



Supplementary Human Dimension Meeting

FREEDOM OF MOVEMENT AND HUMAN CONTACTS

**25-26 April 2013
Hofburg, Vienna**

ANNOTATED AGENDA

Freedom of movement and cross-border human contacts figured prominently in the OSCE Helsinki process that sought to address and overcome the divisions in Europe. Commitments on human contacts that OSCE participating States made in Helsinki in 1975 and subsequently in Madrid in 1983 and Vienna in 1989 aimed to facilitate applications for exit by their nationals and entry into their territory by citizens of other participating States for purposes such as meetings on the basis of family ties, family reunion, marriage with foreign nationals and travel for personal and professional reasons.

While the subsequent fall of the Berlin Wall symbolically marked the beginning of liberalized cross-border travel between the East and the West, in January 1989 in Vienna, OSCE participating States committed to guarantee the universal right to freedom of movement, which comprised the right of everyone to leave any country and the right of legal residents to freely move within the territory of a state. The right to freedom of movement does not however include the equivalent right of persons to enter the territory of a foreign state and the criteria for the admission of foreign nationals remain the subject of the sovereign authority of each participating State today.

By reaffirming the right of everyone to leave any state including their own, in 1990 in Copenhagen, participating States agreed to improve commitments in the field of human contacts and to implement them fully, including on a bilateral and multilateral basis, by agreeing for example to implement procedures for entry into their territories, including issuing of documents such as visas and passports as well as conducting customs control in good faith and without unjustified delay. Since then, participating States have concluded multilateral agreements (i.e. Schengen Agreements, CIS Agreement, EurAsEC agreement) as well as a range of bilateral agreements which have resulted in a certain degree of liberalized cross-border travel. At the same time, in the instances where visa regimes between OSCE participating States still exist, challenges remain with regards to the facilitation of access to visas for bona fide travellers.

Generally, citizens of OSCE participating States are free to leave and return to their country, with a few exceptions. In many OSCE participating States, citizens are required to register their place of residence with a relevant authority, affecting their right to freedom of movement and choice of residence. Registration of place of residence often requires a simple notification to relevant authorities in some OSCE participating States, while in others it requires the fulfilment of certain administrative legal criteria. Where registration procedures and criteria are complex and onerous, they can effectively

represent a deterrent and an obstacle for certain categories of the population in taking up legal residence within their state or in the place of their choice.

This Supplementary Human Dimension Meeting (SHDM) seeks to address how the right to freedom of movement can be advanced and protected and how further progress could be achieved in facilitating cross-border human contacts. It will identify the challenges OSCE participating States currently face and discuss how they can be addressed, in order to ensure the full enjoyment of freedom of movement in the OSCE region. With the aim to explore possibilities for creating conditions for freer cross-border movement, the SHDM will discuss on-going visa facilitation and liberalization dialogue between OSCE participating states, their impact on cross-border mobility, and how new technologies and innovative approaches should be used to foster cross-border human contacts while protecting other fundamental freedoms.

Day 1 **25 April 2013**

15:00 – 16:00 **Opening Session**

16:00 – 18:00 **SESSION I: OSCE commitments on freedom of movement and challenges to their implementation**

Participating States used the Helsinki process to encourage mutually beneficial steps to clarify rules and simplify procedures with the purpose of allowing persons to enter or leave their territory temporarily for personal and professional reasons. This was particularly the case in relation to cross-border travel for humanitarian reasons, but also extended to facilitating contacts in other fields, such as business, education or science.

Emphasizing “...*the development of contacts to be an important element in the strengthening of friendly relations and trust among peoples ...*,”¹ the Helsinki Final Act introduced a range of commitments that aim to promote freer cross-border movement. In that context, participating States also made specific commitments, which aim to simplify exit procedures for their citizens and procedures for entry of citizens of other participating States on the basis of, *inter alia*, family contacts, family reunion, marriage with citizens of other participating States and business contacts.

The issue of human contacts was also addressed during the Second Follow-Up meeting of the Conference on Security and Cooperation in Europe (CSCE) (Madrid 1983) and the Third Follow-Up Meeting of the CSCE (Vienna 1989) where participating States agreed to further expedite and facilitate the processing of requests for travel on the basis of commitments related to human contacts including to “...*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.*”

By affirming that “...*freer movement and contacts among their citizens are important in the context of the protection and promotion of human rights and fundamental freedoms,*” OSCE States reaffirmed in the 1990 Copenhagen Document, “...*their determination not to recede from the commitments contained*

¹ Final Act of the Conference on Security and Co-operation in Europe, Helsinki (Co-operation in Humanitarian and Other Fields), 1 August 1975.

in the CSCE document...” and “...to implement fully and improve present commitments in the field of human contacts, including on a bilateral and multilateral basis.” To that end, they expressed the intention “...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 visa regimes are in place, participating States agreed to “...shorten the waiting time for visa decisions, as well as simplify practices and reduce administrative requirements for visa applications.”²

More recently (Ljubljana 2005), OSCE participating States committed “to promote free and secure movement of persons...across borders, through enhancing the security of travel documents and encouraging, as appropriate, circumstances that could allow the liberalization of visa regimes...”³

At the Third Follow-Up Meeting of the CSCE (Vienna 1989) the OSCE participating States committed to “...fully respect 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,” thus creating the basis for the abolition of the requirement to seek approval to leave a state’s territory and of residence permit systems previously practiced by some OSCE participating States.⁴ These commitments were further reiterated in the Document of the 1991 Moscow Meeting on the Human Dimension of the CSCE, which states that: “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.”⁵

The aim of this session is to review the implementation of OSCE commitments on freedom of movement and human contacts and to assess the current situation and challenges within the OSCE region.

Questions for discussion include:

- Are the “early” CSCE/OSCE commitments in the field of human contacts still relevant today and how can they be implemented?
- How has the commitment, of OSCE participating States, to “facilitate wider travel by their citizens for personal or professional reasons” (Helsinki 1975) been implemented? Did the implementation of this commitment result in gradual simplification and a more flexible administration of procedures for exit and entry from and into other States? Have fees for visas and official travel documents been gradually lowered?

² Para.19, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen

³ Para. 4.1., Document of the Thirteenth Meeting of the Ministerial Council, Ljubljana, 5-6 December 2005 (Border Security and Management Concept: Framework for Co-operation by the OSCE Participating States)

⁴ Para 16-23, Concluding Document of Vienna (Co-operation in Humanitarian and Other Fields) - The Third Follow-up Meeting, Vienna, 15 January 1989.

⁵ Para. 33, Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991.

- Do existing national entry regulations and visa application mechanisms facilitate contacts among family members, family reunion and marriage between citizens of participating States as well as tourism, cultural, sport, youth and educational exchanges, promote business and scientific contacts?
- Do participating States fully guarantee the freedom of movement to their nationals and foreigners legally residing on their territory? What problems are participating States experiencing in the implementation of the framework for the protection of this right?
- Do the current residency registration frameworks in OSCE States provide sufficient safeguards for the protection of freedom of movement and choice of place of residence?
- How can civil, political, economic and social rights of citizens in OSCE participating States be better guaranteed through the implementation of OSCE freedom of movement commitments?

Day 2

26 April 2013

10:00 – 12:00

SESSION II: Benefits of cross-border human contacts and strengthening of co-operation among OSCE participating States in this field

According to the United Nations World Tourism Organization (UNWTO), in 2011, OSCE participating States hosted approximately 578 million foreigners which represent 59 per cent of all globally recorded foreign visitors. At the same time, according to this data over the last twenty years the total number of foreign visits doubled and is expected to grow at a rate of 3 per cent per year.⁶ In an increasingly globalized economy, liberalized cross-border mobility yields significant economic benefits resulting largely from tourism but also from established business contacts. According to 2012 UNWTO data, while 66 per cent of all foreign visits are for reasons of leisure and business, approximately 30 per cent of all foreign visits are made for personal reasons such as visiting friends and family, health reasons, religious reasons and similar.⁷ In the instances where entry into a state's territory is regulated by visa regimes, the number of visits made for personal reasons is generally higher than in states with visa-free regimes in place.

During the Third Follow-Up Meeting of the CSCE (Vienna 1989), OSCE participating States specifically highlighted the need to address existing visa regimes and agreed to “...give serious consideration to proposals for concluding agreements on the issuing of multiple entry visas and the reciprocal easing of visa processing formalities, and consider possibilities for the reciprocal abolition of entry visas on the basis of agreements between them.”⁸ Since then, OSCE participating States have signed and ratified a range of multilateral and bilateral agreements with the aim to liberalize entry into their territories. Where visa regimes exist, many participating States have initiated dialogue with the aim to facilitate the liberalization of cross-border travel.

⁶ UNWTO Tourism Highlights, 2012 Edition; <http://mkt.unwto.org/en/publication/unwto-tourism-highlights-2012-edition>

⁷ Ibid

⁸ Para 22, Concluding Document of Vienna (Co-operation in Humanitarian and Other Fields) - The Third Follow-up Meeting, Vienna, 15 January 1989

This session will discuss benefits of freer cross border travel and will seek to explore the impact of visa facilitation and liberalization dialogues between OSCE participating States on cross-border mobility in the OSCE region in the context of the protection and promotion of human rights as well as the good practices developed as a result of these dialogues.

Questions for discussion include:

- How can a balance be found between national security concerns and the promotion of liberalized cross-border travel? What mechanisms can participating States use to facilitate legitimate cross-border travel?
- Which steps may be taken by participating States to address concerns that the application of visa requirements and related rules and procedures may serve to inhibit travel across borders for legitimate purposes?
- How can the OSCE help to ensure that cross-border travel on humanitarian grounds, including for vulnerable groups such as specific groups of migrants and asylum seekers is facilitated, while at the same time addressing legitimate concerns of participating States related to issues of organized crime, terrorism and trafficking in human beings?
- How can participating States co-operate - as part of a cross-border travel liberalization process - in addressing legitimate concerns related to increased mixed migration flows, such as anticipated labour migration or an increase in the number of asylum seekers?
- How can participating States facilitate freer movement across borders and within their territory of persons representing OSCE structures, other intergovernmental bodies, and national or international non-governmental organizations as well as individuals engaged in monitoring the implementation of OSCE human dimension commitments?

12:00 – 14:00 Lunch

14:00 – 16:00 SESSION III: Innovative approaches to facilitate cross-border mobility in the OSCE region

An ever-increasing demand for international travel by individuals across the world, including the OSCE region, continues to pose challenges for OSCE participating States that need to ensure that foreigners who enter their territory comply with entry procedures and regulations. This is particularly challenging in instances where entry into a country is subject to a visa regime. At present, a number of new approaches may be identified within the OSCE region in relation to the practical implementation of OSCE human contacts commitments.

Many OSCE participating States have introduced Internet-based visa applications or use external service providers to provide consular services to both their citizens and foreigners, including services and functions such as the processing of visa applications, information services, web-based modules (for appointment scheduling and online payment collection) and the collection of biometric data. Travel

documents that contain biometric identifiers have also been recognized as means to simplify the processing of entry requests.

This session will look into ways to improve policies and legislation as well as practical tools which OSCE participating States can introduce to facilitate cross-border mobility in line with OSCE human contacts commitments. It will further explore good practices in the use of modern technologies in this context, as well as the benefits as well as potential challenges of their introduction.

Questions for discussion include:

- How could the OSCE participating States use the good practices of simplification of visa procedures and liberalization of visa regimes?
- How could the OSCE participating States better use traditional tools for the facilitation of cross-border mobility, such as the issuance of multiple entry visas?
- What is the impact of using methods for the processing of visa applications, such as systems for electronic submission of visa applications and outsourcing numerous functions linked to the issuance of visas?
- What specific steps could the OSCE participating States take to improve the awareness of potential visitors about rules on entry and residence in their territories?
- How can the OSCE participating States effectively address the challenges posed by new technologies in the area of personal data collection to improve cross-border mobility in line with international standards on the protection of fundamental rights, such as the right to privacy and personal data protection?
- How can the OSCE participating States better use the advantages provided by new technologies to simplify and speed up the processing of visa applications?

16:00 – 16:30

Break

16:30 – 17:30

Closing Session

Reports by the Moderators of the Working Sessions

17:30

Closing of the meeting