



Opening Address by Ambassador Janez Lenarčič

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(ODIHR)

Supplementary Human Dimension Meeting
on Freedom of Movement and Human Contacts

Vienna, 25 - 26 April 2012

Check against delivery!

Excellencies, Distinguished Colleagues, Ladies and Gentlemen,

It is an honor to welcome you to this Supplementary Human Dimension Meeting on Freedom of Movement and Human Contacts, which is part of the framework of human dimension meetings organized every year. Indeed it is only the second time that the OSCE participating States have decided to organize a Supplementary Human Dimension Meeting on this topic, and I would like to commend the efforts taken by the Ukrainian OSCE Chairmanship which have led to the convening of this event.

The main topics, which this Meeting will focus on, are freedom of movement and cross-border human contacts. The right to freedom of movement was first introduced in Article 13 of the Universal Declaration of Human Rights back in 1948, which states that “*Everyone has the right to freedom of movement and residence within the borders of each state*”. Furthermore, it stipulates that “*Everyone has the right to leave any country, including his own, and to return to his country*”.

These provisions have also been incorporated in the OSCE commitments. As such, together with other international standards, they oblige the OSCE participating States to guarantee these rights. It must be noted, however, that a reciprocal right to enter the territory of another participating State is not guaranteed. To date, regulation of the admission of foreigners remains the sovereign authority of each country.

OSCE participating States do not use the term “*freedom of movement*” only to describe the right to unrestricted movement of residents within the borders of their own state. This term also refers to the entry into the territory of an OSCE participating State by foreigners, as well as the free movement of foreigners within state borders.

For the OSCE region freedom of movement and human contacts, are of particular significance. Efforts to promote cross-border mobility and human contacts date back to the start of the Helsinki process, when this area was divided along ideological lines, symbolized by the Berlin Wall. The Helsinki accords challenged closed borders, and thereby sought to address and overcome divisions in Europe. To this end, the participating States committed themselves to “*facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States*”. Commitments on human contacts, which the OSCE, then CSCE, participating States made in Helsinki in 1975, were subsequently affirmed and strengthened in 1983 in Madrid, in 1989 in Vienna and in 1990 in Copenhagen, by undertaking to clarify rules and simplify procedures to allow persons to enter or leave temporarily for personal and professional reasons, including for business, education or science.

Since the adoption of the Helsinki Final Act, the OSCE participating States have witnessed immense changes in terms of cross-border travel freedoms for their citizens. The Schengen area, now made up of 26 OSCE participating States, constitutes a genuine free cross-border movement zone and has played a major role in facilitating cross-border mobility and human contacts. The United States and Canada have largely eased cross-border travel for non-immigrants from a number of states. The European Union has also concluded visa facilitation agreements with other OSCE participating States, and introduced a visa-free regime with

number of countries in South Eastern Europe. Finally, the OSCE participating States, which are also members of the Commonwealth of Independent States and the Eurasian Economic Community, maintain a liberalized cross-border travel regime, which reduces the need for various travel documents. Thereby, a number of separate areas of free cross-border movement have been established within the OSCE region.

Where visa regimes still remain in place, currently publicly available data of many OSCE participating States indicate that the number of visas issued to persons originating from both within and outside the OSCE region has steadily increased. According to the United Nations World Tourism Organization, the total number of foreign visits within the OSCE area has doubled over the last 20 years and is still likely to grow. This mirrors global trends, which have seen international mobility rise for an increasing share of the world population. The OSCE participating States thus face a challenge in facilitating entry by foreign bona fide travellers while ensuring their compliance with national entry procedures and regulations in line with relevant OSCE commitments.

In spite of the cross-border travel liberalization, the obstacles have not, however, fully disappeared. Obtaining a visa for travel to another OSCE participating State still often constitutes a cumbersome and expensive procedure for many citizens in the OSCE region. Difficulties include a lack of accessibility to Embassies and Consulates, lengthy queues, high application costs, as well as burdensome requirements for the disclosure of personal and financial information, giving rise to data protection concerns. It must be noted that, to facilitate the issuance of visas, many OSCE participating States have introduced a range of new approaches, such as Internet based application forms or the use of external consular service providers. In view of the increased demand for cross-border travel, participating States face challenges in the implementation of the commitments agreed upon in OSCE documents, especially in Copenhagen, where they pledged to facilitate human contacts and to simplify visa procedures and to reduce cost of visas. In Ljubljana in 2005, OSCE participating States also undertook 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 liberalization of visa regimes.

As I already mentioned, freedom of movement, refers not only to cross-border travel, but also to the right to freely move and choose place of residence within a state. Generally, across the OSCE region, residents do benefit from the exercise of this right. A number of practices, such as traffic restrictions or designation of areas of importance for national security do, however, set limits to human mobility. As you may be aware, many OSCE participating States require residents to register their place of residence with a relevant authority. Whereas registration requirements in themselves are legitimate, burdensome registration procedures or the disproportionate penalization of non-compliance with these procedures can negatively impact on the ability of citizens or legally residing foreigners, to access public services. This can constitute a deterrent and also an obstacle to taking up legal residence in a place of individual's choice thereby negatively effect freedom of movement.

The OSCE commitments allow for certain limitations to free movement within state borders. They stipulate, however, that any such restrictions *“will have the character of very rare exceptions, will be considered necessary only if they respond to a specific public need, pursue a legitimate aim and are proportionate to that aim, and will not be abused or applied in an arbitrary manner.”* It follows that the real challenge for OSCE participating States is to

ensure that the right to freedom of movement is respected in practice, while maintaining the right balance between the human rights of the individual and the State's obligation to protect public order and national security. I would like to urge the OSCE participating States to review, where applicable, the existing residency registration mechanisms to ensure they provide sufficient safeguards guaranteeing protection of the right to freedom of movement.

ODIHR has taken note of the increased interest of OSCE participating States in issues related to freedom of movement, as exemplified by the discussions on freedom of movement as a special topic of the 2011 Human Dimension Implementation Meeting. In support to OSCE participating States, ODIHR has developed a project, which aims to raise awareness of the OSCE commitments on freedom of movement and human contacts, and which will include the development of a Baseline Study on Cross-Border Mobility in the OSCE region to be released later this year, the first of its kind. In the course of our research in the preparation of the Study, we note that many OSCE participating States have not published statistical information on the number of visas issued to citizens of other participating States. I would like to use the opportunity to encourage all OSCE participating States, in the interest of transparency and the promotion of dialogue, to do so.

Ladies and Gentlemen,

I would like to conclude by emphasizing that the right to freedom of movement must be guaranteed by participating States to their citizens and lawfully residing foreigners within their territories, even if it is not exercised by all. It is generally acknowledged that every citizen should be free to run for public office, even if not all people take up the opportunity, or that the right to fair trial must be provided, even if most of us may not have to make use of it. By analogy, the right to freedom of movement is equally essential, as it enables the free choice of place of residence inside a country, and is often the pre-requisite for the exercise of many other fundamental rights, such as the right to education, the right to work and the right to family life. Also, the right to freedom of movement is a pre-condition for equality of opportunity, which allows people to pursue their personal and professional goals and dreams. Therefore, it is our task to ensure that residency registration rules do not limit the opportunities of citizens of OSCE participating States.

In addition, multilateral dialogue plays an important role in creating conditions which could allow the further facilitation and ultimately the liberalization of cross-border travel between all OSCE participating States. I therefore hope that this meeting will provide an opportunity to discuss the implementation of OSCE commitments and to strengthen co-operation among the OSCE participating States on these issues. I also hope that the late adoption of the Human Dimension package has not prevented many from joining the discussions today.

I thank you once again for your participation and wish you fruitful discussions and a successful meeting.