



AS (16) RP 3 E
Original: English

REPORT

FOR THE GENERAL COMMITTEE ON DEMOCRACY, HUMAN RIGHTS AND HUMANITARIAN QUESTIONS

25 Years of Parliamentary Co-operation: Building Trust Through Dialogue

**RAPPORTEUR
Ms. Gordana Comic
Serbia**

TBILISI, 1 – 5 JULY 2016

REPORT FOR THE GENERAL COMMITTEE ON DEMOCRACY, HUMAN RIGHTS AND HUMANITARIAN QUESTIONS

Rapporteur: Ms. Gordana Comic (Serbia)

Last year we paused to reflect upon 40 years of the OSCE, and this year we celebrate 25 years of the Parliamentary Assembly. Such milestones justify a pause to recognize the achievements of the Assembly and the Organization as a whole. However, it is important not to be distracted by nostalgia and to look ahead in order to address the uncomfortable fact that we are facing a crisis of leadership and ideas regarding human rights in our region. There is a need to put a spotlight on the lack of energy regarding the human rights agenda and how weak leadership is contributing to an emerging status quo that accepts human rights to be less valuable to lasting security than political and military concerns. The migration crisis has highlighted the problems facing the region as a result of a lack of ideas and leadership. Over the past year migration has brought over a million people to Europe and over 2.5 million refugees to Turkey. Another million people are expected to try to reach the European Union in 2016. As an increasing proportion of the refugees are forecast to be women, an adequate gender-sensitive response will be urgently needed. This crisis is a test for the ideas and leadership of the OSCE and the governments of its participating States.

The OSCE has regressed from being the region's leading organization in establishing accepted human rights standards to a position of treading water. The institutionalization of the Organization has, on the one hand, resulted in the establishment of key human rights bodies such as ODIHR and the Representative on Freedom of the Media. On the other hand, the participating States of the Organization have lost the initiative regarding dialogue on human dimension commitments. Rather than seeking to expand protections they have opted for the politically safer option of rhetoric and recycled dialogue – even reasserting previous commitments is a rare event. Although the OSCE remains an important forum, it has lost its energy concerning human rights. The lack of agreement on human rights-related decisions at recent Ministerial Council sessions demonstrates this.

It is important to be clear that when discussing the crisis of ideas and leadership, it is not a criticism of the OSCE Institutions mandated to carry out third dimension commitments and those who work within them. Within their mandates, the OSCE field missions, ODIHR, and the Representative on Freedom of the Media work hard to promote compliance with human rights commitments. It is unfortunate that the dedication displayed by the staff in these institutions does not translate into commitments and bold leadership on the governmental side of the Organization.

It is worrying that the willingness to use the OSCE as a platform to push for rights in the region, and spend political capital in doing so, appears to have evaporated. It is necessary to go back to the Istanbul Declaration in 1999 to find any substantial development in the human dimension. The Moscow mechanism, regularly applied in the 1990s, has become a dormant procedure over the past decade.

As a result, the crisis of ideas facing the Organization regarding human rights is increasingly stark and noticeable as the years pass.

The lack of action regarding discrimination against the LGBT community in the OSCE area is a particularly notable absence in the OSCE's toolbox and demonstrates how the OSCE has stopped taking the initiative in setting human rights standards for the region. Other areas that have gained international traction over the past ten years have also received minimal attention. For example, the last commitment by participating States to people with disabilities was made in 1991 in Moscow. Twenty-five years ago this commitment was forward-looking. Writing this report in 2016 the lack of progress is almost embarrassing.

The migration crisis in particular has served to highlight the lack of ideas and leadership by the Organization. In particular there has been little action on how to ensure that participating States respond in a way that respects the human rights of those fleeing conflict and takes the specific needs of female refugees into account. Instead there has been a rush to close borders, shy away from humanitarian responsibilities, and hope that other countries will take care of the problem. The current attitude is well summarized by a recent Amnesty International statement that "European leaders' attempts to use Turkey as their border guard to stop refugees and asylum-seekers heading to the EU is a dangerous and deliberate ploy to shirk their responsibilities to people fleeing war and persecution."¹

Shirking responsibilities is the only way to describe the response of participating States of an Organization that actually has commitments regarding refugees and migration. To give a sense of the scale of commitment by OSCE participating States, it is worth listing some of the agreements. In the Helsinki Final Act of 1975, participating States recognized their aim to 'facilitate freer movement and contacts...and to contribute to the solution of humanitarian problems that arise.' In 1992 at the Helsinki Summit it was recognized that 'refugee problems require the co-operation of all of us. We express our support for and solidarity with those countries that bear the brunt of the refugee problems...we recognize the need for co-operation and concerted action.' In Stockholm that year OSCE Ministers called upon 'all participating States to...share the common burden.' In Budapest in 1994 participating States agreed to expand their co-operation regarding refugees. The Lisbon Declaration in 1996 recognized the destabilizing effect of involuntary migration on the OSCE area and signatories committed to address these problems. The Istanbul Declaration saw an agreement to 'seek ways of reinforcing the application of international law' regarding refugees. It was only in Sofia in 2004 that appropriate consideration was given to women refugees when OSCE states committed to 'ensure that proper consideration is given to women claimants...[and requested that] the range of claims of gender-related persecution are accorded due recognition.' In 2005 in Ljubljana participating States agreed 'to promote dignified treatment of all individuals wanting to cross borders, in conformity with relevant legal frameworks, international law, in particular human rights, refugee, and humanitarian law,' in a decision with great resonance with today's problems.

The above commitments were made at different times with different problems in mind. However, they collectively make a powerful statement on the principles agreed to by the

¹ Amnesty International: 'EU-Turkey Summit: Don't wash hands of refugee rights', 7 March 2016; <https://www.amnesty.org/en/latest/news/2016/03/eu-turkey-summit-refugees/>, accessed 29 March 2016.

participating States of the OSCE in regard to the human rights of refugees. The fact that there has been nothing new in this area since 2005 highlights the lack of ideas, and the failure to implement these agreements in regard to the current refugee crisis demonstrates the current lack of leadership in our region.

It is particularly striking that only in Sofia in 2004 has explicit reference been made to the unique problems faced by women refugees. Women have experienced sexual assault by officials, smugglers, traffickers and other refugees. Reception centers lack lighting and separate spaces for women. There has been a chronic lack of gender-based analysis of the current situation, and as the proportion of female refugees increases, so does the need for a gender-based response.

The vacuum created by the lack of ideas and strong leadership in the human dimension is resulting in the erosion of the comprehensive concept of security that stands at the core of the OSCE. This is the agreement that respect for human rights, democracy and the rule of law is fundamental to lasting security. For this to work in practice, participating States must take seriously the concept of the third dimension having equal weight to the second and first dimensions. Yet, the growing trend to prioritize ‘hard’ security over human security by participating States is removing the foundations the Organization was built upon. There appears to be an increasing acceptance, both East and West of Vienna, to deal with the perceived threat first and to worry about any implications for human rights later. There is a lack of seriousness in the way human rights are integrated to security solutions; by accepting this through silence the OSCE is risking making itself redundant. It is astonishing that in 1975 a landmark agreement on the importance of human rights to lasting security could be made at a time the world was poised for nuclear war but struggles to be applied seriously today.

Evidence of this shift to ‘hard’ security can be found in a variety of areas. For example, regarding freedom of expression, States claim ‘extremism’ as an excuse to shut down newspapers, block the internet or imprison without due reason. There has been a change in the discourse from open discussion of fundamental freedoms to a more restricted discussion of how much freedom should be allowed. The clearest example of the shift in security emphasis is again demonstrated by the refugee crisis. The speed by which countries have responded to the flow of migrants through erecting walls and closing borders demonstrates the lack of seriousness with which the human rights of those affected by the crisis is taken when States are confronted with a security issue. This gradual ‘securitization’ of the crisis is demonstrating a broad consensus towards treating it as a security issue first and a humanitarian crisis second. By separating security from human rights, participating States are in danger of undoing much of the work done to achieve the OSCE’s landmark comprehensive concept of security.

As we look to the future it is becoming increasingly urgent to address the lack of ideas and leadership surrounding human rights. The refugee crisis must serve as the catalyst to strengthen the Organization’s human dimension and to make the leaders of our region act. If we do not act to protect the principles we have agreed to now, it may soon be too late.