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IMPORTANT BUILDING BLOCKS IN STRENGTHENING THE OSCE'S HUMAN DIMENSION

This food-for-thought paper contains suggestions and recommendations related to the most important OSCE's human dimension issues presented on behalf of the East European Security Research Initiative and the Foreign Policy Research Institute (Kyiv, Ukraine) within the margins of the OSCE Network of Think Tanks and Academic Institutions as a part of contribution to the OSCE's Panel of Eminent Persons Report.

In general, a majority of the existing OSCE's instruments and mechanisms, including those related to human dimension, have been and could be rather useful ones, if appropriate political will exists, and all the OSCE participating States agree to apply them accordingly. Such willingness is even inherent in time of the current OSCE crisis triggered by the latest security developments in the Russia-Ukraine conflict, as a repercussion of the big wide security crisis in Europe. The most remarkable things here are the strategic objectives being achieved by each participating State while applying these instruments/mechanisms. The lack of strategic vision of the role and place of the OSCE on the national level seems to be the main reason for current misunderstanding/distrust resulted in unjustified losses of the existing opportunities.

The remaining core issue in strengthening implementation of all commitments and obligations undertaken within the OSCE, including those in human dimension, is their political nature and interpretation based on national discretion. Therefore, there is a need to change the whole concept. It means that the OSCE should be gradually converted into a kind of enabling power supporting the implementation process by elaborating common approach for interpretation of current commitments and

obligations avoiding antagonistic narratives. In doing so, current follow-up procedure must be strengthened through broad involvement of so-called "external auditors", including from those international institutions and organizations that have strong legal framework and cover similar area of responsibility. To this end, the OSCE should increase bilateral cooperation with the UN and its agencies, as stipulated from the Chapter VIII of the UN Charter.

Among other effective measures to consider could be the understanding of weaknesses of those participating States that violate their commitments, and using these weaknesses in order to persuade them to meet such commitments. In that regard, the OSCE Institutions (the OSCE Office for Democratic Institutions and Human Rights (ODIHR), the High Commissioner on National Minorities (HCNM), and the Representative on Freedom of the Media (RFM)) should have a decisive role to play. Having in mind current security developments, that is Ukraine, together with other affected participating States, supported by respective OSCE Institutions, should be a driving force here, especially while making pleas for international justice on Russia's violations of the basic human rights legal stipulations in international law on the backdrop of its aggression against Ukraine.

Another crucial element - strengthening the autonomy of the abovementioned OSCE Institutions and taking into account the latest lessons learned in course of the Russia-Ukraine conflict.

Finally yet importantly, civil society must be actively involved in follow-up process as additional independent auditor. In order to produce more influence and be heard, above involvement should be institutionalized to the extent possible within the framework of the OSCE. The potential of the OSCE Track II initiatives (Civil Solidarity Platform, OSCE Network of Think Tanks and Academic Institutions, New-Med Network, etc.) also must be taken into account while preparing follow-up reports and assessments.

The issue of civil society involvement should remain among the most important building blocks in strengthening the OSCE human dimension. The reason is the need for reconsidering existing OSCE “top-down” approach mainly oriented on having deal with the authorities declaring governmental policy in conformity with both international and national obligations, including those undertaken within the OSCE. Under current security developments, especially in and around Ukraine, this is the civil society, particularly newly created volunteer movements, being broadly developed and providing significant influence on defining governmental policy priorities in all areas. All these facts strengthened by drastic and irreversible changes in civic thinking have practically shifted civil society to the leading positions in the national decision-making hierarchy.

In order to do this, the OSCE needs for more visible and institutionalized civil society/volunteer presence (as an option on the basis of existing Civil Solidarity Platform, etc.) that could help in reconfirming its basic principles and rules. The broadening cooperation on this particular issue with the EU (Eastern Partnership Forum) and NATO (Public Diplomacy Program) could be considered as the first practical step to be done.

On the backdrop of the so-called “hybrid” war waged against Ukraine by the Russian Federation, albeit without formal recognition as a state of war, all distinctions between international humanitarian law (IHL) and human rights are compromised. Consequently, IHL has been raised to the top of the national and international agendas, similarly as being “hybrid”. On this background, the OSCE should devote more attention to those international human rights mechanisms that are adjacent to the IHL obligations, with emphasis given to real situation on the ground, where armed clashes and hostilities still are in place. Therefore, existing conditions of ongoing armed conflicts in the OSCE area should be taken into

account while defining priorities in human rights protection having the tendency not to be enshrined properly in the laws of the affected participating States.

Another important option is providing support in further establishing contacts between different civil society representatives from all parties to the conflict. Such contacts could help in seeking ways for possible cooperative approaches in overcoming difficulties and contributing to building up a constructive basis for needed political will to resolve the conflict, having in mind a third party’s extensive influence.

All OSCE field missions should also be involved in human rights protection activities, according to their mandates, and establish close interactions with field presences of other international players involved in the implementation of the existing international human rights protection mechanisms.

Preventing national minorities from becoming sources of political conflict

There are some critical remarks on the efficiency of using available potential of the existing initiatives, institutions and mechanisms of the OSCE dedicated to national minorities’ issues, especially within the margins of early warning and conflict prevention. The results of so-called “quiet diplomacy” tactics inherent to the HCNM, who has been very active in Crimea since the early nineties, were not appropriately utilized at the outset of the Russia-Ukraine conflict. The main reason is misperception with priorities oriented mainly on the internal factors without proper consideration of the external influence.

The HCNM’s Recommendations on national minorities in inter-State relations (so-called Bolzano/Bozen Recommendations) prepared on previous experiences and experts’ advises have proved their relevance, having in mind the latest security developments and extensive usage of the national minority’s potential as a decisive element of the modern hybrid warfare. These Recommendations should be appropriately updated and converted into a kind of confidence and security building measures that could complement existing ones in politico-military dimension (Vienna Document 2011, Code of Conduct on Politico-Military Aspects of Security, etc.). Such document at least should have politically binding status with all necessary follow-up obligations.

Special attention should be paid to the rapid changes on the ground when the titular ethnic group after violation of the participating State’s territorial integrity appears to be a national minority suppressed by invading participating State, as it is the particular case with the illegally annexed Crimea.

Supporting interfaith dialogue

On the current security developments triggered by the Russia-Ukraine conflict, the issues of supporting interfaith dialogue and maintaining cooperative management of interfaith relations have become more important than ever. Fulfilment in a good faith of all obligations under international law, especially those focused on interfaith dialogue, is among the basic principles stipulated in the Helsinki Final Act.

One particular element of this broad topic is the protection of places of worship and other religious objects during the armed conflict (open aggression or hybrid war). This issue was among those that stressed the urgency of maintaining cooperative management of interfaith relations in current security environment. Intentional destruction of places of worship and religious objects, being important component of social cohesion, may have adverse consequences for both human rights and security.

The problem of places of worship protection in armed conflict (even if the state of war is not recognized) could serve as the starting point to support interfaith dialogue, especially having in mind already agreed consolidated approach on this issue, main provisions of which reflected in Kyiv Ministerial Council decision 3/13 on Freedom of Thought, Conscience, Religion or Belief. Additionally, this agenda item also would serve for revitalizing the role

of the OSCE as regional arrangement under Chapter VIII of the United Nations Charter promoting the implementation of relevant provisions stated in the Hague Conventions of 1954, the Geneva Conventions of 1949 and the 1977 Protocol 1 additional thereto.

It is only one element from the broad topic of maintaining interfaith relations that could demonstrate its relevance so that clearly identifying an obvious need to be institutionalized within the margins of the OSCE.

Hence, the OSCE to be more effective within the existing consensus rule needs to modify existing or elaborate new instruments and mechanisms oriented on the protection of fundamental freedoms and human rights. They should be preferably oriented at crisis resolution and management (CR/M) process to be implemented in the field so that to help in meeting national objectives of the participating States while maintaining common ground for practical actions, they simply could not find anywhere but for the OSCE. Sharing practical experience and elaborating cooperative approaches to CR/M in asymmetric security environment, particularly among all affected participating States, would be of great importance. Practical approach must be dedicated to solving urgent security problems in the most troubled areas, including national minorities' issues, supporting interfaith dialogue, protecting migrants, refugees and internally displaced persons.

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East European Security Research Initiative (EESRI) is an informal discussion, analytical and information-sharing international platform aimed at uniting efforts of the experts and researches from various countries to find effective ways for strengthening security in the Eastern Europe as the most vulnerable region of the contemporary Europe.

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