

# THE CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE (CSCE):

## The Budapest Review Conference & protection of human rights

### 1. Introduction

The Conference on Security and Co-operation in Europe (CSCE) has a number of unique and potentially effective tools and working methods it can exploit to protect human rights. The CSCE has enormous flexibility in deciding an appropriate political response to a situation and, particularly through the Chairman-in-Office and the Permanent Committee (PC), can make swift decisions. The CSCE has a range of tools to promote bilateral and multilateral diplomacy, dispatch urgent fact-finding and diplomatic missions to a country or establish a longer-term presence on the ground. These tools are underpinned by a wide range of detailed human rights guarantees and a comprehensive concept of security in which respect for human rights is seen as one of the essential preconditions to maintenance of peace and security.

Yet despite this potential, the credibility of the CSCE as a protector of human rights is seriously in question. Repeated declaratory statements of high ideals have less and less meaning in the face of gross or systematic violations of human rights, both during and unrelated to armed conflict, and are increasingly ignored by a public whose confidence the CSCE needs. The failure of participating states to use to the fullest existing CSCE tools such as the human dimension mechanism, reveals a lack of political will to deal with serious human rights situations. The excessive secrecy shrouding CSCE activities and documents is undermining important attempts at raising the organization's public profile, increasing its impact and its ability to build working relationships with NGOs.

The CSCE Budapest Review Conference (the Review Conference) (10 October to 2 December 1994) will consider all aspects of CSCE concern, including security, military, environmental and economic issues. Amnesty International, however, is addressing only certain human rights issues which fall within its mandate<sup>1</sup>. In this contribution to the Review

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<sup>1</sup>. Amnesty International is a worldwide movement of people who campaign for human rights. The organization is independent of all governments and political ideologies. It demands the release of prisoners of conscience - those detained for their beliefs, colour, sex, ethnic origin, language or religion who have not used or advocated violence - fair trials for political prisoners, an end to the

Conference Amnesty International has identified eight areas which it believes, if tackled together, could tangibly improve the capacity of the CSCE to implement its own human dimension commitments in the region and hence rebuild its credibility. The eight sets of recommendations contained in this document address the following areas:

- ◆ Making on-site visits and regular reports on the human dimension by the Office for Democratic Institutions and Human Rights (ODIHR) to the Troika and the Committee of Senior Officials (CSO)/PC routine tools of the human dimension (see section 2).
- ◆ Systematising human rights components in CSCE long-term missions and developing the role of the ODIHR in shaping this function (see section 3).
- ◆ Thoroughly discussing at the Review Conference the role of the CSCE in promoting human rights in CSCE peace-making, peace-keeping and post-conflict peace-building efforts (see section 4).
- ◆ Recognising that the CSCE should, as a matter of priority, use its full range of tools to deal with situations of gross or systematic violations of human rights (see section 5).
- ◆ Developing a more open working relationship with NGOs by tapping NGO expertise better and increasing transparency of the CSCE process and access to information (see section 6).
- ◆ Affirming the particular duty of the CSCE to ensure the protection of human rights defenders (see section 7).
- ◆ Finding new and creative ways to implement existing human dimension commitments and gap filling, particularly in relation to abolition of the death penalty and conscientious objection to military service (see section 8).
- ◆ Guaranteeing the integrity of the human dimension by ensuring it is an integrated but distinct part of the CSCE process (see section 9).

## **2. On-site visits as a routine tool of the human dimension**

Amnesty International believes it is time to recognise that on-site visits to CSCE participating states should be a commonplace and uncontroversial tool in CSCE human dimension working methods. It is obvious that without accurate information political bodies cannot

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death penalty, torture and other cruel treatment, and a stop to extrajudicial executions and "disappearances".

make effective decisions. Furthermore, with face-to-face discussions at an early stage, human rights problems can often be resolved before they escalate<sup>2</sup>. On-site visits can play many different functions including: fact-finding, mediation and promotion of dialogue between parties in conflict, developing a dialogue with government officials on specific human dimension issues, conducting seminars and workshops and providing advice and assistance to government authorities to help them implement human dimension commitments.

#### **Role of the ODIHR**

The ODIHR already regularly visits participating states in fulfilling different aspects of its mandate including: election monitoring; visits to newly admitted states; arranging seminars as part of the Programme of Co-ordinated Support for Recently Admitted Participating States; participating in or undertaking missions when instructed by the Council of Foreign Ministers or CSO; facilitating the work of the HCNM, and supporting missions under the Moscow mechanism. A central part of the ODIHR mandate is to assist states in the building of democratic institutions and institutions for the protection of human rights and development of the rule of law. If the ODIHR is to carry out these functions effectively, Amnesty International believes it must have the freedom to send its experts to understand conditions on the ground and to discuss issues directly with government authorities at an operational level. Only this sort of direct experience can lead to advice and assistance which really reflects the needs of participating states. Such visits would also enhance its capacity to act as a clearing-house for information about the human dimension.

◆ ***Recommendation:** The Review Conference should instruct the ODIHR that in order to fulfil its mandate to assist states in institution building, it should regularly visit states to obtain first-hand information about the difficulties in implementing human dimension commitments, with the aim of assessing needs for, and providing, assistance and advice to government authorities. Such visits could be initiated by the Director of the ODIHR in consultation with the Secretary General.*

In addition to visits to further institution building, there is a need to improve the ability of CSCE bodies to monitor first-hand the implementation of human dimension commitments. Here the ODIHR also plays a central role. The ODIHR already has a responsibility to provide the CSO/PC with the information they need to consider human

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<sup>2</sup> In the related area of conflict prevention, the frequency with which the High Commissioner on National Minorities (the HCNM) visits countries and the effectiveness of many of these visits shows the great potential of giving CSCE institutions the freedom to carry out fact-finding and mediation visits. The HCNM is required to consult with the Chairman-in-Office prior to the visit and to inform the concerned state prior to his visit. The state is required to provide him with freedom of movement once he enters the country.

dimension questions<sup>3</sup>. It was also reaffirmed in the 1992 Helsinki Follow-Up Meeting that the work of ODIHR should "contribute to early warning in the prevention of conflicts". It is only logical and necessary for the ODIHR to be able to fulfil these roles by visiting countries, on its own initiative, to collect information first-hand about conditions on the ground. The more the ODIHR visits as many countries as possible, the more routine and uncontroversial these visits will be.

◆ **Recommendation:** *To develop fact-finding visits into a routine tool for monitoring implementation of the human dimension commitments, the Director of ODIHR, and the Secretary General, in close consultation with the Chairman-in-Office, should be authorised to dispatch fact-finding and other expert missions to participating states.*

◆ **Recommendation:** *Based on information received from other intergovernmental organizations, governments and NGOs, as well as these fact-finding visits, the ODIHR should report regularly - perhaps at least every couple of months - to the Troika or the CSO/PC collectively on remaining obstacles in implementation of human dimension commitments.*

#### Human dimension missions

It is very unfortunate that the human dimension mechanism has been so under-used - both the ability to ask another state to clarify a particular human dimension issue (Vienna mechanism) and to invite or send a short-term mission (Moscow mechanism) for a variety of purposes.

The Moscow mechanism is *not* too complex to be used. In simplified terms, either a state invites a mission, or one is sent anyway by as few as six states. The mechanism has only been used five times, not because it is too complex, but because of lack of political will.

Governments need to demonstrate the new-found spirit of CSCE openness and cooperation by inviting missions to their own territory. At the very least, any country which is repeatedly cited in an implementation debate (at a Review Conference or a Human Dimension Implementation Meeting) as having specific human rights problems should be ready and willing to open its doors. If there is no invitation, other CSCE states cannot shy away from using to the fullest all the CSCE tools, including invoking the Moscow mechanism

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<sup>3</sup> CSCE Council of Foreign Ministers, Rome, December 1993, Ch.IV, para.3. Two years ago the ODIHR was mandated to "assist the monitoring of implementation of commitments in the Human Dimension". See CSCE Helsinki Document 1992, "The Challenges of Change", Ch.VI, para.5a.

<sup>4</sup> The Helsinki Document 1992, "The Challenges of Change", Ch.VI, para.6.

and other tools. This is particularly important where serious and long-standing human rights violations have been reported. Otherwise, the CSCE will lose any credibility it may have.

◆ **Recommendation:** *The Review Conference should reaffirm the central role of the Vienna and Moscow mechanisms in clarifying and resolving human rights problems in a constructive and cooperative way through dialogue and on-site visits.*

Clearly any human dimension mission should not be an end in itself, but a means for the CSO/PC to consider effective follow-up action in each and every case. We believe it is necessary for the Review Conference to reaffirm this principle and explore new ways to ensure adequate follow-up by the CSO/PC and implementation by the relevant government(s).

◆ **Recommendation:** *The Review Conference should reaffirm the invariable responsibility of the CSO/PC to decide on follow-up action on the basis of recommendations of human dimension missions. The CSO/PC should also set up a system to ensure their decisions are implemented by CSCE institutions and relevant governments. One method would be to appoint ad hoc steering groups to assist the Chairman-in-Office in monitoring implementation. Follow-up of such missions should be a regular item on the CSO/PC agenda.*

### 3. Human rights in CSCE long-term missions

Amnesty International welcomed the decision taken by the Council of Foreign Ministers in Rome last December that "greater emphasis will be given to human dimension issues in mandates of CSCE missions". Indeed, most CSCE long-term missions include some human rights element in their mandate<sup>5</sup>.

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<sup>5</sup> In December 1993 in Rome the Council of Foreign Ministers extended the mandate of the **Georgia** mission "to include also the promotion of respect for human rights...and the rendering of assistance for the development of legal and democratic institutions and processes"; **Moldova** mission was instructed "to continue to promote full respect for human rights and the rule of law, including in individual cases such as the trial of the so called 'Ilascu group'; the new **Tadzhikistan** mission was mandated to "actively promote respect for human rights". The mission expelled from **Kosovo, Sand\_ak and Vojvodina** in July 1993 had an express mandate to "collect information on all aspects relevant to violations of human rights and fundamental freedoms and promote solutions to such problems" and to "assist in providing information on relevant legislation on human rights...". The mission in **Estonia** included a mandate to collect "information, technical assistance and advice on matters relating to the status of the communities in Estonia and the rights and duties of their members".

Some of the missions have played an important role in monitoring and helping to protect human rights. The missions of long duration in Kosovo, Sandak and Vojvodina actively monitored the fate of detainees and helped to deter some violations. Rights of the Russian-speaking community have been an integral part of the missions in Estonia and Latvia. The mission in Tadjikistan has received complaints of violations and followed-up some cases with authorities. The principal role of the recently authorised mission to Sarajevo will be to establish and support Ombudsmen in the newly formed Bosniac-Croat Federation. Much of the human rights work of missions, however, has focused on advising governments on draft constitutions and other legislation.

In drawing up the mandate of CSCE missions and in guiding their day-to-day work, there is a need to have a more explicit and common understanding of the extent and nature of their role in reporting on the human rights situation and in protecting human rights, over and above their recognised role in promoting awareness of CSCE human dimension commitments and advising on legislation.

Given the apparent consensus in the CSCE that the human dimension is at the heart of the CSCE concept of security, it is surprising to hear the argument that concern for human rights hinders the role of these missions in helping to prevent or resolve conflict. On the contrary, Amnesty International believes that human rights should inform the work of CSCE long-term missions. Human rights violations are often signs of political conflict and the resolution of conflict is of little comfort to people who are still at risk in life and limb. Responding in an appropriate way to human rights violations by all sides to a conflict can only enhance the impartiality and credibility of a CSCE mission.

At the very least, any officials representing the CSCE, including military observers verifying ceasefires and election monitors, cannot remain silent witnesses to human rights abuses they see. If there is reason to fear the occurrence of human rights abuses preventive steps should be taken, including going to the site of potential abuses. Such incidents should be reported to the Chairman-in-Office (and the ODIHR) who has a duty to ensure follow-up action and also to forward the information to relevant bodies and mechanisms of the United Nations and Council of Europe. Otherwise parties to a conflict will know that CSCE human dimension commitments are meaningless and can be openly flouted in front of CSCE representatives.

Systematic monitoring and reporting on the human rights situation should also be an integral part of every mission. In some situations the mission should play a more proactive role. It may have to use its presence and voice actively to protect those at risk; or bring cases to the attention of the authorities; or make strong recommendations on good legislation and practice. Every mission will be different. But every mission should have a human rights function and will need at least some members with appropriate human rights expertise.

Amnesty International believes the Review Conference should reaffirm and systematise the essential role of human rights in CSCE missions.

◆ **Recommendation:** *It should be explicitly affirmed that the mandate of every CSCE long-term mission should invariably include a human rights component (the precise nature of which will be different in every case.)*

◆ **Recommendation:** *Every long-term mission should include at least some members experienced in human rights and/or humanitarian law and in documenting and assessing human rights violations.*

If human rights is an integral part of the CSCE concept of security, then an assessment of the human rights landscape should be an integral part of a mission's assessment of, and reporting on, the situation in a country. It appears that at present reporting about human rights is only a haphazard part of some mission reports.

◆ **Recommendation:** *Activity reports from all CSCE missions should routinely include assessments of the human rights situation and reports on the human rights component of the mission's work.*

The ODIHR already plays some role in the establishment and support of CSCE missions, particularly in the most recently authorised mission in Sarajevo. However the role of the ODIHR needs to be recognised and further developed.

◆ **Recommendation:** *The Review Conference should affirm in unambiguous terms that the ODIHR has the primary responsibility to make recommendations on the appropriate nature of the human rights component in any planned mission, identify the type of human rights experts required, organize human rights training and closely supervise and guide execution of the human rights mandate.*

Confidential dialogue away from the glare of publicity is undoubtedly a key tool in resolving conflict, but so is public knowledge. Both have their places. At the moment all activity reports from CSCE long-term missions are confidential, although a few missions have used the press and television in the host country to explain their role to the public. Generally, few people outside the CSCE know that these missions exist, let alone what they do. Greater public understanding would give their work far wider political impact within the country and would help other intergovernmental organizations and NGOs not to duplicate work already done by the CSCE. Periodic public reports about the work of these missions could be disseminated widely within the host country.

◆ **Recommendation:** *The CSO should issue periodic public reports on the work of these missions, perhaps every couple of months, with details of their activities, findings and*

*recommendations to the government. Missions should also consider the careful use of public statements about human rights issues to further the human rights objectives of the mandate.*

#### **4. Human rights in CSCE peace-making, peace-keeping and post-conflict peace-building**

With a ceasefire agreed most recently in Nagorno-Karabakh and Tadjikistan, the CSCE hopes that it may finally play a major role in promoting the peaceful settlement of armed conflict in the region. Amnesty International is concerned to ensure that human rights are firmly on the agenda of the CSCE's peace-making and post-conflict peace-building efforts and in any peace-keeping operation approved by the CSCE. As the United Nations Secretary-General Boutros Boutros-Ghali has said:

*"I should also, in this connection, stress my belief that respect for human rights constitutes a vital, indeed critical component, among measures to resolve, on a long-term basis, conflicts of this nature [in Angola], including efforts to promote enduring conditions of peace, national reconciliation and democracy."*<sup>6</sup>

Amnesty International has set out a detailed 15-point program for human rights in peace settlements and peace-keeping operations, in *Peace-keeping and Human Rights*<sup>7</sup>. Many parts of this program are relevant to the CSCE. Amnesty International hopes that the Review Conference will begin a serious discussion about the role of the CSCE in ensuring that effective human rights protection and verification measures are built into peace settlements and plans for their implementation. The following paragraphs identify a number of elements of the 15-point program which are particularly relevant to the current role of the CSCE and which should be discussed at the Review Conference.

##### **Human rights chapters in peace agreements**

Peace agreements should include a detailed and comprehensive list of international human rights laws and standards to be guaranteed in the transition period and post-settlement phase. These specific rights would include all the CSCE human dimension commitments, those contained in the national constitution and legislation (where these are in conformity with international standards), international human rights treaties to which the state is a party, and other international human rights and criminal justice standards. Peace settlements should

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<sup>6</sup> Report on the UN Angola Verification Mission, UNAVEM II, to the Security Council, S/25840, May 1993.

<sup>7</sup> AI Index: IOR 40/01/94, January 1994.



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require eventual ratification of international human rights treaties to which the state is not a party.

**Effective and independent human rights monitoring, verification, investigation and corrective action**

A peace settlement should provide for effective machinery for the supervision and verification of the human rights commitments. A CSCE civilian observer or monitor mission, envisaged as part of CSCE peace-keeping operations<sup>8</sup>, or a field operation of another intergovernmental organization such as the United Nations, should play a key role in supervising the human rights aspects of the agreement, receiving complaints of violations, investigating alleged human rights violations and taking appropriate corrective action. The advice of the ODIHR will be crucial in shaping the human rights component of any peace agreement and the role of the CSCE in monitoring compliance.

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<sup>8</sup> The Helsinki Document 1992 states in Ch.III, para.18, that "A CSCE peacekeeping operation, according to its mandate, will involve civilian and/or military personnel, may range from small-scale to large-scale, and may assume a variety of forms including observer and monitor missions and larger deployment of forces".

**Ensuring peace with justice**

Peace settlements should provide for impartial investigation of past abuses, processes aimed at establishing the truth and measures to ensure that any perpetrators of human rights violations are brought to justice. Individual responsibility for human rights violations, past and present, must be made explicit and sweeping pre-conviction amnesties should not be part of peace settlements.

**Frequent and public reporting**

To guarantee the effectiveness, security and credibility of international human rights personnel there must be frequent, comprehensive and public reports of their activities and findings which should be broadly disseminated nationally as well as internationally.

**Long-term measures for human rights protection - post conflict peace-building**

The CSCE, working with other intergovernmental organizations such as the United Nations and Council of Europe, is well placed to assist in the establishment of permanent and effective national institutions for the long-term protection of human rights and the reinstatement of the rule of law, including an independent judiciary and fair criminal justice system. These long-term measures would include strengthening, and encouraging the growth of, national human rights NGOs. This sort of institution building is already a central part of the ODIHR mandate. The new CSCE mission to Sarajevo which will create and support Ombudsmen to receive and deal with human rights complaints in the Bosniac-Croat Federation, is the first welcome step in this direction.

**Protection of refugees, internally displaced and returnees**

Refugee repatriation programs should include an effective monitoring and protection aspect for as long as necessary. International refugee law and protection standards, which have been reaffirmed by the CSCE, must be adhered to at all times, including the principles of *non-refoulement*, the right to seek asylum and repatriation only on a voluntary basis with international supervision.

**Adherence of peace-keeping forces to human rights and humanitarian law standards.**

Regardless of whether the CSCE supplies its own peace-keeping forces, requests another intergovernmental organization to carry out this function or gives its approval to the presence of a third party military force, the CSCE will be ultimately responsible for the conduct of these forces as long as it remains the political umbrella for the operation. It should ensure that all troops participating in such operations are fully trained in international humanitarian and human rights law as well as criminal justice standards. Personnel should understand their obligation to adhere to them.

In the event of a third party military force being approved, any CSCE observer mission should be mandated to ensure there is monitoring, investigation and reporting on any violations of international norms by peace-keepers. The CSCE will also have a responsibility to ensure that personnel responsible for serious violations are brought to justice in accordance with international standards.

◆ *Recommendation: Working Group No.3 at the Review Conference, dealing with the human dimension, should carry out a thorough discussion of how the CSCE should protect and promote human rights in its peace-making, peace-keeping and post-conflict peace-building efforts, with the aim of identifying specific follow-up which should be carried out by the Chairman-in-Office, the CSO/PC, ODIHR and other CSCE institutions to further elaborate and implement agreed principles.*

◆ *Recommendation: The Review Conference should ensure that the principles on third party peace-keeping currently being negotiated include a clear statement that the third party military force must at all times adhere strictly to international humanitarian law, CSCE human dimension principles and other human rights and criminal justice standards and that the role of any CSCE monitor mission will include monitoring compliance with these standards.*

## **5. The CSCE and situations of gross or systematic human rights violations**

Amnesty International believes that the CSCE has a particular responsibility to act to prevent and end situations of gross or systematic human rights violations in participating states, particularly in cases of extrajudicial execution, torture, "disappearances" or prolonged arbitrary detention. Such abuses blatantly flout CSCE human dimension commitments and international law and challenges the credibility of the CSCE. Their continuation is often a sign of serious political instability and could lead to further political or armed conflict in a country or sub-region. But gross or systematic violations of human rights are also committed in CSCE states where there is no armed conflict.

There has been much talk of interlocking and complementary institutions in Europe. The Council of Europe - the CSCE's principal partner in Europe in the protection of human rights - is currently unable, or unwilling, to tackle patterns of gross or systematic human rights violations in member states.

Independent organs set up by the Council of Europe have had some success in addressing human rights violations in individual countries. The right of individual petition under the European Convention on Human Rights to the European Commission of Human Rights has resulted in redress for individual victims and even some tangible change in

national law and practice. The relatively new European Committee for the Prevention of Torture (the Torture Committee) has shown itself to be rigorous and courageous in tackling the continuing problems of torture and ill-treatment in member states.

However, the power of these bodies quickly reaches its limit without political backing and follow-up. The Council of Europe's Committee of Ministers, in particular, has consistently failed to act on a political level where a member state is reported to be responsible for ongoing, grave violations of human rights, including where it is repeatedly found by the European Commission or Court of Human Rights to have violated the same human rights or when the Torture Committee decides as a last resort to issue a public statement. The inter-state complaint mechanism under the European Convention on Human Rights has also not proved adequate and the individual complaints procedure alone cannot tackle the root problems inherent in such situations.

The Parliamentary Assembly of the Council of Europe has at times dispatched fact-finding missions and strongly criticised violations in member states, but has been largely unable to goad the political decision-making bodies into action.

Amnesty International believes the CSCE has the flexibility and tools to address these serious situations. It is not clear whether participating states have the political will.

There is no shortage of CSCE mechanisms and working methods which could and should be used in a graduated approach to address gross or systematic violations of human rights, hopefully at an early stage, before the patterns become entrenched and more severe. These tools include:

- Bilateral requests for information under the Vienna mechanism.
- The invitation or dispatch of missions under the Moscow mechanism to investigate, advise and enter into dialogue.
- Multilateral discussions and decisions in the CSO/PC.
- Multilateral discussion at a Human Dimension Implementation Meeting (HDIM) to clarify the facts of the situation and to "identify action which may be required to address problems" and draw this to the attention of the CSO<sup>9</sup>.
- The dispatch by the Chairman-in-Office of a Personal Representative in situations which amount to a crisis or conflict<sup>10</sup>.

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<sup>9</sup> The Helsinki Document 1992, Ch.I, para.30.

<sup>10</sup> The Helsinki Document 1992, Ch.I para.22.

- The convening of an emergency meeting of the CSO if the situation amounts to a violation of one of the principles of the 1975 Helsinki Final Act - including Principle VII on human rights - under the so-called Berlin emergency mechanism.
- If the human rights violations amount to "clear, gross and uncorrected violations of relevant CSCE commitments", the Council of Foreign Ministers or CSO can take political action without the consent of the state concerned (the so-called consensus-minus-one principle)<sup>11</sup>.

The problem too often is not lack of tools, but lack of political will to tackle difficult human rights situations.

◆ **Recommendation:** *The Review Conference should expressly state that the CSCE has a responsibility to act as a matter of priority to prevent and end gross or systematic violations of CSCE human dimension commitments, using the full range of CSCE mechanisms and working methods available.*

The Chairman-in-Office, with the other members of the Troika, has a particular responsibility to oversee the work of the CSCE, to refer outstanding issues for consideration by the CSO/PC and to set out options for action with recommendations.

◆ **Recommendation:** *The Review Conference should affirm that the Chairman-in-Office, in consultation with the Troika and the ODIHR, has a responsibility to refer to the CSO/PC, with recommendations for action, situations which may constitute gross or systematic violations of human dimension commitments.*

## **6. Developing a more open working relationship with NGOs**

The ability of NGOs to lend their expertise to the CSCE process has improved significantly over the last two years, particularly because of the developing relationship between NGOs and the High Commissioner on National Minorities and the ODIHR and the excellent level of NGO involvement in the first HDIM in Autumn 1993 and recent human dimension seminars in Warsaw. However, the Review Conference could make significant progress by scrutinizing the record of governments in involving national NGOs in the CSCE process, finding better ways to tap NGO expertise and improving transparency of the CSCE and NGO access to information.

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<sup>11</sup> This exception to the usual need for consensus of all participating states was agreed at the 1992 Prague meeting of the Council of Foreign Ministers. So far it has only been used once, in July 1992, to suspend the Federal Republic of Yugoslavia from participation in CSCE decision-making.

**Record of states at national level**

Many national NGOs rely almost entirely on their government for information about the CSCE and for opportunities to give input into the CSCE process. In Helsinki in 1992 CSCE participating states committed themselves, as individual governments, to "use all appropriate means to disseminate as widely as possible within their societies knowledge of the CSCE, its principles, commitments and activities" and to "promote contacts and exchanges of views between NGOs and relevant national authorities and governmental institutions"<sup>12</sup>.

◆ **Recommendation:** *Based on submissions by governments and NGOs, the CSCE Secretariat or ODIHR should carry out a survey of how CSCE states are implementing their obligations to inform and involve NGOs in the CSCE process and then make recommendations to the PC about further ways to implement these obligations.*

**Tapping NGO expertise**

The CSO/PC should have access to all relevant factual information about relevant themes and the situation in particular countries, if it is to make effective decisions.

◆ **Recommendation:** *The CSCE Secretariat/ODIHR should regularly distribute to the CSO/PC lists of NGO documents they have received. Any participating state could request copies of specified documents from the Secretariat.*

These lists would help the CSO/PC identify NGOs which could provide further specialist expertise. In section 8 below Amnesty International recommends that NGO expertise and resources be tapped to prepare particular reviews of implementation of CSCE standards. The political decision-making bodies could also draw on NGO expertise whenever necessary.

◆ **Recommendation:** *The Review Conference should encourage the CSO/PC to consult with NGOs whenever their expertise would be useful. These bodies could, for example, invite an NGO to make a written and/or oral presentation to a meeting on a specific country or thematic issue which would benefit from specialised NGO input.*

**Transparency and access to information**

Access to timely information is as important as access to meetings if NGOs are to provide relevant information and recommendations to CSCE governments and institutions. The

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<sup>12</sup> The Helsinki Document 1992, paras.17 and 5 respectively.

CSCE Secretary General and the ODIHR have made significant progress in informing NGOs about CSCE activities and ensuring they have access to unrestricted documents. We believe that very particular strategies are needed to make the main day-to-day decision-making bodies and principal CSCE mechanisms more transparent:

◆ *Recommendation: The CSCE should increase transparency of the CSO and PC, including describing their working methods, releasing more information prior to meetings, actively disseminating in an accessible form the results of the meetings (including journals and decisions) and making greater use of press releases.*

NGOs often have the most up-to-date and detailed information about particular countries. But in the past NGOs have learned too late about the dispatch of a human dimension mission to be able to send the experts relevant information prior to the mission.

◆ *Recommendation: In regard to every human dimension mission, details of the decision initiating the mission, the dates when the mission will take place, names of the experts and their mandate, should be released immediately after the decision and actively disseminated to the media and NGOs as well as the country to be visited.*

There have been difficulties in the past in rapidly obtaining reports of human dimension and other short-term missions. This reduces their political impact and only leads to NGOs and others duplicating work done by the CSCE.

◆ *Recommendation: It should be CSCE practice that unless indicated prior to a mission, and for some compelling and exceptional reason, CSCE mission reports should be publicly released as soon as they are transmitted to participating states.*

## **7. An attack on a human rights defender is an attack on the CSCE system**

The role of the citizen alone or in association with others as upholder of CSCE commitments has been a pillar of the CSCE process ever since Principle VII of the 1975 Helsinki Final Act declared "the right of the individual to know and act upon his rights and duties" with respect to human rights and fundamental freedoms<sup>13</sup>.

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<sup>13</sup> The CSCE Copenhagen meeting elaborated on these rights, including the right of everyone to form human rights NGOs, to publish information about human rights, to communicate unhindered with national and international human rights NGOs and to communicate with international bodies which receive complaints about human rights abuses. See Concluding Document of the 1990 Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, paragraphs 10 and 11; see also paragraph 12.

Amnesty International believes that the Review Conference should strengthen the ability of the CSCE to protect human rights defenders as individuals and NGOs. A violation against a particular human rights defender, whether an individual or group, is an attack on the CSCE system and often symptomatic of a wider human rights malaise. It should be an exception to the usual reluctance of CSCE bodies to deal with individual cases.

The Chairman-in-Office, or even the CSO/PC, should act to protect human right defenders who are at risk in life and limb or who are otherwise prevented by governments from carrying out their activities as guaranteed by CSCE commitments. The Chairman-in-Office could, for example, exercise good offices in particular cases and could urgently despatch a personal representative to investigate and seek assurances from the government. Participating states should activate the Vienna and Moscow mechanisms in cases where human rights defenders are at risk.

♦ **Recommendation:** *The Review Conference should reaffirm the responsibility of participating states to protect human rights defenders and the duty of CSCE bodies and mechanisms to address this question. The ODIHR should be requested to monitor information about violations against human rights defenders and periodically bring this information to the attention of the CSO/PC.*

## **8. Implementing existing CSCE human rights standards and filling gaps**

Some governments have argued that the standard-setting work of the CSCE has finished. While CSCE commitments are comprehensive in several areas, no intergovernmental organization should ever be so complacent as to say that it will not need to strengthen its commitments to protect human rights. New CSCE human rights commitments will still be needed in the future to fill gaps, to strengthen weak CSCE commitments, to respond to a changing world and to reinforce the validity of standards developed in other fora. In the course of reviewing implementation in the Review Conference, gaps in CSCE standards may become apparent and the Review Conference will have a responsibility to fill them.

Nevertheless, a major task of the Review Conference will be to systematically review whether the existing detailed human rights commitments, particularly those adopted in Vienna (1989), Copenhagen (1990) and Moscow (1991), have been implemented by CSCE states and how CSCE institutions can facilitate their implementation. The following paragraphs set out two areas in which Amnesty International believes the Review Conference



should find new and creative ways of implementing the commitments which have lain dormant, as well as strengthening the basic commitment.

### ***Death penalty***

Abolition of the death penalty is imperative for the achievement of international human rights. Amnesty International holds that the death penalty violates the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment, as proclaimed in international human rights instruments.

◆ ***Recommendation:*** *Participating states should commit themselves to abolishing the death penalty for all crimes. Pending abolition, the carrying out of executions should cease in all participating states.*

◆ ***Recommendation:*** *The Review Conference should declare that participating states retaining the death penalty should respect as a minimum standard the agreed international safeguards and restrictions on the death penalty, including its restriction to persons aged 18 or over at the time of the commission of the crime.*

The commitment made in Copenhagen to "exchange information within the framework of the Conference on the human dimension on the question of abolition of the death penalty"<sup>14</sup> is one of the many commitments which have lain dormant. The creation of the ODIHR provides a new opportunity to monitor and make a reality such commitments. The exchange of information is important if the question of abolition of the death penalty is to be kept under consideration and if information is to be made available to the public, as agreed in Copenhagen.

◆ ***Recommendation:*** *The Review Conference should ask the ODIHR to disseminate information for public use on the question of capital punishment. To this end, participating states, intergovernmental organizations and NGOs should be requested to provide information to the ODIHR on national practice and experience of the death penalty and its abolition.*

### ***Conscientious objection to military service***

In Copenhagen in 1990 participating states agreed to consider introducing alternative service for people who conscientiously object to performing military service.

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<sup>14</sup> Concluding Document of the Copenhagen meeting of the Conference on the Human Dimension of the CSCE, para.17.7.

♦ **Recommendation:** *The CSCE should bring the commitment made in Copenhagen in line with existing international standards by reaffirming that conscientious objection to military service is a right and a legitimate exercise of the right to freedom of thought, conscience and religion.*

The Copenhagen meeting also agreed to keep the issue under consideration and that information would be made available to the public. At the 1993 HDIM the Danish delegation called on other delegations at the meeting to circulate their domestic provisions on exemption from compulsory military service. Only Austria, Croatia, Finland and the Netherlands distributed such information. Amnesty International believes this idea should be made a reality by bringing together in a single document all available information on existing legislation and practice in all CSCE member states on exemption from compulsory military service. This would enable the next HDIM to consider the issue based on a proper understanding of the current situation.

♦ **Recommendation:** *The Review Conference should request the ODIHR to prepare a directory of information on CSCE participating states' legislation on conscientious objection to military service and current provisions for alternative service. The ODIHR could request one or more NGOs to prepare this directory or request governments, intergovernmental organizations and NGOs to provide information so it could prepare the document itself.*

## **9. Place of the human dimension in CSCE: integrated but *distinct***

Integration of human rights concerns into the CSCE decision-making process, particularly the CSO/PC, is a natural and welcome outcome of the CSCE's comprehensive concept of security<sup>15</sup>. However, integration also threatens to downgrade the role of human rights protection in the CSCE if respect for human rights is interpreted as meaning only the absence of war and if human rights are only considered by the CSO/PC when directly relevant to immediate attempts to maintain peace and security. CSCE human dimension commitments are diverse and detailed<sup>16</sup>. They must be implemented as an end in itself and

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<sup>15</sup> The December 1993 Rome meeting of CSCE Council of Foreign Ministers decided that "the decision-making bodies of the CSCE will consider human dimension issues on a regular basis as an integral part of deliberations relating to European security", para.3.

<sup>16</sup> The Vienna (1989), Copenhagen (1990) and Moscow (1991) concluding documents in particular contain guarantees on diverse subjects such as the right not to be tortured and ill-treated, the right to a fair trial, independence of the judiciary, rights of detainees, the right not to be arbitrarily detained, accountability of law enforcement personnel, civilian control of military forces, obligations of a government during a state of emergency, the right to non-discrimination, and the rights to freedom of expression, assembly and association.

because conflict is often the end product of years in which injustices and violations of human rights have continued without redress.

To preserve the integrity of the human dimension in the CSCE process, Amnesty International believes human rights should be an integrated but *distinct* part of the CSCE process.

In practice this means a concerted strategy by states to address human dimension issues on their own merit. Amnesty International urges participating states to include human rights experts in their delegations in Vienna. The human dimension should appear periodically as a separate item on the agenda of the PC to ensure that delegations seek specific instructions and are prepared to contribute to the substantive discussion. If decision-making on human dimension issues is increasingly concentrated in the CSO/PC, these fora will have to become more transparent and open to NGO input if the traditional role of NGOs in the human dimension is not to be downgraded. We have made recommendations in section 6 above about developing the role of NGOs. Recommendations are also made in section 3 above about ensuring that the protection of human rights develops as a distinct function of long-term missions.

The future of Review Conferences is uncertain. Proposals have been made to abandon Review Conferences because all CSCE matters could be discussed in the CSO/PC or to always hold Review Conferences in Vienna and for a much shorter period.

Regardless of their duration or location, Review Conferences are the only opportunity to step back and review how all the complex and varied aspects of CSCE work on security, military, human rights, economic and environmental issues fit together. Secondly, because NGOs have access to the human dimension working group at Review Conferences but have no access to the PC, abolishing Review Conferences would in effect downgrade NGO participation in the CSCE process. If Review Conferences are abolished, Amnesty International believes the bi-annual Human Dimension Implementation Meeting should be held annually and should be upgraded so it has the power to make decisions binding on participating states.