying out their respective national activities in this field,

Taking into account in particular the recommendations in the OSCE Action Plan to Combat Trafficking in Human Beings that the OSCE shall give special attention to the issue of trafficking in children, and also recognizing the vulnerability of unaccompanied and separated children,

Mindful that participating States are committed to protect children from all forms of violence, including sexual exploitation of children, and stressing the importance of respecting their special needs for protection and assistance, and the opportunity for the child to be heard,

Stressing that measures to combat trafficking in children should have a gender perspective and be non-discriminatory,

Underlining that the best interests of the child shall be the primary consideration in decisions taken with regard to trafficked children, including through ensuring representation, as appropriate, for child victims,

Aware of the need for an effective child assistance and protection framework as well as awareness-raising to counter the demand that fosters all forms of exploitation of per-

sons, especially women and children, and which makes children more vulnerable to being trafficked,

1. Decides to enhance OSCE efforts aimed at preventing children from being trafficked, protecting and assisting child victims of trafficking, and prosecuting those who traffic in children, taking into account the OSCE Action Plan to Combat Trafficking in Human Beings;
2. Encourages participating States to strengthen relevant governmental structures for children. Also encourages participating States to intensify actions, as appropriate, in line with the relevant recommendations for participating States in the OSCE Action Plan on Combating Trafficking in Human Beings to counter factors which contribute to making children particularly vulnerable to trafficking in human beings including: discrimination, based, *inter alia*, on race, sex, religion or belief, national or social origin, birth or other status; exploitation, as defined in the OSCE Action Plan on Combating Trafficking in Human Beings; poverty; lack of education and displacement;
3. Agrees to strengthen countering demand, including combating child sex tourism. In this context, also invites the participating States to consider, *inter alia*, elaboration of legal measures aimed at prosecution of their citizens for the sexual exploitation of children, including if such exploitation has taken place in another country (...)

### **6.2.2 Investigation, Law Enforcement, and Prosecution**

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

24. We will undertake measures to (...) end (...) all forms of trafficking in human beings. In order to prevent such crimes we will, among other means, promote the adoption or strengthening of legislation to hold accountable persons responsible for these acts (...)

#### **Vienna 2000** (Decisions: Decision on Enhancing the OSCE's Efforts to Combat Trafficking in Human Beings)

The Ministerial Council,

(...)

3. Recognizes the primary responsibility of participating States in combating trafficking based on an integrated and co-ordinated approach which includes (...) prosecution of traffickers and their accomplices;

(...)

9. Commits to take necessary measures, including by adopting and implementing legislation, to criminalize trafficking in human beings, including appropriate penalties, with a view to ensuring effective law enforcement response and prosecution. Such legislation should take into account a human rights approach to the problem of trafficking, and include provision for the protection of the human rights of victims, ensuring that victims of trafficking do not face prosecution solely because they have been trafficked;

**Bucharest 2001** (Decisions: Decision No. 6)

The Ministerial Council,

(...)

Encourages information exchange with a view to strengthening investigation, law enforcement and crime prevention;

**Porto 2002** (Declaration on Trafficking in Human Beings)

We call on participating States to enhance international co-operation in combating transnational organized crime, including criminal acts such as trafficking in drugs and arms, as well as smuggling of migrants. Such co-operation should include international law enforcement bodies, such as Europol and Interpol, as well as the Southeast European Co-operative Initiative (SECI), with a view to investigating and prosecuting those responsible for trafficking in human beings in accordance with domestic law and, where applicable, international obligations (...)

**Maastricht 2003** (Decisions: Annex to Decision No. 2/03 on Combating Trafficking in Human Beings; OSCE Action Plan to Combat Trafficking in Human Beings)

III. Investigation, law enforcement and prosecution

(...)

Recommended action at the national level

1. Criminalization

1.1 Adopting such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in Article 3 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

1.2 Adopting such legislative and other measures as may be necessary to establish as criminal offences:

- Attempting to commit this criminal offence;
- Participating as an accomplice in this criminal offence;
- Organizing or directing other persons to commit this criminal offence.

1.3 Adopting such measures as may be necessary to establish the liability of legal persons for trafficking offences in addition to the liability of natural persons. Subject to the legal principles of the participating State, the liability of legal persons may be criminal, civil and/or administrative.

1.4 Making legislative provisions for effective and proportionate criminal penalties, including imprisonment, that take into account the serious nature of this crime. Where appropriate, legislation should provide for additional penalties to be applied to persons found guilty of trafficking in aggravating circumstances, such as in the case of offences involving trafficking in children or offences committed by or involving the complicity of State officials.

1.5 Considering legislative provisions for confiscation of the instruments and proceeds of trafficking and related offences, specifying, where not inconsistent with national legislation, that the confiscated proceeds of trafficking will be used for the benefit of victims of trafficking. Giving consideration to the establishment of a compensation fund for victims of trafficking and the use of the confiscated assets to help finance such a fund.

1.6 Ensuring that trafficking, its constitutive acts and related offences constitute extraditable offences under national law and extradition treaties.

1.7 Adopting such legislative and other measures to establish as criminal offences acts of active or passive corruption of public officials, as referred to in Articles 8 and 9 of the United Nations Convention against Transnational Organized Crime.

1.8 Ensuring that victims of trafficking are not subject to criminal proceedings solely as a direct result of them having been trafficked.

## 2. Law enforcement response

2.1 Fully implementing anti-trafficking and related measures set out in legislation.

2.2 Establishing special anti-trafficking units — comprising both women and men — with advanced training in investigating offences involving sexual assault or involving children, in order to promote competence, professionalism and integrity.

2.3 Building capacity in the anti-corruption field.

2.4 Developing community-policing programmes: raising levels of trust between the police and the public in order, *inter alia*, to contribute to the acquisition of information relating to trafficking and to increase the willingness of victims to report offences.

2.5 Enhancing co-operation between law enforcement investigating bodies in order to establish the possibly criminal, trafficking-related origins of suspicious assets.

2.6 Providing not only the resources and training for developing intelligence-led policing for the management and analysis of crime and criminal information, but also the other advanced skills and equipment necessary for law enforcement bodies to carry out their anti-trafficking tasks.

2.7 Encouraging investigators and prosecutors to carry out investigations and prosecutions without relying solely and exclusively on witness testimony. Exploring alterna-



tive investigative strategies to preclude the need for victims to be required to testify in court.

2.8 Taking practicable measures to ensure that OSCE mission members who are behaving in breach of the OSCE Code of Conduct for Mission Members and other regulations face prescribed sanctions, including, as appropriate, disciplinary and criminal proceedings.

2.9 Targeting corruption of local law enforcement as a matter of priority, and ensuring that appropriate disciplinary and criminal proceedings are undertaken against law enforcement authorities found to be engaged in corrupt practices related to trafficking in human beings.

3. Law enforcement co-operation and information exchange between participating States

3.1 Co-operating closely with one another and consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action in combating the offences covered by this Action Plan. Promoting similar co-operation and co-ordination between law enforcement agencies within States.

3.2 Adopting, in particular, effective measures

- To enhance and where necessary to establish channels of communication between participating States;
- To co-operate on inquiries regarding offences covered by this Action Plan;
- To provide, when appropriate, items or evidence necessary for analytical or investigative purposes;
- To facilitate effective co-ordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the participating States concerned, the posting of liaison officers;
- To exchange information on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or forged documents or other means of concealing their activities;
- To co-ordinate administrative and other measures considered appropriate for the early identification of the offences covered by this Action Plan.

3.3 Concluding agreements on bilateral and multilateral law enforcement co-operation to facilitate exchange of information.

3.4 Undertaking efforts to develop common standards for the collection of statistical data.

#### 4. Assistance and protection of witnesses and victims in the criminal justice system

4.1 Taking appropriate measures within participating States' means, including legislative ones, to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Action Plan and, as appropriate, for their relatives and other persons close to them.

4.2 Sensitizing law enforcement authorities and officials to their responsibility for ensuring the safety and immediate well-being of victims of THB.

4.3 Ensuring data protection and the victim's right to privacy, also in the course of data collection and analysis.

4.4 Facilitating the victim's participation as a witness in the investigation and court hearings or other criminal proceedings by providing him/her with the possibility of relocation as a form of witness protection.

4.5 Providing legal counselling for victims when they are in the process of deciding whether or not to testify in court.

4.6 Permitting NGOs to support victims in court hearings, if it is not inconsistent with national legislation.

#### 5. Training

5.1 Providing or improving training for border officials, law enforcement officials, judges, prosecutors, immigration and other relevant officials in all aspects of trafficking in persons.

5.2 Giving, in such training programs, consideration to human rights and child-and gender-sensitive issues, and encouraging co-operation with non-governmental organizations, other relevant organizations and other elements of civil society.

#### 6. Border measures

6.1 Considering taking measures that permit, in accordance with its domestic law, the denial of entry, the revocation of visas or possibly the temporary detention of persons implicated in committing offences as defined by the legislation in force.

6.2 Considering strengthening co-operation among border control agencies by, *inter alia*, establishing and maintaining direct channels of communication.

#### 7. Security and control of documents

7.1 Taking such measures as may be necessary, within available means, to ensure that travel or identity documents issued by or on behalf of participating States are of such quality that they cannot easily be misused, readily falsified or unlawfully altered, replicated or issued.

## 8. Legitimacy and validity of documents

8.1 At the request of another participating State and in accordance with its domestic law, verifying within a reasonable time the legitimacy and validity of travel or identity documents issued or purporting to have been issued in its name, where there are reasonable grounds to suspect their usage for trafficking in persons.

### **Sofia 2004** (Decisions: Decision No. 13/04 on the Special Needs for Child Victims of Trafficking for Protection and Assistance)

The Ministerial Council,

(...)

1. Decides to enhance OSCE efforts aimed at preventing children from being trafficked, (...) and prosecuting those who traffic in children

(...)

3. Agrees to strengthen countering demand, including combating child sex tourism. In this context, also invites the participating States to consider, *inter alia*, elaboration of legal measures aimed at prosecution of their citizens for the sexual exploitation of children, including if such exploitation has taken place in another country (...)

### **6.2.3 Protection of Victims and Provision of Assistance**

#### **Istanbul 1999** (Charter for European Security: III. Our Common Response)

24. We will undertake measures to (...) end violence against women and children as well as sexual exploitation and all forms of trafficking in human beings. In order to prevent such crimes we will, among other means (...) strengthen the protection of victims.

#### **Vienna 2000** (Decisions: Decision on Enhancing the OSCE'S Efforts to Combat Trafficking in Human Beings)

The Ministerial Council,

(...)

3. Recognizes the primary responsibility of participating States in combating trafficking based on an integrated and co-ordinated approach which includes (...) protection of victims (...)

(...)

9. Commits to take necessary measures, including by adopting and implementing legislation, to criminalize trafficking in human beings (...) Such legislation should take into account a human rights approach to the problem of trafficking, and include provision for the protection of the human rights of victims, ensuring that victims of trafficking do not face prosecution solely because they have been trafficked;

10. Will consider adopting legislative or other appropriate measures, such as shelters, which permit victims of trafficking in persons to remain in their territories, temporarily or permanently, in appropriate cases; and establishing appropriate repatriation processes for the victims of trafficking, with due regard to their safety, including the provision of documents; and developing policies concerning the provision of economic and social benefits to victims as well as their rehabilitation and reintegration in society;

**Porto 2002** (Declaration on Trafficking in Human Beings)

We will strive to render assistance and protection to the victims of trafficking, especially women and children, and to this end, when appropriate, to establish effective and inclusive national referral mechanisms, ensuring that victims of trafficking do not face prosecution solely because they have been trafficked. The dignity and human rights of victims must be respected at all times (...)

We recognize that intensified co-operation among relevant actors in countries of origin, transit and destination plays a critical role in the return programmes for victims of trafficking and facilitates their reintegration. Therefore, we encourage all organizations providing assistance to victims, including NGOs, to further develop such co-operation.

We will consider adopting legislative or other measures that permit victims of trafficking to remain in our territory, temporarily or permanently, in appropriate cases, and giving consideration to humanitarian and compassionate factors.

**Maastricht 2003** (Decisions: Annex to Decision No. 2/03 on Combating Trafficking in Human Beings; OSCE Action Plan to Combat Trafficking in Human Beings)

V. Protection and assistance

(...)

1. Data collection and research

1.1 Collecting data through the exchange and analysis of best practices and other information regarding effective protection of and assistance to victims of trafficking in the OSCE participating States.

2. Legislative measures

2.1 Considering the need for adopting legislation which will provide the legal basis for rendering assistance and protection to victims of THB, especially during pre-trial investigations and in court proceedings.

2.2 Ratifying, or acceding to, and fully implementing the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

### 3. National Referral Mechanisms (NRM)\*

3.1 Establishing National Referral Mechanisms by creating a co-operative framework within which participating States fulfil their obligations to protect and promote the human rights of the victims of THB in co-ordination and strategic partnership with civil society and other actors working in this field.

3.2 Providing guidance to facilitate the accurate identification and appropriate treatment of the victims of THB, in ways which respect the views and dignity of the persons concerned.

3.3 Combining the efforts of law-enforcement bodies, including specially established anti-trafficking units and police at local level, officials of migration and border services, social protection units, medical institutions, as well as NGOs and other civil society institutions as the most relevant actors to be involved in NRM activities.

3.4 Establishing appropriate mechanisms to harmonize victim assistance with investigative and prosecutorial efforts.

3.5 Drawing special attention to the need for enhanced co-operation between the police and NGOs in identifying, informing and protecting victims of THB.

3.6 Linking the activities of NRMs with those of inter-ministerial bodies, national co-ordinators, NGOs and other relevant national institutions to form a cross-sectoral and multidisciplinary team capable of developing and monitoring the implementation of anti-trafficking policies.

### 4. Shelters

4.1 Establishing shelters, run by governmental bodies, NGOs, or other institutions of civil society to meet the needs of trafficked persons; these shelters are to provide safety, access to independent advice and counselling in a language known by the victim, first-hand medical assistance, and an opportunity for reflection delay after the experienced trauma. Shelters may be established on the basis of already existing facilities such as crisis centres for women.

4.2 Providing access to shelters for all victims of trafficking, regardless of their readiness to co-operate with authorities in investigations.

4.3 Giving special attention to ensuring security for personnel of such shelters, confidentiality of information obtained, and safety and privacy for victims of THB.

4.4 Using shelters to provide the kind of training opportunities for victims of THB which will facilitate their future reintegration, employment and independence, as well as improving their competitive capabilities after the experienced trauma.

\* The ODIHR's [*National Referral Mechanisms: A Practical Handbook*] may serve as a useful source of advice and information regarding the role of NRMs in rendering assistance and protection to victims of THB).

## 5. Provision of documents

5.1 Ensuring provision of documents, if necessary, as a first step to clarifying the victim's identity and status in countries of destination, thus making it possible to proceed with options of assistance in appropriate cases, such as repatriation, preferably voluntary, provision of a temporary or permanent residence permit, and/or legalization of employment.

5.2 Enhancing co-operation amongst law enforcement bodies in the countries of origin, transit and destination, and responsible officials of all institutions involved in the restoration of rights of victims of THB, including the personnel of embassies and consulates of participating States in order to facilitate the speedy verification of personal data and the avoidance of undue or unreasonable delay.

5.3 Informing identified victims of THB of their right to access to diplomatic and consular representatives of their country of nationality.

## 6. Provision of social assistance

6.1 Developing social assistance and integration programmes, including legal counselling in a language known by the victim, medical and psychological assistance and access to health care, to be made available either in shelters or other relevant institutions.

6.2 Considering, where not inconsistent with national legislation, legal measures to allow confiscated assets to be used to supplement government funding for programmes that address the needs of victims of THB and to compensate the victims in accordance with the gravity of the crime committed against them.

## 7. Repatriation, rehabilitation and reintegration

7.1 Assisting the victims of THB in — preferably — voluntary repatriation to the country of origin with due regard for their safety and that of their families, and without undue or unreasonable delay.

7.2 Ensuring due process in all return and removal proceedings, taking into account a humanitarian and compassionate approach.

7.3 Considering contributing to the rehabilitation and social reintegration of victims of THB by providing them with social and economic benefits.

7.4 Raising media awareness of the need to safeguard privacy by avoiding public disclosure of the identity of victims of THB, or publication of confidential information inimical to victims' security or to the cause of justice in criminal proceedings.

## 8. Provision of a reflection delay and temporary or permanent residence permits

8.1 Considering the introduction of a reflection delay to give the victim due time to decide whether or not to act as a witness.

8.2 Considering on a case-by-case basis, if appropriate, the provision of temporary or permanent residence permits, taking into account such factors as potential dangers to victims' safety.

8.3 Considering, if appropriate, the provision of work permits to victims during their stay in the receiving country.

#### 9. Ensuring the right to apply for asylum

9.1 Ensuring that anti-trafficking laws, policies, programmes and interventions do not affect the right of all persons, including victims of THB, to seek and enjoy asylum from persecution in accordance with international refugee law, in particular through effective application of the principle of *non-refoulement*.

#### 10. Protection of children

10.1 Ensuring that the special needs of children and the best interests of the child are fully taken into account when deciding upon appropriate housing, education and care. In appropriate cases, if there is no direct threat to the safety of the child, providing the children with access to the State educational system.

10.2 Deciding on the repatriation of a child victim of THB only after having taken account of all the circumstances of the specific case and if there is a family or special institution in the country of origin to ensure the child's safety, protection, rehabilitation and reintegration.

10.3 Considering the provisions outlined in the United Nations High Commissioner for Refugees Guidelines for the Protection of Unaccompanied Minors when elaborating policies targeted at this risk group, and in particular for those who are not in possession of identification documents.

10.4 Using bilateral and/or regional agreements on fundamental principles of good reception of unaccompanied children in order to combine efforts targeted at the protection of children.

10.5 Ratifying or acceding to, and fully implementing, the Optional Protocol to the Convention on the Rights of the Child, on the Sale of Children, Child Prostitution and Child Pornography.

#### 11. National Referral Mechanism

11.1 Enhancing the activities of the OSCE, especially the ODIHR, in assisting participating States, upon their request, in establishing the NRM.

11.2 Tasking the OSCE Strategic Police Matters Unit, together with the ODIHR, with the further development of guidelines or a manual on the identification of suspected victims and of evidence of THB, in order to assist participating States, as appropriate.

(...)

#### 14. Training

(...)

14.2 Tasking the ODIHR with the collection and dissemination of information on measures, training programmes and materials already in place in OSCE participating States.

#### 15. Legislative measures

15.1 In co-ordination with the United Nations Office on Drugs and Crime, the Council of Europe and other relevant actors, the ODIHR will continue to assist participating States, upon their request, in bringing their national legislation into compliance with international norms and standards, particularly by promoting a humanitarian and compassionate approach to the victims of THB.

#### **Sofia 2004** (Decisions: Decision No. 13/04 on the Special Needs for Child Victims of Trafficking for Protection and Assistance)

The Ministerial Council,

(...)

1. Decides to enhance OSCE efforts aimed at preventing children from being trafficked, protecting and assisting child victims of trafficking (...)

### **6.3 Prevention of Illicit Trafficking in Drugs and Arms, and Other Forms of International Organized Crime**

*See also:*

- Part II. 6.2: Prevention of Trafficking in Human Beings
- Part II. 6.4: Prevention of Terrorism

#### **Paris 1990** (A New Era of Democracy, Peace and Unity)

We will (...) join together in combating illicit trafficking in drugs.

#### **Helsinki 1992** (Summit Declaration)

27. Illicit trafficking in drugs represents a danger to the stability of our societies and democratic institutions. We will act together to strengthen all forms of bilateral and multilateral co-operation in the fight against illicit trafficking in drugs and other forms of international organized crime.

#### **Bucharest 2001** (Ministerial Declaration)

4. (...) Organized crime, illicit traffic in drugs and arms, and trafficking in human beings, affect the security, economy and social structure of all participating States. The



Ministerial Council supports enhanced efforts and greater international co-operation to combat these challenges, and urges participating States who have not yet done so to become parties to the United Nations Convention Against Transnational Organized Crime and its Protocols.

**Porto 2002** (Declaration on Trafficking in Human Beings)

We call on participating States to enhance international co-operation in combating transnational organized crime, including criminal acts such as trafficking in drugs and arms, as well as smuggling of migrants. Such co-operation should include international law enforcement bodies, such as Europol and Interpol, as well as the Southeast European Co-operative Initiative (SECI)

**Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

31. The OSCE will step up its work to combat organized crime. Regular meetings of police experts from OSCE participating States and representatives of other relevant specialized international and regional organizations would constitute an important contribution in this respect (...). The OSCE Document on SALW remains a key instrument for combating trafficking in and proliferation of SALW in all its aspects. Its implementation will be further strengthened. The OSCE will continue the collaborative efforts already underway with the UNODC to address the issue of illicit traffic in narcotic drugs. An effective and comprehensive international approach to dealing with this issue needs to be developed.

32. The Strategic Police Matters Unit was set up to improve the capacity of participating States to address threats posed by criminal activity and to assist them in upholding the rule of law. The aim is to enhance key policing skills, including respect for human rights and fundamental freedoms. The OSCE will, at the request of participating States, increase its focus on assistance to authorities, including at the local level, on fighting crime and criminal networks and will define and develop core competencies for police activities such as training and capacity-building activities.

33. The OSCE will intensify its efforts to address such issues as smuggling of migrants and illegal migration.

34. A comprehensive and multidisciplinary approach is required to effectively prevent and combat corruption in all its forms. The OSCE, in close co-ordination with the UNODC and other relevant international organizations and financial institutions, will contribute to reducing corruption across the OSCE region.

35. Threats of terrorism and organized crime are often interlinked, and synergetic approaches to deal with them will be further explored. Cross-border movement of persons, resources and weapons as well as trafficking for the purpose of financing and providing logistic support play an increasing role for terrorist activities. The OSCE is committed to addressing these problems and to strengthening its capacities to promote

open and secure borders, *inter alia*, through the elaboration of an OSCE Border Security and Management Concept in order to enhance capacity building and mutually beneficial inter-State co-operation.

## 6.4 Prevention of Terrorism

### 6.4.1 Condemnation of, and Commitment to Combat, Terrorism

#### **Madrid 1983** (Questions Relating to Security in Europe: Principles)

(...)

The participating States condemn terrorism, including terrorism in international relations, as endangering or taking innocent human lives or otherwise jeopardizing human rights and fundamental freedoms and emphasize the necessity to take resolute measures to combat it.

They express their determination to take effective measures for the prevention and suppression of acts of terrorism, both at the national level and through international co-operation including appropriate bilateral and multilateral agreements, and accordingly to broaden and reinforce mutual co-operation to combat such acts. They agree to do so in conformity with the Charter of the United Nations, the United Nations Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and the Helsinki Final Act.

(...)

The participating States confirm that they will refrain from direct or indirect assistance to terrorist activities or to subversive or other activities directed towards the violent overthrow of the regime of another participating State. Accordingly, they will refrain, *inter alia*, from financing, encouraging, fomenting or tolerating any such activities.

#### **Vienna 1989** (Questions Relating to Security in Europe: Principles)

(8) The participating States unreservedly condemn, as criminal, all acts, methods and practices of terrorism, wherever and by whomever committed, including those which jeopardize friendly relations among States and their security, and agree that terrorism cannot be justified under any circumstances.

(9) They express their determination to work for the eradication of terrorism both bilaterally and through multilateral co-operation, particularly in such international fora as the United Nations, the International Civil Aviation Organization and the International Maritime Organization and in accordance with the relevant provisions of the Final Act and the Madrid Concluding Document.

(10) Convinced of the need to combine measures at a national level with reinforced international co-operation, the participating States express their intention

(10.1) - to pursue a policy of firmness in response to terrorist demands;

(10.2) - to reinforce and develop bilateral and multilateral co-operation among themselves in order to prevent and combat terrorism as well as to increase efficiency in existing co-operation at the bilateral level or in the framework of groups of States including, as appropriate, through the exchange of information;

(...)

(10.4) - to take effective measures for the prevention and suppression of acts of terrorism directed at diplomatic or consular representatives and against terrorism involving violations of the Vienna Conventions on Diplomatic and Consular Relations, in particular their provisions relating to diplomatic and consular privileges and immunities;

(...)

(10.6) - to consider becoming parties, if they have not yet done so, to the relevant international conventions relating to the suppression of acts of terrorism;

(10.7) - to continue to work in the appropriate international bodies in order to improve and extend measures against terrorism and to ensure that the relevant agreements are accepted and acted upon by as many States as possible.

#### **Helsinki 1992** (Summit Declaration)

26. (...) We will encourage exchange of information concerning terrorist activities. We will seek further effective avenues for co-operation as appropriate. We will also take the necessary steps at a national level to fulfil our international obligations in this field.

#### **Budapest 1994** (Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

6. The participating States will not support terrorist acts in any way and will take appropriate measures to prevent and combat terrorism in all its forms. They will co-operate fully in combating the threat of terrorist activities through implementation of international instruments and commitments they agree upon in this respect (...)

#### **Istanbul 1999** (Charter for European Security: I. Our Common Challenges)

4. International terrorism, violent extremism, organized crime and drug trafficking represent growing challenges to security. Whatever its motives, terrorism in all its forms and manifestations is unacceptable...The excessive and destabilizing accumulation and uncontrolled spread of small arms and light weapons represent a threat to peace and security. We are committed to strengthening our protection against these new risks and challenges; strong democratic institutions and the rule of law are the foundation for this protection. We are also determined to co-operate more actively and closely with each other to meet these challenges.

**Bucharest 2001 (Ministerial Declaration)**

2. We resolutely condemn all acts of terrorism. Terrorism, whatever its motivation or origin, has no justification. No cause can justify the purposeful targeting of innocent people. In the fight against terrorism, there is no neutrality.

3. (...) We reiterate that the struggle against terrorism is not a war against religions or peoples (...)

**Bucharest 2001 (Decision No. 1 on Combating Terrorism)**

The 55 participating States of the OSCE stand united against terrorism, a scourge of our times.

The OSCE participating States resolutely condemn the barbaric acts of terrorism that were committed against the United States on 11 September 2001. They represented an attack on the whole of the international community, and on people of every faith and culture. These heinous deeds, as well as other terrorist acts in all forms and manifestations, committed no matter when, where or by whom, are a threat to international and regional peace, security and stability. There must be no safe haven for those perpetrating, financing, harbouring or otherwise supporting those responsible for such criminal acts (...)

The OSCE participating States will not yield to terrorist threats, but will combat them by all means in accordance with their international commitments. This will require a long and sustained effort, but they take strength from their broad coalition, reaching from Vancouver to Vladivostok (...) They firmly reject identification of terrorism with any nationality or religion (...)

The OSCE participating States pledge to reinforce and develop bilateral and multilateral co-operation within the OSCE, with the United Nations and with other international and regional organizations, in order to combat terrorism in all its forms and manifestations, wherever and by whomever committed. As a regional arrangement under Chapter VIII of the Charter of the United Nations, the OSCE is determined to contribute to the fulfilment of international obligations as enshrined, *inter alia*, in United Nations Security Council resolution 1373 (2001), and will act in conformity with the purposes and principles of the Charter of the United Nations. The OSCE participating States pledge to become parties to all 12 United Nations conventions and protocols related to terrorism as soon as possible. They call for a speedy finalization of negotiations for a Comprehensive United Nations Convention on International Terrorism.

(...)

(...) the OSCE Ministerial Council adopts The Bucharest Plan of Action for Combating Terrorism, annexed to this Decision.

**Bucharest 2001** (Annex to Decision No. 1 on Combating Terrorism: The Bucharest Plan of Action for Combating Terrorism)

## I. Goal of the Action Plan

1. (...) The OSCE participating States commit their political will, resources and practical means to the implementation of their obligations under existing international terrorism conventions (...)

## II. International legal obligations and political commitments

4. (...) The widest and most comprehensive participation in and implementation of existing instruments and commitments to combat terrorism by the participating States must be pursued and ensured.

5. Participating States: Pledge themselves to apply efforts to become parties to all 12 United Nations conventions and protocols relating to terrorism, by 31 December, 2002, if possible, recognizing the important role that parliamentarians may play in ratification and other anti-terrorism legislative processes...Will participate constructively in the ongoing negotiations at the United Nations on a Comprehensive Convention against International Terrorism and an International Convention for the Suppression of Acts of Nuclear Terrorism, with a view to their early and successful conclusion.

(...)

7. Participating States: Will consider how the OSCE may draw upon best practices and lessons learned from other relevant groups, organizations, institutions and fora in areas such as police and judicial co-operation; prevention and suppression of the financing of terrorism; denial of other means of support; border controls including visa and document security; and access by law enforcement authorities to information.

8. The participating States will also use the Forum for Security Co-operation (FSC) to strengthen their efforts in combating terrorism through full and timely implementation of all relevant measures agreed by the OSCE. To this end they will enhance implementation of existing politico-military commitments and agreements, in particular the Code of Conduct on Politico-Military Aspects of Security and the Document on Small Arms and Light Weapons (SALW) (...)

## III. Preventive action against terrorism in the OSCE area

(...)

11. Promoting human rights, tolerance and multi-culturalism: Participating States/Permanent Council/ODIHR/High Commissioner on National Minorities (HCNM)/Representative on Freedom of the Media: Will promote and enhance tolerance, co-existence and harmonious relations between ethnic, religious, linguistic and other groups as well as constructive co-operation among participating States in this regard. Will provide early warning of and appropriate responses to violence, intolerance, extremism

and discrimination against these groups and, at the same time, promote their respect for the rule of law, democratic values and individual freedoms. Will work to ensure that persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity.

(...)

13. Addressing negative socio-economic factors: Participating States/Secretariat: Will aim to identify economic and environmental issues that undermine security, such as poor governance; corruption; illegal economic activity; high unemployment; widespread poverty and large disparities; demographic factors; and unsustainable use of natural resources (...)

14. Preventing violent conflict and promoting peaceful settlement of disputes: Drawing on all its capacities, the OSCE will continue and intensify work aimed at early warning and appropriate response, conflict prevention, crisis management and post-conflict rehabilitation; will strengthen its ability to settle conflicts; will increase efforts to find lasting solutions to unresolved conflicts, including through promotion of the rule of law and crime prevention in such conflict zones through increased co-operation with the United Nations, the European Union and other international organizations; and will further develop its rapid deployment capability (REACT) in crisis situations.

15. Addressing the issue of protracted displacement: Participating States/ODIHR/HCNM/Representative on Freedom of the Media: Will explore strengthened OSCE potential for contributing to durable solutions, supporting and closely co-operating with other relevant organizations, primarily the Office of the United Nations High Commissioner for Refugees. Will closely monitor situations of protracted displacement.

16. Strengthening national anti-terrorism legislation: Participating States: Will commit themselves to implementing all the obligations they have assumed under relevant conventions and protocols relating to terrorism as well as the United Nations Convention against Transnational Organized Crime and its additional protocols, sharing information and methods in this regard and considering ways and means of co-operation in implementation at bilateral, OSCE-wide and sub-regional meetings.

(...)

24. Suppressing the financing of terrorism. Participating States: Will, within the framework of the United Nations Convention on the Suppression of Financing of Terrorism and UNSCR 1373 (2001), take action to prevent and suppress the financing of terrorism, criminalize the wilful provision or collection of funds for terrorist purposes, and freeze terrorist assets also bearing in mind UNSCR 1267 (1999). Will, in accordance with their domestic legislation and obligations under international law, provide early response to requests for information by another participating State and relevant international organizations.

25. Participating States/Secretariat: (...) Will consider how the OSCE may contribute, within the framework of its work on transparency and the fight against corruption, to the wider international effort to combat terrorism. Will consider taking on a catalytic role in providing targeted projects for the training of the personnel of domestic financial institutions in counter-terrorism areas, *inter alia* on monitoring of financial flows and on prevention of money laundering. Participating States will participate constructively in the forthcoming negotiations at the United Nations on a global instrument against corruption, with a view to their early and successful conclusion.

26. Preventing movement of terrorists: Participating States: Will prevent the movement of terrorist individuals or groups through effective border controls and controls on issuance of identity papers and travel documents, as well as through measures for ensuring the security of identity papers and travel documents and preventing their counterfeiting, forgery and fraudulent use. Will apply such control measures fully respecting their obligations under international refugee and human rights law. Will, through the proper application of the exclusion clauses contained in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, ensure that asylum is not granted to persons who have participated in terrorist acts. Will provide for the timely detention and prosecution or extradition of persons charged with terrorist acts, in accordance with their obligations under international and national law.

IV. Action under the Platform for Co-operative Security - Co-operation with other organizations (...)

28. Participating States/Secretariat: Will strengthen co-operation and information exchanges, both formally and informally, with other relevant groups, organizations, and institutions involved in combating terrorism. Will strengthen co-operation with the European Union on analysis and early warning and reinforce synergy with the Stability Pact for South Eastern Europe and the Central European Initiative in areas relevant to combating terrorism. Will promote dialogue within the OSCE area on issues relating to new threats and challenges. Will broaden dialogue with partners outside the OSCE area, such as the Mediterranean Partners for Co-operation and Partners for Co-operation in Asia, the Shanghai Co-operation Organization, the Conference on Interaction and Confidence-Building Measures in Asia, the Organization of the Islamic Conference, the Arab League, the African Union, and those States bordering on the OSCE area to exchange best practices and lessons learned in counter-terrorism efforts for application within the OSCE area (...)

**Bucharest 2001 (Decisions: Decision No. 9 on Police-Related Activities)**

The Ministerial Council,

(...)

Affirming that effective policing is essential to uphold the rule of law and to defend democratic institutions;

(...)

3. Decides to increase and promote co-operation among participating States in countering new security challenges, including by:

- at the request of participating States and with their agreement (...) providing and co-ordinating OSCE police training, including at the subregional level, with a view to:
- improving operational and tactical policing capacities;
- enhancing key policing skills, including respect for human rights and fundamental freedoms, and, as appropriate, dealing with the criminal aspects of illegal migration; and,
- increasing community policing, anti-drug, anti-corruption and anti-terrorist capacities; and,
- at the request of participating States and with their agreement: - providing advice or arranging for the provision of expert advice on requirements for effective policing (needs assessments) and how to meet them, (...) and,
- encouraging where appropriate the exchange of information among and between participating States regarding lessons learned and best policing practices in countering these new security challenges.

(...)

5. In keeping with the above undertakings, participating States commit to:

- enhance co-operation on police-related issues between and among themselves in order to address new risks and challenges to their security, both bilaterally and multilaterally, and, where appropriate, through increased contacts between relevant bodies; and,
- share OSCE expertise and lessons learned in police-related activities with other relevant international organizations of which they are members with a view to more effective international action to address these new risks and challenges to security.

### **Porto 2002** (Charter on Preventing and Combating Terrorism)

The OSCE participating States, firmly committed to the joint fight against terrorism,

(...)

2. (...) reaffirm that action against terrorism is not aimed against any religion, nation or people;

(...)



4. Declare that acts, methods and practices of terrorism, as well as knowingly providing assistance to, acquiescing in, financing, planning and inciting such acts, are contrary to the purposes and principles of the United Nations and the OSCE;

5. Consider of utmost importance to complement the ongoing implementation of OSCE commitments on terrorism with a reaffirmation of the fundamental and timeless principles on which OSCE action has been undertaken and will continue to be based in the future, and to which participating States fully subscribe;

(...)

8. Reaffirm that every State is obliged to refrain from (...) organizing, instigating, providing active or passive support or assistance to, or otherwise sponsoring terrorist acts in another State (...)

(...)

11. Recognize that the relevant United Nations conventions and protocols, and United Nations Security Council resolutions, in particular United Nations Security Council resolution 1373 (2001), constitute the primary international legal framework for the fight against terrorism;

12. Recognize the importance of the work developed by the United Nations Security Council Counter-Terrorism Committee and reaffirm the obligation and willingness of participating States and the OSCE to co-operate with this Committee;

13. Recall the OSCE's role as a regional arrangement under Chapter VIII of the United Nations Charter, and its obligations in this context to contribute to the global fight against terrorism;

(...)

15. Take note with satisfaction of the Declaration and the Programme of Action adopted at the Bishkek International Conference on Enhancing Security and Stability in Central Asia: Strengthening Comprehensive Efforts to Counter Terrorism, held on 13 and 14 December 2001;

(...)

17. Underscore that the prevention of and fight against terrorism must be built upon a concept of common and comprehensive security and enduring approach, and commit to using the three dimensions and all the bodies and institutions of the OSCE to assist participating States, at their request, in preventing and combating terrorism in all its forms;

18. Undertake to fulfil their obligation, in accordance with the United Nations conventions, protocols and Security Council resolutions, as well as other international commitments, to ensure that terrorist acts and activities that support such acts, includ-

ing the financing of terrorism, are established as serious criminal offences in domestic laws;

19. Will work together to prevent, suppress, investigate and prosecute terrorist acts, including through increased co-operation and full implementation of the relevant international conventions and protocols relating to terrorism;

20. Are convinced of the need to address conditions that may foster and sustain terrorism, in particular by fully respecting democracy and the rule of law, by allowing all citizens to participate fully in political life, by preventing discrimination and encouraging intercultural and inter-religious dialogue in their societies, by engaging civil society in finding common political settlement for conflicts, by promoting human rights and tolerance and by combating poverty;

21. Acknowledge the positive role the media can play in promoting tolerance and understanding among religions, beliefs, cultures and peoples, as well as for raising awareness of the threat of terrorism;

22. Commit themselves to combat hate speech and to take the necessary measures to prevent the abuse of the media and information technology for terrorist purposes, ensuring that such measures are consistent with domestic and international law and OSCE commitments;

23. Will prevent the movement of terrorist individuals or groups through effective border controls and controls relating to the issuance of identity papers and travel documents;

(...)

25. Reaffirm their commitment to fulfil their international obligations, as set out in United Nations Security Council resolutions 1373 (2001) and 1390 (2002), and in particular to freeze the assets of those designated by the Committee established pursuant to United Nations Security Council resolution 1267 (1999);

26. Note with concern the links between terrorism and transnational organized crime, money laundering, trafficking in human beings, drugs and arms, and in this regard emphasize the need to enhance co-ordination and to develop co-operative approaches at all levels in order to strengthen their response to these serious threats and challenges to security and stability (...)

**Porto 2002** (Decisions: Decision No. 1 on Implementing the OSCE Commitments and Activities on Combating Terrorism)

The Ministerial Council,

(...)

Commit themselves to work towards the successful conclusion of negotiations on new universal instruments in this field, presently under way within the United Nations and confirms their readiness to consider, in co-ordination with the United Nations Security Council Counter-Terrorism Committee, requests for technical assistance and capacity building with a view to advancing the ratification and implementation of United Nations and other relevant instruments on terrorism;

(...)

Recalls the Personal Representative of the Chairman-in-Office for Preventing and Combating Terrorism's recommendation that the OSCE pursue activities *inter alia* in policing, border security, anti-trafficking and suppressing terrorist financing (...)

Decides that the OSCE participating States, bodies and institutions will intensify their efforts and their collective commitment to combat terrorism and the conditions that may foster and sustain it by exploiting its strengths and comparative advantages: its comprehensive approach to security; its expertise in early-warning, conflict prevention, crisis management and post-conflict rehabilitation; its wide ranging repertoire of proven confidence- and security-building measures and its expertise in capacity building.

### **Maastricht 2003** (OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century)

Threats to security and stability in the twenty-first century

10. Terrorism is one of the most important causes of instability in the current security environment. It seeks to undermine the very values that unite the participating States in the OSCE area. Terrorism will remain a key challenge to peace and stability and to State power, particularly through its ability to use asymmetric methods to bypass traditional security and defence systems. There is no justification for terrorism whatsoever. At the same time, terrorism requires a global approach, addressing its manifestations as well as the social, economic and political context in which it occurs.

(...)

Addressing terrorism and threats arising from other criminal activities

29. (...) Special attention will be given to capacity building and other assistance in the sphere of counter-terrorism (...). Such measures include denying safe havens to terrorists and eliminating conditions in which terrorists may recruit and gain support. They also aim at preventing terrorists from increasing their capabilities, including by preventing terrorists from gaining access to SALW and other conventional weapons as well as WMD and associated technologies. Close interaction with other relevant international organizations and bodies, in particular the UN Security Council Counter-Terrorism Committee (UN CTC) and the UN Office on Drugs and Crimes (UNODC), is sought through joint meetings, contacts at all levels and specific programmes and projects.

30. The OSCE has also decided to establish a Counter-Terrorism Network to promote the strengthening of co-ordination of counter-terrorism measures and information sharing between OSCE participating States and to support and supplement the work of the UN CTC in implementing Security Council resolution 1373.

(...)

35. Threats of terrorism and organized crime are often interlinked, and synergetic approaches to deal with them will be further explored. Cross-border movement of persons, resources and weapons as well as trafficking for the purpose of financing and providing logistic support play an increasing role for terrorist activities. The OSCE is committed to addressing these problems and to strengthening its capacities to promote open and secure borders, *inter alia*, through the elaboration of an OSCE Border Security and Management Concept in order to enhance capacity building and mutually beneficial inter-State co-operation.

#### **Sofia 2004** (Ministerial Statement on Preventing and Combating Terrorism)

1. We, the members of the Ministerial Council of the OSCE (...) declare our resolute and unconditional condemnation of terrorist acts, in particular those committed in 2004 in Spain, Uzbekistan, Turkey and Russia (...) We grieve the loss of hundreds of human lives and express our profound solidarity with victims of acts of terrorism and their families. These acts have vividly exposed terrorism's inhuman nature. We express our solidarity with the States not participating in our Organization which were also attacked by terrorists.

Reiterating that terrorism constitutes one of the most serious threats to peace and security and considering that acts of terrorism seriously impair the enjoyment of human rights, we reaffirm our commitment to protect the enjoyment of human rights and fundamental freedoms, especially the right to life, of everyone within our jurisdiction against terrorist acts (...)

2. We underscore the leading role of the United Nations in the comprehensive fight against terrorism.

We reaffirm obligations and commitments adopted by our States in the field of combating terrorism within the United Nations, including resolutions 1267 (1999), 1373 (2001), 1456 (2003), 1535 (2004), 1540 (2004) and 1566 (2004) of the United Nations Security Council, as well as resolution 58/187 of the United Nations General Assembly, and we support the resolution 2004/87 of the United Nations Commission on Human Rights. (...)

We welcome the importance attributed by UN Security Council resolution 1566 (2004) to the role of relevant international, regional and subregional organizations in strengthening international co-operation in the fight against terrorism and the call for intensified interaction with the United Nations.

We underline our determination to support the important efforts of the UN Security Council Counter-Terrorism Committee and of its Executive Directorate (...)

3. We (...) support the work of the Action against Terrorism Unit of the OSCE Secretariat.

We are convinced that the package of practical decisions that we adopt and welcome today\*, and their further implementation will increase the level of security and stability in the OSCE area. These decisions will help ensure implementation of our obligations under international law to prevent and combat terrorism.

4. (...) We reaffirm that the OSCE efforts to counter terrorist threats should be taken in all OSCE dimensions, the security dimension, including the politico-military area, the economic and environmental dimension, and the human dimension. Based on the common, comprehensive and indivisible approach to security, our Organization could make further substantial contributions to global anti-terrorist efforts.

We are convinced that respect of human rights and fundamental freedoms is an important element of ensuring peace and stability and prevention of terrorism. We acknowledge that effective prevention of and fight against terrorism require the involvement of civil society in our countries.

(...) We will actively co-operate to find and bring to justice the perpetrators, organizers, supporters and sponsors of terrorist acts.

We also will continue to develop interaction and dialogue on the issues of preventing and combating terrorism with the Mediterranean and Asian Partners for Co-operation.

**Sofia 2004** (Decisions: Decision No. 3/04 on Combating the Use of the Internet for Terrorist Purposes)

The Ministerial Council,

(...) Concerned by the extent of use of the Internet by terrorist organizations:

- To identify and to recruit potential members,
- To collect and transfer funds,
- To organize terrorist acts,
- To incite terrorist acts in particular through the use of propaganda,

\* Permanent Council Decision No. 617 on Further Measures to Suppress Terrorist Financing (1 July 2004)

Permanent Council Decision No. 618 on Solidarity with Victims of Terrorism (1 July 2004)

Ministerial Decision on Combating the Use of the Internet for Terrorist Purposes

Ministerial Decision on Enhancing Container Security

Ministerial Decision on Reporting Lost/Stolen Passports to Interpol's ASF-STD

Decides that participating States will exchange information on the use of the Internet for terrorist purposes and identify possible strategies to combat this threat (...)

#### **6.4.2 Respecting Human Rights and the Rule of Law While Combating Terrorism**

##### **Madrid 1983** (Questions Relating to Security in Europe: Principles)

The participating States (...) express their determination to take effective measures for the prevention and suppression of acts of terrorism...They agree to do so in conformity with (...) the Helsinki Final Act.

##### **Copenhagen 1990**

(6) The participating States (...) recognize their responsibility to defend and protect, in accordance with their laws, their international human rights obligations and their international commitments, the democratic order freely established through the will of the people against the activities of persons, groups or organizations that engage in or refuse to renounce terrorism or violence aimed at the overthrow of that order or of that of another participating State.

##### **Bucharest 2001** (Ministerial Declaration)

3. (...) We reiterate that the struggle against terrorism is not a war against religions or peoples. We reaffirm our commitment to protecting human rights and fundamental freedoms.

4. We are determined to protect our citizens from new challenges to their security while safeguarding the rule of law, individual liberties, and the right to equal justice under law.

##### **Bucharest 2001** (Decision No. 1 on Combating Terrorism)

(...) The OSCE participating States will not yield to terrorist threats, but will combat them by all means in accordance with their international commitments (...) They will defend freedom and protect their citizens against acts of terrorism, fully respecting international law and human rights. They firmly reject identification of terrorism with any nationality or religion and reconfirm the norms, principles and values of the OSCE.

##### **Bucharest 2001** (Annex to Decision 1 on Combating Terrorism: The Bucharest Plan of Action for Combating Terrorism)

26. Preventing movement of terrorists: Participating States: Will prevent the movement of terrorist individuals or groups through effective border controls and controls on issuance of identity papers and travel documents... Will apply such control measures fully respecting their obligations under international refugee and human rights law.

##### **Porto 2002** (Charter on Preventing and Combating Terrorism)

The OSCE participating States (...)

5. Consider of utmost importance to complement the ongoing implementation of OSCE commitments on terrorism with a reaffirmation of the fundamental and timeless principles on which OSCE action has been undertaken and will continue to be based in the future, and to which participating States fully subscribe;

6. Reaffirm their commitment to take the measures needed to protect human rights and fundamental freedoms, especially the right to life, of everyone within their jurisdiction against terrorist acts;

7. Undertake to implement effective and resolute measures against terrorism and to conduct all counter-terrorism measures and co-operation in accordance with the rule of law, the United Nations Charter and the relevant provisions of international law, international standards of human rights and, where applicable, international humanitarian law;

**Sofia 2004** (Ministerial Statement on Preventing and Combating Terrorism)

(...) We re-emphasize our determination to combat terrorism in all its forms and manifestations (...) and to conduct this fight with respect for the rule of law and in accordance with our obligations under international law, in particular international human rights, refugee and humanitarian law.

2. We underscore the leading role of the United Nations in the comprehensive fight against terrorism (...) we support the resolution 2004/87 of the United Nations Commission on Human Rights (...)

**Sofia 2004** (Decisions: Decision No. 3/04 on Combating the Use of the Internet for Terrorist Purposes)

(...) Concerned by the extent of use of the Internet by terrorist organizations (...) Decides that participating States will exchange information on the use of the Internet for terrorist purposes and identify possible strategies to combat this threat, while ensuring respect for international human rights obligations and standards, including those concerning the rights to privacy and freedom of opinion and expression;

**6.4.3 Prevention of Terrorism-Related Activities on the Territory of Participating States**

**Madrid 1983** (Questions Relating to Security in Europe: Principles)

In the context of the combat against acts of terrorism, they will take all appropriate measures in preventing their respective territories from being used for the preparation, organization or commission of terrorist activities, including those directed against other participating States and their citizens. This also includes measures to prohibit on their territories illegal activities of persons, groups and organizations that instigate, organize or engage in the perpetration of acts of terrorism.

**Vienna 1989** (Questions Relating to Security in Europe: Principles)

(10) (...) the participating States express their intention

(...)

(10.3.) - to prevent on their territories illegal activities of persons, groups or organizations that instigate, organize or engage in the perpetration of acts of terrorism or subversive or other activities directed towards the violent overthrow of the regime of another participating State;

**Istanbul 1999** (Charter for European Security: I. Our Common Challenges)

4. (...) We will enhance our efforts to prevent the preparation and financing of any act of terrorism on our territories and deny terrorists safe havens (...)

**Bucharest 2001** (Annex to Decision No. 1 on Combating Terrorism: The Bucharest Plan of Action for Combating Terrorism)

24. Suppressing the financing of terrorism. Participating States: Will, within the framework of the United Nations Convention on the Suppression of Financing of Terrorism and UNSCR 1373 (2001), take action to prevent and suppress the financing of terrorism, criminalize the wilful provision or collection of funds for terrorist purposes, and freeze terrorist assets also bearing in mind UNSCR 1267 (1999). Will, in accordance with their domestic legislation and obligations under international law, provide early response to requests for information by another participating State and relevant international organizations.

25. Participating States/Secretariat: (...) Will consider how the OSCE may contribute, within the framework of its work on transparency and the fight against corruption, to the wider international effort to combat terrorism. Will consider taking on a catalytic role in providing targeted projects for the training of the personnel of domestic financial institutions in counter-terrorism areas, *inter alia* on monitoring of financial flows and on prevention of money laundering. Participating States will participate constructively in the forthcoming negotiations at the United Nations on a global instrument against corruption, with a view to their early and successful conclusion.

26. Preventing movement of terrorists: Participating States: Will prevent the movement of terrorist individuals or groups through effective border controls and controls on issuance of identity papers and travel documents, as well as through measures for ensuring the security of identity papers and travel documents and preventing their counterfeiting, forgery and fraudulent use. Will apply such control measures fully respecting their obligations under international refugee and human rights law. Will, through the proper application of the exclusion clauses contained in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, ensure that asylum is not granted to persons who have participated in terrorist acts. Will provide for the timely detention and prosecution or extradition of persons charged with terrorist acts, in accordance with their obligations under international and national law.



**Porto 2002** (Charter on Preventing and Combating Terrorism)

The OSCE participating States, firmly committed to the joint fight against terrorism,

8. Reaffirm that every State is obliged to refrain from harbouring terrorists, organizing, instigating, providing active or passive support or assistance to, or otherwise sponsoring terrorist acts in another State, or acquiescing in organized activities within its territory directed towards the commission of such acts;

(...)

24. Recognize the need to complement international co-operation by taking all necessary measures to prevent and suppress, in their territories through all lawful means, assistance to, and the financing and preparation of, any acts of terrorism, and to criminalize the wilful provision or collection of funds for terrorist purposes, in the framework of their obligations under the International Convention for the Suppression of the Financing of Terrorism and relevant Security Council resolutions;

**6.4.4 Extradition and Prosecution of Persons Implicated in Terrorist Acts****Vienna 1989** (Questions Relating to Security in Europe: Principles)

(10) (...) the participating States express their intention

(...)

(10.5) - to ensure the extradition or prosecution of persons implicated in terrorist acts and to co-operate closely in cases of conflict of jurisdiction where several States are concerned, acting in both respects in accordance with the relevant international agreements;

**Budapest 1994** (Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

6. The participating States (...) will, in particular, take steps to fulfil the requirements of international agreements by which they are bound to prosecute or extradite terrorists.

**Bucharest 2001** (Annex to Decision No. 1 on Combating Terrorism: The Bucharest Plan of Action for Combating Terrorism)

19. Supporting law enforcement and fighting organized crime: Participating States: (...) Will afford one another the greatest measure of assistance in providing information in connection with criminal investigations or criminal extradition proceedings relating to terrorist acts, in accordance with their domestic law and international obligations.

**Porto 2002** (Charter on Preventing and Combating Terrorism)

The OSCE participating States, firmly committed to the joint fight against terrorism,

(...)

10. Will take appropriate steps to ensure that asylum is not granted to any person who has planned, facilitated or participated in terrorist acts, in conformity with relevant provisions of national and international law (...)

(...)

18. Undertake to fulfil their obligation, in accordance with the United Nations conventions, protocols and Security Council resolutions, as well as other international commitments, to ensure that terrorist acts and activities that support such acts, including the financing of terrorism, are established as serious criminal offences in domestic laws;

19. Will work together to prevent, suppress, investigate and prosecute terrorist acts, including through increased co-operation and full implementation of the relevant international conventions and protocols relating to terrorism;

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## 7. Commitments Related to International Humanitarian Law

### **Helsinki 1992** (Decisions: VI. The Human Dimension)

The participating States

(47) Recall that international humanitarian law is based upon the inherent dignity of the human person;

(48) Will in all circumstances respect and ensure respect for international humanitarian law including the protection of the civilian population;

(49) Recall that those who violate international humanitarian law are held personally accountable;

(50) Acknowledge the essential role of the International Committee of the Red Cross in promoting the implementation and development of international humanitarian law, including the Geneva Conventions and their relevant Protocols;

(51) Reaffirm their commitment to extend full support to the International Committee of the Red Cross, as well as to the Red Cross and Red Crescent Societies, and to the United Nations organizations, particularly in times of armed conflict, respect their protective emblems, prevent the misuse of these emblems and, as appropriate, exert all efforts to ensure access to the areas concerned;

(52) Commit themselves to fulfilling their obligation to teach and disseminate information about their obligations under international humanitarian law.

### **Stockholm 1992** (Decisions: 2. The CSCE as a Community of Values)

The increasing problem of refugees and displaced persons is an issue of major concern to all participating States, particularly in conflicts where the fulfilment of basic human needs is most at risk. The Ministers deplored the plight of civil populations most affected in such conflicts and called on all participating States to contribute to a con-

certed effort to share the common burden. All Governments are accountable to each other for their behaviour towards their citizens and towards their neighbours. Individuals are to be held personally accountable for war crimes and acts in violation of international humanitarian law.

**Rome 1993** (Decisions: X. Declaration on Aggressive Nationalism, Racism, Chauvinism, Xenophobia and Anti-Semitism)

4. The Ministers focused attention on the need for urgent action to enforce the strict observance of the norms of international humanitarian law, including the prosecution and punishment of those guilty of war crimes and other crimes against humanity.

**Budapest 1994** (Decisions: IV. Code of Conduct on Politico-Military Aspects of Security)

29. The participating States will make widely available in their respective countries the international humanitarian law of war. They will reflect, in accordance with national practice, their commitments in this field in their military training programmes and regulations.

30. Each participating State will instruct its armed forces personnel in international humanitarian law, rules, conventions and commitments governing armed conflict and will ensure that such personnel are aware that they are individually accountable under national and international law for their actions.

31. The participating States will ensure that armed forces personnel vested with command authority exercise it in accordance with relevant national as well as international law and are made aware that they can be held individually accountable under those laws for the unlawful exercise of such authority and that orders contrary to national and international law must not be given. The responsibility of superiors does not exempt subordinates from any of their individual responsibilities.

(...)

34. Each participating State will ensure that its armed forces are, in peace and in war, commanded, manned, trained and equipped in ways that are consistent with the provisions of international law and its respective obligations and commitments related to the use of armed forces in armed conflict, including as applicable the Hague Conventions of 1907 and 1954, the Geneva Conventions of 1949 and the 1977 Protocols Additional thereto, as well as the 1980 Convention on the Use of Certain Conventional Weapons.

35. Each participating State will ensure that its defence policy and doctrine are consistent with international law related to the use of armed forces, including in armed conflict, and the relevant commitments of this Code.

**Budapest 1994** (Decisions: VIII. The Human Dimension)

33. The participating States deeply deplore the series of flagrant violations of international humanitarian law that occurred in the CSCE region in recent years and reaffirm

their commitment to respect and ensure respect for general international humanitarian law and in particular for their obligations under the relevant international instruments, including the 1949 Geneva Conventions and their additional protocols, to which they are a party.

34. They emphasize the potential significance of a declaration on minimum humanitarian standards applicable in all situations and declare their willingness to actively participate in its preparation in the framework of the United Nations. They commit themselves to ensure adequate information and training within their military services with regard to the provisions of international humanitarian law and consider that relevant information should be made available.

35. They highly value the developing co-operation between the CSCE and the International Committee of the Red Cross (ICRC), in particular in the case of CSCE missions, and welcome the readiness of the ICRC to develop this co-operation and commit themselves to further extend support to the ICRC, in particular by strengthening contacts already established between CSCE missions and the ICRC's delegations in the field.

**Istanbul 1999** (Charter for European Security: III. Our Common Response)

22. We reject any policy of ethnic cleansing or mass expulsion (...) In order to enhance the protection of civilians in times of conflict, we will seek ways of reinforcing the application of international humanitarian law.

**Sofia 2004** (Ministerial Declaration on the Sixtieth Anniversary of the End of World War II)

(...) We condemn all forms of ethnic cleansing. We confirm our adherence to the UN Convention on the Prevention and Punishment of the Crime of Genocide adopted on 9 December 1948. We call on the participating States to take every possible action to ensure that attempts to commit genocide are prevented today and in the future. The perpetrators of such crimes should be brought to justice.

**Sofia 2004** (Decisions: Annex to Decision No. 14/04, 2004 OSCE Action Plan for the Promotion of Gender Equality)

- Support national and international efforts to bring to justice those who have perpetrated crimes against women which under applicable rules of international law are recognized as war crimes or crimes against humanity (...)



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