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REGIONAL HUMAN RIGHTS INSTRUMENTS - THE OSCE HUMAN DIMENSION

Summary: The term "human dimension" is used in OSCE terminology to describe the set of norms and activities related to human rights, democracy, and the rule of law. The human dimension is regarded within the OSCE as one of three dimensions of its concept of comprehensive security, together with the politico-military and the economic and environmental dimensions.

A fundamental concept of the OSCE's human dimension is that human rights and pluralistic democracy are not considered the 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.

The OSCE has created a large set of human rights commitments 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 article will elaborate the evolution of CSCE/OSCE human dimension, the so-called human dimension mechanism, as well as, the OSCE institutions with relevance to the human dimension.

Key words: CSCE/OSCE human dimension, Vienna mechanism, Moscow mechanism, the Office for Democratic Institution and Human Rights, the OSCE High Commissioner on National Minorities, the Representative on Freedom of the Media

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The origins and the nature of the OSCE¹

Formerly known as the CSCE (Conference on Security and Cooperation in Europe), the OSCE (Organization for Security and Cooperation in Europe) was originally set in motion by the Helsinki Final Act² (HFA) of 1975. Signed by 35 states, 33 European, plus the United States and Canada, the Act served to regulate the process of *détente* between East and West. Following the Cold War, the OSCE has been expected to function as a security organization to prevent conflict, and to promote democracy in the former Eastern Bloc.

The OSCE process started in early 1970s as a forum for dialogue between East and West. A series of conferences served to enumerate principles on which Eastern (Warsaw-pact) states and the Western states could agree. After two years of negotiations in a series of conferences in Geneva and Helsinki, the Helsinki Final Act was signed by the 35 OSCE Heads of State or Government on August 1, 1975.

The three 'baskets' formed the core of the Helsinki Final Act. Today, these 'baskets' are usually referred to as the OSCE's three 'dimensions', which are as follows:

- The politico-military dimension,
- The economic and environmental dimension,
- The human dimension.

The OSCE takes a comprehensive approach to the *politico-military dimension* of security, which includes a number of commitments by participating States and mechanisms for conflict prevention and resolution. The Organization also seeks to enhance military security by promoting greater openness, transparency and co-operation. Basket I issues are focused primarily on a set of principles to govern relations among states in the realm of security and on specific "confidence-building measures" (CBMs).

Basket II issues concerned cooperation in the fields of economics, science and technology, and the environment. Activities in the *economic and environmental dimension* include the monitoring of developments in this area among participating States, with the aim of alerting them to any threat of conflict, and assisting in the creation of economic and environmental policies and related initiatives to promote security in the OSCE region.

¹ This article will use the term OSCE to refer to both the prior and the current body.

² Conference on Security and Cooperation in Europe: Final Act (Helsinki Accord), 1 Aug. 1975, reprinted in 14 I.L.M. 1292 (1975) (hereinafter referred to as Helsinki Final Act), available at: <http://www.osce.org/mc/39501?download=true>.

The commitments made by the OSCE participating States in *the human dimension* aim to ensure full respect for human rights and fundamental freedoms; to abide by the rule of law; to promote the principles of democracy by building, strengthening and protecting democratic institutions; and to promote tolerance throughout the OSCE area. The Helsinki Final Act acknowledges as one of its ten guiding principles "respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief".³ 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. There is no hierarchy among these principles, and no government can claim they have to establish political or economic security before addressing human rights and democracy. It is the OSCE view that a free society allowing everyone to fully participate in public life is a safeguard against conflict and instability.

Since its beginnings, the OSCE has followed a process approach. The Helsinki Final Act provides for regular follow-up conferences and meetings. Until 1990 there were no formal institutions. Even now, a strong emphasis is placed on the process-aspects. The OSCE process consists of the convening by the participating states of periodic inter-governmental conferences, meetings, and consultations to discuss the relations between the participating states, based on the principles of sovereignty and equality. 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 (Glover, 1995: 31).

The human dimension of the OSCE

The Human Dimension (HD) may be defined as the corpus of undertakings laid down in the Helsinki Final Act and in other OSCE documents con-

³ The Helsinki Final Act, first and foremost, contains the "Decalogue," ten principles that should govern interstate relations: 1. Sovereign equality, respect for the rights inherent in sovereignty; 2. Refraining from the threat or use of force; 3. Inviolability of frontiers; 4. Territorial integrity of states; 5. Peaceful settlement of disputes; 6. Non-intervention in internal affairs; 7. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief; 8. Equal rights and self-determination of peoples; 9. Cooperation among states; 10. Fulfilment in good faith of obligations under international law.

cerning respect for human rights and fundamental freedoms, human contacts and other related issues, including the rule of law and democracy. The expression 'Human Dimension' refers to the Seventh Principle of the 1975 Helsinki Final Act (Decalogue) and a large part of the Third Basket introduced in the 1989 Vienna Final Act⁴.

- During the Cold War era, the differences between East and West were particularly apparent in the human rights field. While Western delegations emphasised civil and political rights and their close links with other CSCE issues, the communist countries emphasised economic, social and cultural rights and the principle of non-intervention. At the OSCE-meetings in the 1970s and early 1980s, results were only achieved in the fields such as:
- Human contacts; related to matters like family reunion, marriage between nationals of two participating states, travel (visa and passport applications), international exchanges of young people, and sports.
- The free exchange of information; agreements were reached to improve the availability of newspapers and ease restrictions on journalists even in the difficult times of the Cold War.
- Cultural co-operation and exchange; since the adoption of the Madrid Concluding Document (1983), attempts were made to clear obstacles in this field. The establishment of a direct dialogue was also the objective of the Budapest Cultural Forum in the autumn of 1985.
- Initiatives to co-operate in the field of education; the exchange of students, tutors and academics; scientific co-operation, the dissemination of scientific information and co-operation in research; the study of foreign languages; and the exchange of experience in education.

While the concept of the "Human Dimension of the OSCE" has been in use for a long time, it only became official at the Vienna Meeting in 1989 when it was introduced by the western delegations in their proposal for a mechanism to monitor compliance with the OSCE commitments on human rights and human contacts. It is defined as covering "all human rights and fundamental freedoms, human contacts and other issues of a related humanitarian character."⁵ In addition, the term also covers issues related to pluralist democracy, democratic institutions and the rule of law.

The OSCE has created a large set of human rights commitments 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.

⁴ See in: *Dokumenti KEBS 1975-1995*, Beograd, 1995, pp.127-139.

⁵ Vienna Document 1989 in *Dokumenti KEBS 1975-1995, Zaključni document, prateći sastanak KEBS, Beč, 1986-1989, op.cit.*, p.138.

So, the term "human dimension" is used in the OSCE terminology to describe the set of norms and activities related to human rights, democracy, and the rule of law. The human dimension is regarded within the OSCE as one of three dimensions of its concept of comprehensive 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.

The meetings relevant to the Human Dimension

The OSCE commitments generally take the form of documents adopted by consensus at the 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.

The First Follow-up Meeting (Belgrade, October 1977 March 1978) ended after a year of discussions with a largely pointless final document in which the participating states agreed to reconvene at a later date.⁶

The Second Follow-up Meeting in Madrid lasted with breaks from 11 November 1980 until 9 September 1983 and did result in a substantial concluding document (Никодиновска, 2001:57-63). The participants codified a number of new commitments, including in the Human Dimension field the right to establish and join trade unions, the right of trade unions freely to exercise their activities, religious freedom and the equality of the sexes. In addition, the OSCE countries agreed on better arrangements for reuniting families.

The Third Follow-up Meeting took place in Vienna between 4 November 1986 and 19 January 1989. Here the participants were able to make significant progress on all Baskets, particularly the Third one (Никодиновска, 2001: 63-71). Additional commitments were reached which signified a qualitative step forward: the right of every person to leave and return to his or her country; religious freedom; the rights of detainees; the right to effective remedy and to fair trial; and some rights of persons belonging to minorities.

In Vienna, the OSCE participating states also agreed on a Conference on the Human Dimension (CHD) consisting of three meetings (Paris 1989,

⁶ See more: KEBS77, *Beogradski sastanak*, Tanjug, Beograd, 1977; Снежана Никодиновска, *Местото и улогата на ОБСЕ во современите меѓународни односи*, *op.cit.*, pp.52-57.

Copenhagen 1990 and Moscow 1991) to be held before the Fourth Follow-up Meeting in Helsinki in 1992. Especially the second CHD meeting in Copenhagen (June 1990) is regarded as a long-awaited breakthrough in the Human Dimension of the OSCE. With the adoption of the Copenhagen document (see below), the OSCE participating states committed themselves to pluralist democracy and the rule of law as the essential preconditions for the protection of fundamental human rights and freedoms. Special mention should be made of some of the additional provisions: freedom of expression; freedom of peaceful assembly and association; affirmation of the will of the people as the basis of the authority of government and of the rule of law; and limitations on provisions regarding the restriction of human rights. The agreed text with rights of persons belonging to minorities has served since as one of the most important guidelines on minority rights. This is an especially important addition, because it was the first time since the Second World War that a multilateral human rights forum adopted a catalogue of minority rights.

The third and last CHD meeting (Moscow, 1991) added some OSCE commitments in the field of the Human Dimension. It included the protection of human rights during a state of emergency; the right to peaceful enjoyment of one's possessions; the question of humanitarian access; the rights of women; and the rights of disabled people.

In 1992, the Fourth Follow-up Meeting was held in Helsinki. The CSCE Helsinki Document 1992, Challenges of Change was adopted. Given the shift of emphasis from standard setting to supervision and implementation, the final document of Helsinki included only limited additional commitments to standards. Included were, inter alia, the protection of minorities (including the prohibition of ethnic cleansing) and indigenous populations, the protection of refugees and displaced persons and the right to citizenship.

The Fifth Follow-up Meeting⁷, now called Review Conference, took place in Budapest in 1994, again followed by a Summit of Heads of State or Government. Determined to give the CSCE new political impetus at the 1994 Budapest Summit, 52 heads of state or government from CSCE participating states renamed CSCE the Organisation for Security and Co-operation in Europe (OSCE). A Code of Conduct on Politico-Military Aspects of Security was adopted, setting forth principles guiding the role of armed forces in democratic societies (Nikodinovska, 2002:23-29). The most important improvement concerned the attention being paid to the issues of the Roma and Sinti.

⁷ Budapest Document 1994, Towards a Genuine Partnership in a New Era was adopted, available at: <http://www.osce.org/mc/39554?download=true>.

A summit meeting of the Heads of State or Government took place in Lisbon in 1996 and concluded with the Lisbon Document.⁸ The main results of the Lisbon meeting were related to the area of security problems.

The Istanbul Summit⁹ (1999) resulted in the signing of the Charter for European Security and the adoption of the Istanbul Summit Declaration. It did not lead to major new standards in the human dimension field.

Astana Summit Meeting was held in 2010, eleven years after the last OSCE Summit in Istanbul. In the adopted Document at the Summit – Astana Commemorative Declaration Towards a Security Community¹⁰, 56 participating States of the OSCE reiterate their commitment to the concept, initiated in the Final Act, of comprehensive, co-operative, equal and indivisible security, which relates the maintenance of peace to the respect for human rights and fundamental freedoms, and links economic and environmental co-operation with peaceful inter-State relations. They reaffirm that human rights and fundamental freedoms are inalienable, and that their protection and promotion is their first responsibility.

Copenhagen Document

In 1990, the OSCE's participating States signed the Copenhagen Document, which introduced numerous new commitments in the areas of democratic elections, human rights, and the rule of law, among others. Namely, more than twenty years ago, representatives of the participating States of what was then the Conference on Security and Co-operation in Europe met in the Danish capital of Copenhagen, where, after more than three weeks of negotiations, they reached an agreement on a landmark document that would become the fundamental rulebook for the entire OSCE region in the broad areas of democracy and human rights. Unlike international treaties, these new politically binding norms did not have to be ratified by national parliaments to take effect. This allowed the OSCE to play an avant-garde role in setting standards after the Cold War. Indeed, countries agreed to common standards that would have been unthinkable just a few years earlier.

One of the key achievements of Copenhagen is that it introduced a set of far-reaching commitments on how to conduct democratic elections and laid the groundwork for the Organization's future activities in the area of

⁸ Lisbon Document 1996, DOC 3/1/96, 3 December 1996.

⁹ Istanbul Document 1999, available at: <http://www.osce.org/mc/39569?download=true>

¹⁰ Astana Commemorative Declaration: Towards a Security Community, OSCE SUM.DOC/1/10/Corr.1*, 3 December 2010, available at: <http://www.osce.org/cio/74985?download=true>.

election observation. By establishing the obligation to invite international observers to monitor elections, Copenhagen introduced one of the OSCE's key notions, namely that issues related to human rights and democracy are of concern to all participating States because they have an impact on the security of the entire region.

Copenhagen also introduced a new approach to the concept of the rule of law, clarifying that the notion goes beyond formal respect for the law. The rule of law, as defined in Copenhagen, means "justice based on the supreme value of the human personality and guaranteed by institutions providing a framework for its fullest expression." Copenhagen was something of a landmark with respect to the rule of law, as it went much further than many other international documents at the time in linking the rule of law with human rights and democracy (Budden, 2010:2).¹¹

The Document also includes the rights of national minorities, a subject getting little attention prior to Copenhagen. Indeed, before 1990, there was little, if any, international agreement on the specific rights of minorities. The Document states that belonging to a national minority is a "matter of a person's individual choice." Copenhagen went much further than existing documents in providing an entire catalogue of minority rights and committing participating States to protect the rights of ethnic, cultural, linguistic and religious minorities living on their territory.

Concept of the OSCE's human dimension

There are two principles which are fundamental to the concept of the human dimension (HD). The first is that the commitments are responsibilities undertaken in the field of the human dimension apply in their entirety and equally in each and all of participating states. This means that the HD is indivisible and there can be no zones of lesser humanity.

The second is the principle that the HD commitments are matters of direct and legitimate concern to all participating states and do not belong exclusively to the internal affairs of the state concerned. 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. The OSCE was the first international institution to articulate this

¹¹ Budden, Curtis: *Living up to the legacy? Key OSCE human rights document turns 20*, available at: <http://www.osce.org/odihr/elections/69578>.

principle. Namely, 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."¹² Therefore, the OSCE participating States are not in a position to invoke the non-intervention principle to avoid discussions about human rights problems within their own borders. This explains why the OSCE is not only a community of values but also a community of responsibility among peers. Within the OSCE, this responsibility focuses not only on the right to criticize other states for violations of human dimension commitments but also on the duty to assist each other in solving specific problems. The argument of non-interference in the internal affairs with regard to the HD is not valid.

The OSCE process is essentially a political process that does not create legally binding norms or principles. Unlike many other human rights documents, the OSCE human dimension commitments are politically, rather than legally binding. This is an important distinction since it limits the legal enforceability of the OSCE standards. In other words, the 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 the OSCE commitments are more than a simple declaration of will or good intentions; rather, they are a political promise to comply with these standards.¹³

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 the OSCE documents. Their political nature leads to the unique situation that

¹² The preamble of the Moscow Document 1991. Similar statements can be found in paragraph 8 of the Helsinki Summit Declaration 1992 and in the Chapter VII, paragraph 2 of the Budapest Document 1994.

¹³ "Certain treaties under international law have referred to CSCE/OSCE documents and taken their political obligations over into the legally binding treaty ... explicitly incorporate the commitments on the protection of national minorities contained in CSCE documents, especially the Copenhagen Document [...] The result of such references is that political obligations are transformed into legal ones.", Ulrich Fastenrath, *The Legal Significance of CSCE/OSCE Documents*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1995/1996*, Baden-Baden 1997, pp. 4171-427. For more analysis on this topic, see Eric Manton, "The OSCE Human Dimension Process and the Process of Customary International Law Formation", in *OSCE Yearbook 2005* (Vol. 11 ed. IFSH, 2006), pp. 195-214; Снежана Никодиновска, Местото и улогата на ОБСЕ во современите меѓународни односи, *op.cit.*, pp.114-117.

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.

Multilateral mechanisms for supervising the human dimension of the OSCE - *Vienna Mechanism*

The OSCE has established a number of tools to monitor the implementation of commitments that participating states have undertaken in the field of human rights and democracy (human dimension). During the era of East-West confrontation, no agreement could be reached as to the control over the supervision of agreed standards. It was therefore a great breakthrough when, with the final document of the Third Follow-up Meeting in Vienna (1989), the participating states created a relatively far-reaching supervisory mechanism for the Human Dimension. It confirmed formally that Human Dimension issues were no longer considered internal affairs, through the acceptance of a so-called *droit de regard*. The meeting created a formal mechanism to deal with human rights violations which can be invoked on an ad hoc basis by any individual participating state or group of states. The "Vienna Mechanism", is an inter-state complaints mechanism of sorts, allowing participating states, through an established set of procedures, to raise questions relating to the human dimension situation in other OSCE states.¹⁴ The mechanism was frequently used by countries bilaterally, as well as by the EU. It was used both in reaction to the violations of human rights of individuals, and to raise general human rights issues or draw attention to specific situations. It should be noted that the Vienna Mechanism was mainly used by Western countries to raise issues in Central and Eastern Europe but seldom vice versa. While its value has been reduced by the substantial changes in Central and Eastern Europe, it still has some importance.

¹⁴ One of the first cases dealt with was that of the detention of Vaclav Havel, Czech human rights activist and later President.

Moscow Mechanism – Expert Missions and Rapporteurs

The Moscow Mechanism was agreed upon at the last meeting of the Conference on the Human Dimension of the CSCE in Moscow (1991). Built on the Vienna Mechanism, it provides the possibility for participating states to establish ad hoc missions of independent experts to assist in the resolution of a specific human dimension problem either on their own territory or in other OSCE states. The mission of experts can either be invited by the participating state concerned, or initiated by a group of six or more participating states. The mission may gather information that is necessary for carrying out its tasks and, if appropriate, use its good offices and mediation services to promote dialogue and co-operation among interested parties.

The mandate of the missions can vary according to the procedure from which the missions arise. In general, the powers of missions of experts go beyond those of missions of rapporteurs. The powers of the latter are mainly related to fact-finding and the rendering of advice or proposals for the solution of the questions raised. Missions of experts have a broader mandate aiming at facilitating the resolution of a particular question or problem relating to the Human Dimension of the OSCE. For that purpose, these missions may gather information and, as appropriate, use their good offices and mediation services to promote dialogue and co-operation among states.¹⁵ The Office for Democratic Institutions and Human Rights (see below) is designated to provide support for the implementation of the Moscow Mechanism. It maintains a list of experts appointed by participating states to carry out Moscow Mechanism functions.

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.

¹⁵The Moscow Mechanism has, for instance, been employed to investigate reports of atrocities and attacks on unarmed civilians in Croatia and Bosnia-Herzegovina (1992), to study Estonian legislation and to compare it and its implementation with universally accepted human-rights norms (1992 in relation to Turkmenistan to examine concerns arising out of investigations resulting from the reported attack on November 25, 2002 on President Niyazov (December 2002 – March 2003).

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 OSCE institution 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 (Manton Eric & Bernard Knoll, :2). This is done through long-term programmes to strengthen the rule of law, democratic governance, and civil society. It also assists the 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 the OSCE human dimension commitments by participating States. For this purpose, it also provides regular human rights training for government authorities, civil society, and the 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. The ODIHR also 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 cooperates with 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.

The High Commissioner on National Minorities

The post of the OSCE High Commissioner on National Minorities (HCNM) was established in 1992 and based in the Hague. Its role is to identify and seek early resolution of ethnic tensions that might endanger peace, stability or friendly relations between OSCE participating States. The High Commissioner is not intended to be a national minorities ombudsman, he is not the High Commissioner *for* National Minorities but the High Commissioner *on* National Minorities. 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 firsthand information, the High Commissioner seeks to promote dialogue, confidence, and cooperation. HCNM belongs to the most important and recognized institutions of the OSCE. The High Commissioner's expertise is recognized also by the other international organizations (including the UN, EU and the Council of Europe). HCNM is the well-established instrument of conflict prevention that has participated on the resolution of many conflict situations or problematic questions in the OSCE. The mandate of the HCNM is unique. HCNM shall act confidentially and based on his own judgment not according to the instructions of the others. HCNM makes his decision impartially, based on his judgment, if the particular situation belongs to his mandate. Since the establishment of the post of the HCNM, there has been elaborated several thematic recommendations or guidelines concerning the national minorities and several recommendations to the concerned states. The thematic recommendations and guidelines are not legally binding. Their implementation depends on the states. They are addressed not only to the governments but also to minorities themselves.

The Representative on Freedom of the Media

The OSCE Representative on Freedom of the Media (RFM) is another mechanism for implementation and supervision which has been developed in the field of freedom of expression and its corollary freedom of the media. The OSCE created the position of RFM in 1997 to assist 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 observe all relevant media developments and provide

early warning on violations of freedom of expression. The Representative also assists participating states by advocating and promoting compliance with the OSCE principles and commitments in respect of freedom of expression and the media.

Conclusion

Due to its comprehensive approach to the so-called "human dimension", the OSCE is a unique trans-Atlantic security organization. Based on the Helsinki Final Act of 1975 of the then CSCE, the OSCE has endeavoured to address security issues with a multi-faceted strategy combining the politico-military and the economic/environmental dimension with work in its "human dimension".

The commitments that 56 States have undertaken within the framework of the OSCE include the highest standards of human rights, the rule of law, and democracy. This was a novelty in international relations. Never before had so many diverse countries shared so many principles and values, and agreed to hold each other mutually accountable. While these commitments are not founded on a multilateral treaty and do therefore not create direct legal obligations in themselves, they are considered to be "politically binding".¹⁶ While this formulation has had the advantage of OSCE-wide acceptance of standards without the need for the time-consuming and sometimes controversial process of formal ratification by each participating State, the lack of clear legal status has undoubtedly hindered the Organization from establishing more concrete instruments to ensure the effective implementation of these commitments.

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¹⁶ Due to increasing awareness of this problem, the report - Strengthening the Effectiveness of the OSCE (CIO.GAL/100/05 of June 27, 2005) of the Panel of Eminent Persons recommended that the OSCE should adopt a convention that would recognize its legal capacity. This approach was reaffirmed in the 2006 Brussels Ministerial Conference, Decision 16/06.

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Регионални инструменти за људска права – људска димензија ОЕБС

Сажетак: Термин „људска димензија” користи се у терминологији ОЕБС да опише сет норми и активности које су повезане са људским правима, демократијом и владавином права. Људска димензија ОЕБС једна је од три димензије његовог концепта свеобухватне безбедности, заједно са политичко-војном и економско-еколошком димензијом.

Основни концепт људске димензије ОЕБС је да људска права и плурална демократија нису унутрашњи послови државе. Државе учеснице ОЕБС су наглашавале да су питања која се односе на људска права, основне слободе, демократију и владавину права од меѓународног значаја, зато што поштовање тих права и слобода конституише једну од основа меѓународног поретка.

ОЕБС је креирао велики сет обавеза у односу на људска права, која су генерално одраз традиционалних норми о људским правима, и концепте који су засноване на осталим меѓународним уговорима и декларацијама о људским правима. Меѓутим, ОЕБС је развио и бројне стандарде који су високо иновативни, како по својој форми (стилу) тако и по својој суштини.

Тема овог чланка су еволуција људске димензије КЕБС/ОЕБС, такозвани механизми за људску димензију, као и институције ОЕБС-а релевантне за људску димензију.

Кључне речи: људска димензија КЕБС/ОСЦЕ, бечки механизам, московски механизам, Канцеларија за изборе и људска права (ODIHR), високи комесар ОЕБС за националне мањине, представник за слободу медија