

The refugee crisis in Europe: Relevant OSCE commitments



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Note: This compilation includes a selection of key OSCE human dimension commitments of relevance to the human rights situation of migrants, asylum seekers and refugees. These include commitments related to migration; combating racism, xenophobia with relevance to refugees, migrants and asylum seekers; persons deprived of their liberty; the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and freedom of thought, conscience, religion or belief. The list of commitments should not be considered exhaustive.

Migration

Helsinki 1992 (Decisions: VI. The Human Dimension)

“The participating States

(39) Express their concern over the problem of refugees and displaced persons;

(40) Emphasize the importance of preventing situations that may result in mass flows of refugees and displaced persons and stress the need to identify and address the root causes of displacement and involuntary migration;

(41) Recognize the need for international co-operation in dealing with mass flows of refugees and displaced persons;

(42) Recognize that displacement is often a result of violations of CSCE commitments, including those relating to the Human Dimension;

(43) Reaffirm the importance of existing international standards and instruments related to the protection of and assistance to refugees [and will consider acceding to the Convention relating to the Status of Refugees and the Protocol, if they have not already done so]

(45) Welcome and support unilateral, bilateral and multilateral efforts to ensure protection of and assistance to refugees and displaced persons with the aim of finding durable solutions...”

Istanbul 1999 (Charter for European Security: III. Our Common Response)

22. We reject any policy of ethnic cleansing or mass expulsion. We reaffirm our commitment to respect the right to seek asylum and to ensure the international protection of refugees as set out in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as to facilitate the voluntary return of refugees and internally displaced persons in dignity and safety.

Porto 2002 (Declaration on Trafficking in Human Beings)

I. We declare that trafficking in human beings and other modern forms of slavery constitute an abhorrent violation of the dignity and rights of human beings. (...) We urge countries of destination (...) to exercise zero tolerance towards sexual exploitation, slavery and all forms of exploitation of forced labour, irrespective of its nature.

Maastricht 2003 (Decisions: Annex to Decision No. 2/03 on Combating Trafficking in Human Beings; OSCE Action Plan to Combat Trafficking in Human Beings)

4.1 Establishing shelters, run by governmental bodies, NGOs, or other institutions of civil society to meet the needs of trafficked persons; these shelters are to provide safety, access to independent advice and counselling in a language known by the victim, first-hand medical assistance, and an opportunity for reflection delay after the experienced trauma. Shelters may be established on the basis of already existing facilities such as crisis centres for women.

6.1 Developing social assistance and integration programmes, including legal counselling in a language known by the victim, medical and psychological assistance and access to health care, to be made available either in shelters or other relevant institutions.

Ljubljana 2005 (Border Security and Management Concept: Framework for Co-operation by the OSCE Participating States):

“2. The OSCE participating States reaffirm the obligations and commitments on border-related issues that they have undertaken at all levels:

2.1 At the global level: On border security and management issues, the participating States reaffirm their commitments under international law, in particular international human rights, refugee and humanitarian law, and may consider as well standards and recommendations laid down by the World Customs Organization, the International Organization for Migration, the

International Labour Organization, the United Nations High Commissioner for Refugees and other relevant international organizations;

(...)

4. The participating States will promote co-operation between their border services, customs authorities, agencies issuing travel documents and visas, and law enforcement and migration agencies, as well as other competent national structures, with a view to achieving the following aims:

4.5 To promote dignified treatment of all individuals wanting to cross borders, in conformity with relevant national legal frameworks, international law, in particular human rights, refugee, and humanitarian law, and relevant OSCE commitments...”

Ljubljana 2005 (Decisions: Decision No. 14/05 on Women in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation)

8. Calling on participating States to take into account the important role and the particular needs of women and girls in implementing government policies on protection and durable solutions including voluntary return, resettlement, rehabilitation, (re)integration or repatriation of refugees and internally displaced persons in safety and dignity,

Combating racism, xenophobia with relevance to refugees, migrants and asylum seekers

Maastricht 2003 (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

The Ministerial Council,

(...)

12. Undertakes, in this context, to combat, subject to national legislation and international commitments, discrimination, where existing, against asylum seekers and refugees, and calls on the ODIHR to reinforce its activities in this respect;

Madrid 2007 (Decisions: Decision No. 10/07 on Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding)

The Ministerial Council,

(...)

Underscoring that the primary responsibility for addressing acts of intolerance and discrimination rests with participating States, including their political representatives,

(...)

Recognizing that manifestations of intolerance and discrimination can undermine the efforts to protect the rights of individuals, including migrants, refugees and persons belonging to national minorities and stateless persons,

(...)

Acknowledging the specificity of different forms of intolerance, while at the same time recognizing the importance of taking a comprehensive approach and addressing cross-cutting issues

(...) in order to effectively combat all forms of discrimination,

1. Calls for continued efforts by political representatives, including parliamentarians, strongly to reject and condemn manifestations of racism, xenophobia, anti-Semitism, discrimination and intolerance, including against Christians, Jews, Muslims and members of other religions, as well as violent manifestations of extremism associated with aggressive nationalism and neo-Nazism, while continuing to respect freedom of expression;

7. Calls on participating States to protect migrants legally residing in host countries and persons belonging to national minorities, stateless persons and refugees from racism, xenophobia, discrimination and violent acts of intolerance and to elaborate or strengthen national strategies and programmes for the integration of regular migrants, which also requires active engagement of the latter;

Sofia 2004 (Decisions: Annex to Decision No. 12/04 on Tolerance and Non-discrimination; Permanent Council Decision No. 621: Tolerance and the Fight against Racism, Xenophobia and Discrimination)

The Permanent Council,

(...)

In order to reinforce our common efforts to fight manifestations of intolerance across the OSCE region,

Decides,

1. The participating States commit to:

- Take steps, in conformity with their domestic law and international obligations, against discrimination, intolerance and xenophobia against migrants and migrant workers;
- Consider undertaking activities to raise public awareness of the enriching contribution of migrants and migrant workers to society;

(...)

Ljubljana 2005 (Decisions: Decision No. 10/05 on Tolerance and Non-Discriminations: Promoting Mutual Respect and Understanding)

The Ministerial Council,

(...)

5. Decides that the participating States while implementing their commitments to promote tolerance and non-discrimination will focus their activities in such fields as, inter alia, legislation, law enforcement, education, media, data collection, migration and integration, religious freedom, inter-cultural and inter-faith dialogue, and commit to:

5.1 Consider increasing their efforts to ensure that national legislation, policies and practices provide to all persons equal and effective protection of the law and prohibit acts of intolerance and discrimination, in accordance with relevant OSCE commitments and their relevant international obligations;

5.2 Strengthen efforts to provide public officials, and in particular law enforcement officers, with appropriate training on responding to and preventing hate crimes, and in this regard, to consider setting up programmes that provide such training, and to consider drawing on ODIHR expertise in this field and to share best practices;

(...)

Athens 2009 (Decisions: Decision No. 5/09 on Migration Management)

The Ministerial Council,

(...)

1. Encourages the participating States to continue to work on migration management by:

(...)

- Respecting the human rights of migrants and increasing efforts to combat discrimination, intolerance and xenophobia towards migrants and their families;

(...)

Persons deprived of their liberty

Moscow 1991

(23) The participating States will treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person and will respect the internationally recognized standards that relate to the administration of justice and the human rights of detainees.

(vi) any person arrested or detained will have the right, without undue delay, to notify or to require the competent authority to notify appropriate persons of his choice of his arrest, detention, imprisonment and whereabouts; any restriction in the exercise of this right will be prescribed by law and in accordance with international standards;

(vii) effective measures will be adopted, if this has not already been done, to provide that law enforcement bodies do not take undue advantage of the situation of a detained or imprisoned person for the purpose of compelling him to confess, or otherwise to incriminate himself, or to force him to testify against any other person;

(viii) the duration of any interrogation and the intervals between them will be recorded and certified, consistent with domestic law; regarding his treatment, in particular when torture or other cruel, inhuman or degrading treatment has been applied, to the authorities responsible for the administration of the place of detention and to higher authorities, and when necessary, to appropriate authorities vested with reviewing or remedial power;

(x) such request or complaint will be promptly dealt with and replied to without undue delay; if the request or complaint is rejected or in case of inordinate delay, the complainant will be entitled to bring it before a judicial or other authority; neither the detained or imprisoned person nor any complainant will suffer prejudice for making a request or complaint;

(...)

(23.2) The participating States will

(i) endeavour to take measures, as necessary, to improve the conditions of individuals in detention or imprisonment;

(ii) pay particular attention to the question of alternatives to imprisonment.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

Vienna 1989 (Questions Relating to Security in Europe: Principles)

(23) The participating States will

(23.2) - ensure that all individuals in detention or incarceration will be treated with humanity and with respect for the inherent dignity of the human person;

(23.3) - observe the United Nations Standard Minimum Rules for the Treatment of Prisoners as well as the United Nations Code of Conduct for Law Enforcement Officials;

(23.4) - prohibit torture and other cruel, inhuman or degrading treatment or punishment and take effective legislative, administrative, judicial and other measures to prevent and punish such practices;

Copenhagen 1990

(16) The participating States

(16.3) - stress that no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture;

(16.4) - will ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

(16.6) - will take up with priority for consideration and for appropriate action, in accordance with the agreed measures and procedures for the effective implementation of the commitments relating to the human dimension of the CSCE, any cases of torture and other inhuman or degrading treatment or punishment made known to them through official channels or coming from any other reliable source of information;

Paris 1990 (A New Era of Democracy, Peace and Unity)

We affirm that, without discrimination (...) no one will be:

subject to torture or other cruel, inhuman or degrading treatment or punishment;

Moscow 1991

(23) The participating States will treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person and will respect the internationally recognized standards that relate to the administration of justice and the human rights of detainees.

(23.1) The participating States will ensure that

(ix) a detained person or his counsel will have the right to make a request or complaint regarding his treatment, in particular when torture or other cruel, inhuman or degrading treatment has been applied, to the authorities responsible for the administration of the place of detention and to higher authorities, and when necessary, to appropriate authorities vested with reviewing or remedial power;

(x) such request or complaint will be promptly dealt with and replied to without undue delay; if the request or complaint is rejected or in case of inordinate delay, the complainant will be entitled to bring it before a judicial or other authority; neither the detained or imprisoned person nor any complainant will suffer prejudice for making a request or complaint;

Budapest 1994 (Decisions: VIII. The Human Dimension)

20. The participating States strongly condemn all forms of torture as one of the most flagrant violations of human rights and human dignity. They commit themselves to strive for its elimination.

They recognize the importance in this respect of international norms as laid down in international treaties on human rights, in particular the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. They also recognize the importance of national legislation aimed at eradicating torture. They commit themselves to inquire into all alleged cases of torture and to prosecute offenders. They also commit themselves to include in their educational and training programmes for law enforcement and police forces specific provisions with a view to eradicating torture.

Freedom of thought, conscience, religion or belief

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.

Helsinki 1975 (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.

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 practicing 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.

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 cooperation among themselves, as among all States.

(...)

(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 practice 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.

(...)

(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.

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;

(...)

(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

(...)

(32.3) - 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;

(...)

(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.

Budapest 1994 (Decisions: VIII. The Human Dimension)

27. 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.

Maastricht 2003 (Decisions: Decision No. 4/03 on Tolerance and Non-discrimination)

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

Astana 2010

7. Serious threats and challenges remain (...) Greater efforts must be made to promote freedom of religion or belief and to combat intolerance and non-discrimination (...)

Kyiv 2013 (Decisions No. 3/13 Freedom of Thought, Conscience, Religion or Belief)
The Ministerial Council,

Calls on participating States to:

- Fully implement OSCE commitments on the freedom of thought, conscience, religion or belief;
- Fully implement their commitments to ensure the right of all individuals to profess and practice religion or belief, either alone or in community with others, and in public or private, and to manifest their religion or belief through teaching, practice, worship and observance, including through transparent and non-discriminatory laws, regulations, practices and policies;
- Refrain from imposing restrictions inconsistent with OSCE commitments and international obligations on the practice of religion or belief by individuals and religious communities;
- Promote and facilitate open and transparent interfaith and interreligious dialogue and partnerships;
- Aim to prevent intolerance, violence and discrimination on the basis of religion or belief, including against Christians, Jews, Muslims and members of other religions, as well as against non-believers, condemn violence and discrimination on religious grounds and endeavour to prevent and protect against attacks directed at persons or groups based on thought, conscience, religion or belief;
- Encourage the inclusion of religious and belief communities, in a timely fashion, in public discussions of pertinent legislative initiatives;
- Promote dialogue between religious or belief communities and governmental bodies, including, where necessary, on issues related to the use of places of worship and religious property;
- Take effective measures to prevent and eliminate discrimination against individuals or religious or belief communities on the basis of religion or belief, including against non-believers, by public officials in the conduct of their public duties;
- Adopt policies to promote respect and protection for places of worship and religious sites, religious monuments, cemeteries and shrines against vandalism and destruction.