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OSCE REGION: OSCE commitments on freedom of religion or belief

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As the Organisation for Security and Co-operation in Europe (OSCE) approaches its Human Dimension Implementation Meeting (HDIM) in Warsaw, Forum 18 News Service has gathered together some of the OSCE's most important and relevant commitments in the field of freedom of religion or belief. Human dimension commitments, including the commitments listed here, are agreed unanimously among all 56 participating States. All these countries have publicly promised to implement their commitments, and they have also agreed that the implementation of commitments is a legitimate matter of concern for all participating States and civil society. As has been repeatedly emphasised at OSCE meetings, a particular responsibility rests on the country holding the function of Chairperson-in-Office to set a good example in implementing commitments; in 2010, this country will be Kazakhstan.

The Organisation for Security and Co-operation in Europe (OSCE) is a security organisation of 56 states from Central Asia, Europe and North America. It is based on the insight that genuine security is not just a military question but consists of three elements: the "human dimension" as it is described in the OSCE <<http://www.osce.org/odihr/13371.html>>, meaning human rights and democracy; politico-military factors; and economic and environmental factors. Freedom of religion or belief is a fundamental human dimension commitment, and falls within the mandate of the OSCE's Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR) <<http://www.osce.org/odihr/20056.html>>.

Commitments on freedom of religion or belief and other fundamental freedoms are explicitly seen as being based on human rights agreements such as the International Covenant on Civil and Political Rights. OSCE commitments are not seen as alternatives to fulfilling commitments in international law, or as being in conflict with such commitments. As the ODIHR notes on its website, "no government can claim they have to establish political or economic security before addressing human rights and democracy".

Flowing directly from the OSCE concept of security, civil society organisations such as NGOs and religious communities participate in OSCE meetings and activities - such as the forthcoming Human Dimension Implementation Meeting (HDIM) in Warsaw, which runs from 28 September to 9 October 2009. The ability of civil society organisations to participate in the OSCE's work is a unique feature among intergovernmental security organisations, as is the explicit structural link between respect for human rights and greater security. It is also the only regional security organisation to have agreed that pluralistic democracy based on the rule of law is the only system of government that can effectively guarantee human rights, and hence national and international security.

OSCE commitments are agreed unanimously among all participating States and are politically binding, not legally binding. All participating States have publicly promised to implement these commitments, and they have also agreed that the implementation of commitments is a legitimate matter of concern for all participating States and civil society. As the ODIHR website notes, "OSCE 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."

Asking for implementation of commitments is to ask for something that the government concerned has already agreed to do, as it has also agreed that its progress in implementation - or lack of implementation - may be publicly monitored and questioned. As has been repeatedly emphasised at OSCE meetings, a particular responsibility rests on the holder of the function of Chairperson-in-Office to set a good example in implementing commitments.

Some of the most important and relevant human dimension commitments in the field of freedom of religion or belief are listed below. (Printer friendly and PDF views of this article are available at <http://www.forum18.org/Archive.php?article_id=1351>.)

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Final Act of the Conference on Security and Co-operation in Europe (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.

(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.

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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.

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Concluding Document of the Vienna Meeting of Representatives of the Participating States of the Conference on Security and Co-operation in Europe (Vienna 1989)

(Questions Relating to Security in Europe: Principles)

(11) [The participating States] confirm that they 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. They also confirm the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and security necessary to ensure the development of friendly relations and co-operation among themselves, as among all States.

(13.7) [The participating States will] 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;

(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.

(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. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others.

(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.

(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.

(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.

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Document of the Copenhagen Meeting of Representatives of the Participating States of the Conference on the Human Dimension of the Conference on Security and Co-operation in Europe (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;

(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.

(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.

(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.

(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 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. 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.

(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

(...)

(32.2) - 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;

(..)

(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;

(..)

(32.6) - to establish and maintain organizations or associations within their country and to participate in international non-governmental organizations. 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. 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.

(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.

(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.

(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.

(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

(40.1) - 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;

(40.2) - 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;

(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;

(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;

(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.

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Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE (Moscow 1990)

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. They 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

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Budapest 1994

(Decisions: VIII. The Human Dimension)

(27.) [The participating States] 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.

(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.

(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

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The Charter for European Security (Istanbul 1999)

At the dawn of the twenty-first century we, the Heads of State or Government of the OSCE participating States, declare our firm commitment to a free, democratic and more integrated OSCE area where participating States are at peace with each other, and individuals and communities live in freedom, prosperity and security.

(III Our Common Response) (The Human Dimension)

(19.) We reaffirm that 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. 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.

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OSCE Charter on Preventing and Combating Terrorism (Porto 2002)

The OSCE participating States, firmly committed to the joint fight against 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;

(Decisions: Decision No. 6/02 on Tolerance and Non-discrimination)

The Ministerial Council,

Recalling the principles of human rights and the inherent dignity of the human being, freedom of thought, conscience, religion or belief that underpin the general provisions of the OSCE human dimension commitments,

(..)

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,

Reaffirming the internationally recognized prohibition of discrimination, without adverse distinction of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national or social origin, property, birth or other status,

(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;

(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;

(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;

(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;

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Maastricht 2003

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

The Ministerial Council,

Recognizing that respect for human rights and fundamental freedoms, democracy and the rule of law are at the core of the OSCE's comprehensive concept of security,

(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;

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Ministerial Declaration on the Occasion of the 60th Anniversary of the Universal Declaration of Human Rights (Helsinki 2008)

We, the members of the Ministerial Council of the OSCE, reaffirm our strong commitment to the Universal Declaration of Human Rights ("the Universal Declaration"), adopted by the United Nations General Assembly on 10 December 1948.

On the occasion of the 60th anniversary of the adoption of the Universal Declaration, we recommit ourselves to act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights.

In the spirit of the Helsinki Final Act, we underline the principles guiding relations between participating States enshrined therein, in

particular the respect for human rights and fundamental freedoms.

We stress that all human rights are universal.

We remain committed to respecting the inherent dignity of the human being, as recognized in the Universal Declaration and relevant OSCE documents to which we have agreed.

We declare that the rights contained in the Universal Declaration remain relevant.

We reaffirm to ensure the full implementation of the OSCE human dimension commitments. All OSCE commitments without exception apply equally to each participating State.

We reaffirm the inseparable connection between ensuring respect for human rights and maintaining peace, justice, well-being for peoples and stability, as recognized by the OSCE concept of common and comprehensive security.

Taking into account the principles guiding relations between participating States enshrined in the Helsinki Final Act, we reaffirm that the commitments undertaken in the field of the OSCE human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned as stipulated in the 1991 Moscow document.

(..)

We remain committed to 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.

We stress that everyone has the right to life, liberty and security of person; no one shall be held in slavery, and no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

We recognize that human rights are best respected in democratic societies, where decisions are taken with maximum transparency and broad participation. We support a pluralistic civil society and encourage partnerships between different stakeholders in the promotion and protection of human rights.

We reiterate that everyone has the right to freedom of thought, conscience, religion or belief; freedom of opinion and expression, freedom of peaceful assembly and association. The exercise of these rights may be subject to only such limitations as are provided by law and consistent with our obligations under international law and with our international commitments. (END)

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