

From the third basket of the CSCE to the human dimension of the OSCE

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The West's preoccupation with bringing the human rights issue within the ambit of cooperation in the CSCE was reflected in the 1975 Helsinki Final Act both in the Decalogue (see **Principle VII on human rights and fundamental freedoms**) and in the establishment of a third basket on cooperation in humanitarian fields (see **contacts between people**). From the outset, the West was demanding support for greater freedom of movement for persons, ideas and information between countries which, in spite of their geographical proximity and cultural affinities, found themselves divided by the Iron Curtain. By giving such support, the countries of the West also sought to contribute to resolving specific humanitarian problems concerning, for example, binational marriage or meetings of families living in different States. Their challenge was to overcome the Soviet opposition to the entry on the agenda of an international conference of items which, for the Soviets, fell within their national competence — and, in particular, came under their sovereign right of control over entry to and exit from their territory by their own nationals or the need to protect Socialist citizens from Western attacks on ideology — and bring into East-West relations the key to their future transformation.

Although the First Meeting relating to the Follow-up to the CSCE, held in Belgrade, failed specifically on account of the categorical refusal by the countries of Eastern Europe publicly to take stock of human rights matters, the countries of the West succeeded, as from the Second Follow-up Meeting in Madrid, in extending the scope of the third basket to encompass religious and trade union freedom and to visa and immigration matters. That triggered more detailed discussions, in particular after the meetings of experts, first in Ottawa in 1985 on respect for human rights and fundamental freedoms and then in Berne in 1986 on contacts between people.

However, it was not until the Third Follow-up Meeting in Vienna (1986–1989) that a new phase was initiated in that area with the introduction of the '**human dimension**' of the CSCE. From then onwards, that comprehensive concept, comprising the humanitarian issues of the third basket and the commitments relating to Principle VII, would closely link human rights and security. Furthermore, preparations had been finalised for monitoring the implementation of commitments by way of a 'human dimension mechanism' based on requests for information and bilateral diplomatic meetings. In addition, a three-stage Conference (in Paris, Copenhagen and Moscow) on the Human Dimension of the CSCE was entrusted with considering the application and development of the Vienna mechanism.

The Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, dated June 1990, was a decisive text, principally of a regulatory nature. It set out a long list of rights and freedoms, including the right to 'freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers', the 'right of peaceful assembly and demonstration', the 'right of everyone to leave any country, including his own, and to return to his country' and the 'right peacefully to enjoy his property either on his own or in common with others'. It also devoted one chapter specifically to national minority issues. However, the Copenhagen Document primarily went beyond the subject of human rights to include in the human dimension the rule of law and pluralistic democracy as factors '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.' Against a background of 'fundamental political changes' in Europe, the participating States were able, from then onwards, to rely on a community of values and, to that effect, welcomed in the Copenhagen Document 'the commitment expressed by all ... 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.'

In terms of developing the human dimension mechanisms, the Copenhagen Document made improvements to the timescales set for the Vienna mechanism and made provision for observers to be sent by participating States or NGOs to States where national elections were taking place or proceedings had been brought before national courts.

For its part, the November 1990 Charter of Paris for a New Europe introduced the progressive institutionalisation of the human dimension by establishing the **Office for Free Elections (OFE)** and made provision for two additional specialist meetings, namely a meeting of experts on national minorities, to be

convened in Geneva, and a seminar of experts, to be convened in Oslo, which would discuss cooperation for strengthening democratic institutions and for promoting the application of the rule of law. The Charter also made provision for developing the Vienna mechanism at the Moscow Meeting, to be held in 1991, and for NGOs to be involved, where appropriate, in the activities and new structures of the CSCE.

On the basis of the mandate laid down in the Charter of Paris, the Moscow Meeting developed the human dimension mechanism by providing for missions of experts and rapporteurs. It also considered expanding the functions of the OFE so as to enable it to assist in strengthening democratic institutions within the participating States. The January 1992 Prague Document subsequently turned the OFE into the **Office for Democratic Institutions and Human Rights** (ODIHR) and named it as the institution responsible for the tasks connected with expert and rapporteur missions carried out in accordance with the Document of the Moscow Meeting. The ODIHR was also responsible for organising biannual review meetings ‘to address implementation of CSCE human dimension commitments’ and for organising meetings and seminars on subjects related to the building and revitalisation of democratic institutions. Lastly, the Prague Document established the ‘consensus minus one’ procedure for clear, gross and uncorrected violations of human dimension commitments.

The 1992 Helsinki Decisions described the ODIHR as the main institution of the human dimension entrusted with monitoring the implementation of commitments in the human dimension, acting as a clearing-house for information and assisting in other activities in the field of the human dimension, including in the building of democratic institutions, through its cooperation with the competent international and non-governmental organisations and, in particular, with the Council of Europe. The Helsinki Decisions also established a **High Commissioner on National Minorities** (HCNM) as an instrument of conflict prevention, thereby introducing a new perspective to the CSCE human dimension which went on to acquire increasing significance in preventive diplomacy missions. That trend was confirmed at the December 1993 Rome Ministerial Council and in the December 1994 Budapest Decisions. Within the OSCE’s own comprehensive concept of security, ‘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.’ Enhancing the ODIHR, bearing in mind its increased involvement in the work of the Permanent Council and missions and its close cooperation with the competent governmental and non-governmental organisations, contributed to broadening the operational framework of the OSCE.

Finally, in 1997, the position of **OSCE Representative on Freedom of the Media** was created at the request of the Lisbon Summit; it also incorporated an important early-warning function. In particular, the Representative was mandated to provide a rapid response in the event of serious non-compliance with OSCE principles and commitments by participating States in respect of freedom of expression and freedom of the press.