



Supplementary Human Dimension Meeting

Freedom of Movement and Human Contacts

**25 – 26 April 2013
Vienna, Austria**

FINAL REPORT

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1. EXECUTIVE SUMMARY

The first Supplementary Human Dimension Meeting (SHDM) in 2013 was dedicated to freedom of movement and human contacts. It brought together 130 participants, including 101 delegates from 45 OSCE participating States, four representatives from three OSCE Partners for Co-operation, 13 representatives of 12 non-governmental organizations, one representative of one OSCE field operation, four participants from two OSCE institutions, and seven representatives of six international organizations.

The meeting was organized into three sessions:

- OSCE commitments on freedom of movement and challenges to their implementation;
- Benefits of cross-border human contacts and strengthening of co-operation among OSCE participating States in this field;
- Innovative mechanisms to facilitate cross-border mobility in the OSCE region.

2. SYNOPSIS OF THE SESSIONS AND RECOMMENDATIONS

This section summarizes the discussions which took place during the opening session and the three thematic sessions and presents recommendations made by participants. The recommendations were directed towards a variety of actors, in particular: OSCE participating States, OSCE institutions and field operations, civil society actors and representatives of international organizations. These recommendations have no official status and are not based on consensus. The inclusion of a recommendation in this report does not suggest that it reflects the views or policies of the OSCE. Nevertheless, these recommendations serve as useful indicators for the OSCE to reflect on how participating States are meeting their freedom of movement and human contacts-related commitments and their views on OSCE/ODIHR freedom of movement and human contacts-related follow-up.

OPENING SESSION

Opening remarks were delivered by Ambassador Ihor Prokopchuk of Ukraine, Chairperson of the OSCE Permanent Council and by Ambassador Janez Lenarčič, Director of the OSCE/ODIHR, followed by the keynote speech of Ms. Marta Cygan, Director of Strategy and Delivery Steering Directorate in Directorate General Home Affairs of the European Commission.¹

Ambassador Prokopchuk noted that the topic of this SHDM demonstrates the importance of freedom of movement as a fundamental right in facilitating human contacts between the citizens of the OSCE participating States. He underlined that the Ukrainian Chairmanship-in-Office affords special attention to this area as it encompasses a wide range of issues pertinent to the free movement of people within and across state borders as well as entry procedures into the territories of other participating States. In this context,

¹ The texts of the opening session remarks and keynote speech can be found in Annexes 2 and 3.

Ambassador Prokopchuk recalled relevant commitments undertaken by the participating States in the Helsinki Final Act and the 1990 Copenhagen Document.

While significant progress has been made to promote freedom of movement and freer cross-border human contacts across the OSCE region and to bring legislation and policies in line with relevant OSCE commitments, Ambassador Prokopchuk concluded that challenges remain. He therefore urged OSCE participating States to invest further efforts and to consider innovative policy solutions in removing restrictions to freedom of movement and free choice of place of residence within their territories, as well as in facilitating cross-border human contacts to enhance co-operation, cultural understanding and trust across the OSCE region. In this context, Ambassador Prokopchuk encouraged the OSCE participating States to use the opportunity offered by this SHDM to discuss issues of concern, share good practices and promote collaboration on issues related to freedom of movement and cross-border human contacts.

Ambassador Lenarčič recalled that the right to freedom of movement was first introduced in Article 13 of the Universal Declaration of Human Rights of 1948, the provisions of which have also been incorporated in the OSCE commitments. As such, together with other international standards, they oblige the OSCE participating States to guarantee the right to freedom of movement and residence to all people, who are lawfully on their territory, as well as to provide that everyone has the right to leave any state, including their own and to return to their country. Ambassador Lenarčič explained that the OSCE participating States use the term “*freedom of movement*” to describe both the right to unrestricted movement of residents within the borders of their own state as well as the entry into the territory of an OSCE participating State by foreigners and the free movement of foreigners within state borders.

Ambassador Lenarčič noted that efforts to promote cross-border mobility and human contacts date back to the start of the Helsinki process, when the OSCE area was divided along ideological lines, symbolized by the Berlin Wall. He recalled the many relevant OSCE commitments adopted since the Helsinki Final Act, and outlined the significant progress OSCE participating States have made towards their implementation. In particular, Ambassador Lenarčič pointed at the establishment of several separate areas of free cross-border movement within the OSCE region, the steadily increasing number of visas issued to persons originating from both within and outside the OSCE, as well as the innovative approaches used by some OSCE participating States to administer visa application and issuance. He stated that despite the considerable progress made, dividing lines have, however, not fully disappeared and that further efforts must therefore be invested to remove remaining barriers to cross-border mobility and human contacts. Ambassador Lenarčič reiterated that multilateral dialogue plays an important role in creating conditions which allow for the further facilitation and ultimately the liberalization of cross-border travel between OSCE participating States.

Ambassador Lenarčič also spoke of the right to freely move and choose place of residence within a state and noted that, generally, across the OSCE region, residents benefit from the exercise of this right. While he recognized the challenge to maintain a balance between the human rights of the individual and the state's obligation to protect public order and national security, Ambassador Lenarčič reiterated that any restrictions to the right to freedom of movement shall respond to a specific public need, pursue a legitimate aim, be proportionate to that aim, and not be abused or applied in an arbitrary

manner. Ambassador Lenarčič noted that this was particularly important, because the right to freedom of movement is often a pre-requisite for the exercise of many other fundamental rights and a pre-condition for equality of opportunity. In this context, Ambassador Lenarčič called upon the OSCE participating States to ensure that residency registration rules are brought in line with relevant OSCE commitments.

Ms. Cygan reiterated that freedom of movement is a fundamental human right, which forms part of the core values of the European Union (EU) both in terms of internal movement and in its relations with third countries. She recalled that considerable progress has been achieved in this area since the Helsinki Final Act, including through the successful development of the Schengen Area of free movement of persons and visa facilitation processes with a number of OSCE participating States. Ms. Cygan also noted that unnecessary denial or restriction of the right to freedom of movement and residence within the borders of a state, still practiced by a few OSCE participating States, does not constitute acceptable practice.

Ms. Cygan emphasized that the EU is strongly committed to dialogue with third countries, and has therefore adopted the Global Approach to Migration and Mobility (GAMM). She noted that, to date, the EU is engaged in structured bilateral dialogues and co-operation on migration and mobility with more than 25 countries, including in the OSCE area. Ms. Cygan asserted on behalf of the European Commission, however, that there are no OSCE commitments on visa-free travel and noted that therefore the issues related to visa regimes are and will continue to be dealt with through agreed and appropriate channels outside the OSCE framework.

Among good practices cited by Ms. Cygan were the Local Border Traffic regimes, which allow populations residing in border areas and in possession of a special document to move across the external EU frontier visa-free. She also outlined the main premises of Visa Facilitation Agreements, which have been signed between the EU and 9 OSCE participating States and Mobility Partnerships, currently concluded with 3 OSCE participating States. With regard to the ultimate objective of visa liberalization dialogue – a visa-free regime, Ms. Cygan noted that it is only possible, where conditionalities set forth by the EU, such as proper rules on document security, migration and border management, public order and security as well as external relations and human rights, are met. Ms. Cygan recalled that this norm convergence compelled countries in South Eastern Europe to introduce a set of core reforms. She concluded by reiterating the commitment of the EU to foster cross-border human contacts through established channels of bilateral dialogue.

SESSION I – OSCE COMMITMENTS ON FREEDOM OF MOVEMENT AND CHALLENGES TO THEIR IMPLEMENTATION

Moderator:

Mr. Oleksandr Sushko, Research Director at Institute for Euro-Atlantic Co-Operation

Introducer:

Mr. Anvar Azimov, Ambassador-at-Large of the Ministry of Foreign Affairs of the Russian Federation

The first session provided an opportunity to review the implementation of OSCE commitments on freedom of movement and human contacts and to assess the current situation and challenges within the OSCE region.

Ambassador Azimov highlighted that the facilitation of freedom of movement and human contacts is one of the core OSCE commitments, dating back to the OSCE Helsinki Process. He noted that freedom of movement and human contacts are cross-dimensional issues, which impact upon the further development of democratic space and common security across the OSCE region. In this context, Ambassador Azimov expressed his regret that cross-border mobility has not received due attention within OSCE fora and noted the importance of an exchange of views among OSCE participating States on freedom of movement and human contacts to facilitate the implementation of relevant OSCE commitments.

In his opinion, greater freedom of movement and cross-border human contacts across the OSCE region would provide a boost to business and tourism, as well as cultural exchange and people-to-people interaction. To this end, he encouraged the OSCE participating States to review the progress made with regard to implementing OSCE commitments on freedom of movement and human contacts, and to invest further efforts in removing visa barriers, which currently draw dividing lines across the OSCE region.

While Ambassador Azimov acknowledged the risks associated with visa liberalization, in particular to OSCE participating States which experience significant migration, he nevertheless asserted that progress towards the ultimate objective of visa-free travel must be made through a gradual and well thought-through process, which includes institutional adjustment and certain flanking measures. In this context, Ambassador Azimov declared the intention of the Russian Federation to simplify visa procedures, in particular, in areas of intensive cross-border travel. He noted that the considerable experience of the Russian Federation in relation to the visa facilitation dialogue puts it on an equal footing with the EU, and that the Russian Federation is ready to introduce visa-free travel with the latter without further delay. Ambassador Azimov declared that the Russian Federation will endeavour to achieve visa liberalization with most participating States in the OSCE region.

The need to minimize restrictions to the right to leave any country, including one's own, was also noted by Ambassador Azimov, as he called upon concerned OSCE participating States to adopt a balanced approach to the matter and to bring relevant legislation in line with applicable international legal norms, in particular, the 1966 International Covenant on Civil and Political Rights. Ambassador Azimov recognized that limitations upon travel of persons in possession of state secrets and confidential information still exist in the

Russian Federation, as a safeguard measure to protect the security of the country. He noted, however, that, Russia intends to adopt a more favourable approach to the issue and that relevant rules will gradually be softened.

Concerning the right to freedom of movement and free choice of place of residence within the territory of a state, Ambassador Azimov noted that any restrictions to the exercise of this right must be justified. He also stressed that the residency registration systems, which are still in place in a few participating States, should eventually be brought in line with relevant standards espoused by the Council of Europe.

Finally, Ambassador Azimov stressed that practical measures should be taken to implement commitments related to freedom of movement and human contacts and that it may be helpful to agree on a consensus document at the Human Dimension Implementation Meeting 2013 as a basis for a Ministerial Council Decision on the topic. In this context, he noted that the consensus-based decision-making of the OSCE renders it a highly relevant and unique forum in the European security framework. The OSCE participating States would therefore benefit from a conciliatory approach to issues of common interest rather than a divisive one.

The ensuing discussion demonstrated that most OSCE participating States agreed that freedom of movement constitutes a basic fundamental right, which is integral to the human dimension of the OSCE. It was noted by a participant that the possibility to move across borders is also the cornerstone of humanitarian and asylum systems. While one participant asserted that the topic of visa facilitation should be addressed through fora other than the OSCE, such as bilateral visa dialogue and visa facilitation dialogue, many others expressed their appreciation of the opportunity to discuss freedom of movement and human contacts within the OSCE, and in particular at meetings such as the SHDM.

A number of participants reiterated the challenges which their citizens face in obtaining Schengen visas. Participants cited high application costs, requirements to produce a considerable number of supporting documents, as well as the limited duration of visas among the main impediments to travel to the Schengen area. In this context, some participants spoke of the emergence of a so-called “Fortress Europe”, which draws a dividing line across the OSCE region. Many OSCE participating States reiterated the need to implement relevant OSCE commitments, in particular, concerning the simplification of exit and entry procedures, agreed upon in the Helsinki Final Act.

Other participants, however, noted that a visa requirement *per se* is not a restriction upon freedom of movement, and, as such, is not inconsistent with increased travel. They also emphasized that the Schengen area of free movement is an unprecedented achievement and that relevant EU legislation is fully in line with relevant human rights standards; where challenges arise, they rather stem from an inconsistent application of legal norms among the EU Member States. It was also noted that national visa policies of OSCE participating States other than those comprising the Schengen area, leave room for further improvement.

Challenges related to the provision of the right to freedom of movement to vulnerable groups, such as internally displaced persons (IDPs) and populations residing in conflict areas were mentioned. One participant called upon the OSCE participating States to develop protection-sensitive border management systems, in line with relevant OSCE

commitments, and to abide by the principle of *non-refoulement* as part of customary international law. The participant asserted that displacement itself constitutes, in fact, absence of freedom of movement, as people are forced to leave their places of residence and are, in many cases, barred from return. Another participant recalled the need to focus on the humanitarian agenda instead of politicizing issues related to the cross-border mobility of vulnerable groups of persons.

Good practices in the facilitation of cross-border travel, such as the introduction of visa-free travel for holders of diplomatic passports, electronic visa applications, the unilateral exemption of other participating States from visa requirements, the conclusion of readmission agreements and an overall simplification of procedures for entry and stay of foreigners in the country were outlined by a number of participants. One participant also drew on the positive experience of the Common Nordic Passport Union, which predates the Schengen Area. Many participants agreed on the need to share good practices in this field.

A few participants called for an update of the OSCE freedom of movement and human contacts-related commitments. Other participants reiterated that these remain valid and relevant, and that efforts should rather be invested in implementing them accordingly. One participant asserted, however, that no OSCE commitment concerns visa facilitation issues directly and reiterated that freedom of movement is the right to leave and return to one's country, as well as to choose place of residence within the borders of the state. The participant stated that the OSCE participating States should focus on the implementation of freedom of movement commitments from this perspective and declared its resolve to do so. Another participant commented that issues related to freedom of movement constitute a comprehensive package, which cannot be selected for implementation *à la carte*.

Several participants noted that limitations to the right of freedom of movement within the territory of a state as well as the right to leave and return to one's country still exist in a few OSCE participating States. It was concluded that, where freedom of movement is restricted, access to other human rights is limited as well, and that relevant legislation should therefore be brought in line with relevant OSCE commitments and international standards.

Finally, several participants reiterated the importance of constructive dialogue and partnerships, and called for the adoption of a Ministerial Council Decision on freedom of movement and human contacts.

The following specific recommendations were made in Session I:

Recommendations to OSCE participating States:

- OSCE participating States should facilitate the implementation of a simplified visa regime and the simplification of visa issuance;
- OSCE participating States should update OSCE commitments in the area of freedom of movement and human contacts;
- OSCE participating States should implement the existing OSCE commitments in the area of freedom of movement and human contacts;

- OSCE participating States should stimulate cross-border mobility in the OSCE area through all available means, including by reducing visa fees;
- OSCE participating States should consider increasing the issuance of multiple-entry and long-term visas, as is currently the practice in North America;
- OSCE participating States should adopt a more favourable approach to visa issuance and inform the applicants of the possibility to apply for and receive long-term multi-entry visas. Issuance of short-term single-entry visas in cases, where a previously issued multiple-entry visa has already been lawfully used, should be minimized;
- OSCE participating States should use up-to-date communication technologies to reduce the duration of visa issuance procedures as well as to facilitate visa issuance to residents of remote regions and districts;
- OSCE participating States should use the experience of the EU and the Schengen Area, the CIS and EurAsec to facilitate the transition to a visa-free regime for various categories of citizens, and subsequently, to the full abolition of visa regimes;
- OSCE participating States should simplify procedures for the registration of citizens at their places of residence and to adopt, when possible, the “*notification only*” approach;
- OSCE participating States are invited to ensure that citizens with temporary registration of residence have access to health care, education and social welfare services;
- Upon joining multilateral visa-free regimes, such as the Schengen Area, OSCE participating States should consider maintaining existing bilateral visa-free agreements to sustain favourable conditions for tourism;
- OSCE participating States should facilitate exchange of information among relevant authorities of their countries, including through the use of electronic databases, to prevent irregular migration and trafficking in human beings, as well as to combat organized crime;
- OSCE participating States should abstain from creating obstacles to the entry of scientists, artists and journalists to their territories, when the purpose of travel is conduct of lawful professional activities;
- OSCE participating States are invited to accelerate, where possible, negotiations on the further facilitation and liberalization of cross-border travel, with the ultimate purpose of the abolition of visa regimes, while taking into account national security concerns;
- OSCE participating States should avoid imposing any restrictions on cross-border travel of persons, based on their religion, ethnicity and political opinion;
- OSCE participating States are invited to allow unrestricted access to their territory for reasons of asylum and to carry out refugee status determination procedures, as well as to develop swift referral mechanisms to identify people in potential need of international protection;
- OSCE participating States should enable residents of conflict zones, refugees and IDPs to exercise their right to freedom of movement, in particular, to access health-care as well as for other humanitarian purposes;
- OSCE participating States should, in light of the current humanitarian crisis in Syria, consider favourably the international protection needs of displaced Syrians;

- OSCE participating States should share the responsibility for providing protection and assistance to displaced Syrians, which currently is disproportionately borne by one OSCE participating State.

Recommendations to the OSCE institutions and field operations:

- In preparation for the Human Dimension Implementation Meeting 2013, OSCE (ODIHR) should produce an analysis of the progress achieved in the implementation of OSCE commitments on freedom of movement and human contacts, and inform all OSCE participating States of the results of the analysis accordingly;
- OSCE (ODIHR) should organize seminars and training courses in the area of freedom of movement and human contacts, and facilitate exchange of relevant good practices;
- OSCE (ODIHR) should provide, upon request, technical assistance to OSCE participating States in the area of freedom of movement and human contacts;
- OSCE (ODIHR) should monitor freedom of movement-related matters in conflict zones in the OSCE region, thereby promoting the human rights of local residents, refugees and IDPs, in particular, the right to unrestricted freedom of movement in emergency situations.

Recommendations to international and regional organizations:

- OSCE participating States which are also members of the EU, should render the visa facilitation/liberalization dialogue more transparent;
- To this end, OSCE participating States which are also members of the EU, are invited to publish additional statistics and information pertaining to the content of visa facilitation/liberalization dialogues, visa issuance and cross-border mobility.

SESSION II – BENEFITS OF CROSS-BORDER HUMAN CONTACTS AND STRENGTHENING OF CO-OPERATION AMONG OSCE PARTICIPATING STATES IN THIS FIELD

Moderator:

Ms. Natalia Gherman, Deputy Minister of the Ministry of Foreign Affairs and European Integration of the Republic of Moldova

Introducer:

Ms. Tanja Fajon, Member of the European Parliament and Rapporteur on Visa Liberalization of the European Parliament

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

In her opening remarks, Ms. Natalia Gherman stressed the importance of establishing partnerships in the facilitation of freedom of movement and cross-border mobility. In this context, she highlighted the example of the EU-Moldova Mobility Partnership Agreement

and the on-going negotiations in the framework of the Comprehensive Visa Dialogue with the EU, which provides Moldova with a template for reforms in the field of justice and home affairs. Ms. Gherman also noted that freedom of movement and cross-border mobility enable human development and therefore contribute to the overall national development of the country concerned.

Subsequently, Ms. Tanja Fajon outlined the current debates concerning visa liberalization and asylum policies in the European Parliament, and pointed at the impact of the global financial crisis and increasing euro-scepticism in relation to these debates. By way of example, Ms. Fajon referred to the intention of some EU Member States to reintroduce border checks within the Schengen Area as well as to temporarily suspend visa-free regimes with the OSCE participating States in South Eastern Europe in light of spikes in the numbers of asylum-seekers originating from this region.

To reduce the need for such measures, Ms. Fajon recommended that OSCE participating States which receive a considerable number of asylum applicants from South Eastern Europe use accelerated procedures when determining refugee status. At the same time, Ms. Fajon underscored the importance of facilitating travel of vulnerable groups, such as persons in need of international protection, and cautioned against the discrimination of Roma at international borders in violation of their basic human rights. She also reminded OSCE participating States of the need for mutual solidarity, and called upon responsible persons not to use asylum rhetoric as a political tool.

Further, Ms. Fajon emphasized that freedom of movement across borders is essential in many aspects, in particular, for local business, people-to-people contacts and for maintaining good neighbourly relations. She noted that the EU recognizes the value of enhanced cross-border travel, and therefore has concluded Visa Facilitation Agreements with a number of countries. In this context, Ms. Fajon recalled the positive effects of freer movement between the EU and OSCE participating States in South Eastern Europe, which enables the citizens of the latter to be exposed to European values after decades of isolation. She also reiterated the need to further replicate the good practice of concluding Local Border Traffic regimes. Finally, Ms. Fajon also briefly touched upon new technologies, such as the Entry/Exit System, the Schengen Information System and the Visa Information System, embraced by the EU in the framework of cross-border travel.

Ms. Gherman emphasized that cross-border travel and the treatment of asylum-seekers should be seen through the prism of the principles of tolerance, solidarity and inclusiveness. She stressed that developments in one area of the OSCE resonate in another, whereby difficulties related to the maintenance of visa-free regimes with some OSCE participating States impact on the visa dialogue with others. In this context, Ms. Gherman recommended that the principle of differentiation be upheld in the decision-making process, and each country be judged on the basis of its own merits and drawbacks. This way, Ms. Gherman suggested, reform processes will be smoother and their objectives will be attained.

The subsequent discussion demonstrated that the participants agreed that the facilitation of cross-border travel was an important factor in national and human development, as well as intercultural exchange and trust-building. One participant pointed out that the unfortunate link in media rhetoric between security and immigration is often unhelpful. The participant noted that national security safeguards and visa facilitation should not be

seen as mutually exclusive, and appealed to the concerned authorities to disconnect the two. He reiterated that tourism accounts for a significant 10% of the EU's Gross Domestic Product and 10% of employment, and that travel promotes intercultural understanding. In this context, the participant called upon the OSCE participating States to reassess the treatment of people at their borders and to consider whether enough is being done to ensure travellers are welcome. This view was shared by a few other participants of the session, who agreed that the security-immigration debate should not be seen as a trade-off.

Access to consular offices was singled out as a serious concern, which appears to be deteriorating as a result of the establishment of centralized visa application hubs. One participant suggested that this was a breach of relevant OSCE commitments on the simplification of visa procedures. This allegation was contested by Ms. Gherman, who noted that common visa application centres can also considerably facilitate visa issuance, and drew on the example of Moldova as a reference.

One participant also noted that, as a result of the accession to the Schengen Area, several EU Member States have established visa regimes with countries which previously enjoyed visa-free travel. The participant suggested that the OSCE/ODIHR look into the matter and assess, if the provisions of the Council Regulation (EC) No 539/2001 of 15 March 2001 listing third countries whose nationals must be in possession of visas when crossing external borders and those whose nationals are exempt from that requirement do not infringe upon the liberties of citizens of OSCE participating States outside the EU. Overall, participants agreed that finding the right balance between security concerns and the facilitation of cross-border movement is a challenging task, and acknowledged that cross-border movement generally constitutes a sensitive matter at the national level. At the same time, participants noted that impediments to cross-border travel can result in economic losses.

One participant added that trust plays a significant role in the creation of the OSCE's security space, and urged the participating States to endeavour to further enhance mutual confidence to minimize the security concerns related to cross-border travel. Another participant commented that threats are mainly seen as stemming from outside the EU, not within. Addressing organized crime networks in the EU is, however, equally important, noted the participant.

The participants highlighted a number of ways freedom of movement could be facilitated in the OSCE region. They recommended that the OSCE participating States follow the example of the USA in issuing multiple, long-term visas, that they lower visa costs and render issuance policies more transparent and accessible, as well as make use of available technological solutions. One participant reiterated that improvement and further harmonization of applicable procedures, including for appeal, as foreseen by the EU Visa Code Regulation, are also necessary. The participant noted that certain practices of some consular offices of OSCE participating States, such as requests to report to consulates upon the return from cross-border travel, should be reviewed.

Several participants underscored the importance of establishing and sharing good practices in the area of facilitating cross-border travel. Local Border Traffic regimes, as well as the example of the successful co-operation between Poland and Ukraine in co-hosting the European Football Championship in 2012 were noted by one participant, who

called upon the participating States to replicate these good practices. Another participant drew on the benefits of youth exchange programs, such as the Fulbright or International Exchange Programme, which facilitate human to human contacts in the field of education at a relatively low cost.

One participant cautioned against expedited asylum procedures and called upon the participating States to maintain asylum space for people in need of international protection. The participant also encouraged those OSCE participating States, which do not as of yet have effective refugee status determination procedures to work with UNHCR in setting up adequate national systems.

One participant observed that there was a lack of research on the advantages and shortcomings of a “visa-free regime” *vis-à-vis* a “visa regime” and called upon civil society and the academic community to contribute to a better understanding of these matters.

In her concluding remarks, Ms. Fajon encouraged the participating States to continue the dialogue in the OSCE fora on freedom of movement and cross-border travel, and to more actively contribute to the facilitation of human contacts by replicating existing good practices. Ms. Gherman reiterated the importance of the link between migration and development, recognized among others, in the UN post-millennium development goals and called upon the OSCE participating States to follow a visionary approach on the matter. Ms. Gherman concluded the session by pledging full co-operation with the EU on behalf of the OSCE participating States on issues related to freedom of movement and cross-border mobility.

The following specific recommendations were made in Session II:

Recommendations to OSCE participating States:

- OSCE participating States should explore various forms of partnerships to facilitate cross-border travel and co-operation on visa-related issues;
- OSCE participating States are invited to recognize the link between migration and national and human development, and take a visionary approach to the issue;
- OSCE participating States should enhance the co-operation between their consulates and consider concluding bilateral agreements on the outsourcing of consular tasks. Should one participating State not have a diplomatic representation in a country another participating State has a consulate in, the former could transfer tasks related to visa application and issuance to the latter to render consular services more accessible;
- OSCE participating states should reduce visa costs and simplify procedures;
- The consular offices of OSCE participating States should provide visa applicants with up-to-date and comprehensive information on visa issuance policies and available procedures;
- OSCE participating States should make use of information and documents in an electronic format during the visa application and issuance process;
- OSCE participating States are invited to take over the existing good practice of issuing multiple, long-term visas for 10 years for *bona fide* travellers;

- OSCE participating States should consider introducing “*one stop for crossing the borders*” by merging passport and custom checking points and “*nothing to declare customs express passes*” at land border crossings;
- OSCE participating States should enhance the co-operation between border guard and customs services, and introduce “*a green pass*” for travellers not carrying any declarable goods;
- OSCE participating States should consider concluding Local Traffic Border agreements with their neighbouring countries;
- OSCE participating States are invited to apply accelerated asylum procedures to determine the international protection needs of persons from South Eastern Europe, while maintaining the necessary asylum space;
- OSCE participating States should facilitate cross-border travel of asylum-seekers and other vulnerable groups of persons;
- OSCE participating States should exhibit solidarity on issues related to asylum and construe their response to enhanced mobility on the premise of tolerance and inclusiveness;
- OSCE participating States, which do not as of yet have effective refugee status determination procedures, should work with UNHCR in setting up adequate national systems;
- OSCE participating States are invited to think innovatively about issues related to freedom of movement;
- OSCE participating States are encouraged to avoid thinking of security and immigration as mutually exclusive in their policies;
- OSCE participating States should review the treatment of persons at their borders and consider whether enough is being done to ensure travellers feel welcome;
- OSCE participating States should develop exchanges of information between them, among other things by using electronic databases, with a view to suppressing organized crime and preventing irregular migration and trafficking in human beings;
- OSCE participating States should continue the dialogue on freedom of movement and facilitate human-to-human contacts;
- OSCE participating States should prepare a Ministerial Council Decision on freedom of movement and human contacts for this year’s Ministerial Council.

Recommendations to the OSCE institutions and Field Operations:

- OSCE (ODIHR) should assess whether the provisions of the Council Regulation (EC) No 539/2001 of 15 March 2001 do not infringe upon the liberties of citizens of OSCE participating States outside the EU.

Recommendations to international and regional organizations:

- OSCE participating States which are also members of the EU should uphold the principle of differentiation in the decision-making process on visa facilitation, and judge each country on the basis of its own merits and drawbacks;
- OSCE participating States which are also members of the EU and/or the Schengen Area are invited to further improve and harmonize visa procedures, including for appeal, as foreseen by the EU Visa Code;

- OSCE participating States which are also members of the EU should address organized crime networks within their territories to reduce cross-border demand for unlawful activity;
- OSCE participating States which are also members of the EU and/or the Schengen Area should review certain practices of their consular offices, such as requesting travellers to report to consulates upon their return from cross-border trips.

Recommendations to civil society:

- Contribute to research on the advantages and shortcomings of a “visa-free regime” *vis-à-vis* a “visa regime” to the OSCE participating States.

SESSION III – INNOVATIVE APPROACHES TO FACILITATE CROSS-BORDER MOBILITY IN THE OSCE REGION

Moderator:

Ms. Nilgün Arisan Eralp, Director of EU Institute, Economic Policy Research Foundation of Turkey (TEPAV)

Introducer:

Mr. Gerald Knaus, Chairman, European Stability Initiative

The third session provided the participants with the opportunity to exchange views on ways to improve relevant policies and legislation, as well as on the use of modern technologies and other practical tools in the facilitation of cross-border mobility in line with OSCE commitments.

Mr. Gerald Knaus recalled that a revolutionary change to the regime governing freedom of movement in Europe has taken place over the past 20 years. He outlined the rationale and logic behind the Schengen Agreement and free movement area, as well as its implications for the rest of the continent. Mr. Knaus noted that the implementation of this innovative approach, which called for the surrender of sovereign authority over borders, was initially met with hesitation and difficulties. He emphasised that the most challenging aspect was to balance freedom of movement with security safeguards, and, in this context, highlighted the importance of trust-building among the involved countries. Mr. Knaus recalled that, as a result of the introduction of flanking measures and intensified inter-state cooperation, the necessary mutual confidence was established.

Mr. Knaus then focused on the lessons learnt from the visa liberalization process between the European Union and OSCE participating States in South Eastern Europe, and how these can be applied to further negotiations with Turkey and OSCE participating States from Eastern Europe. He recalled that the key to visa-free travel with South Eastern Europe was implementation of measures which increased the overall security in the region. Mr. Knaus noted that this objective was achieved and that the lifting of visa requirements evoked an overwhelming sense of belonging to a wider European community in the residents of South Eastern Europe.

Mr. Knaus also remarked that Turkey has opened itself to foreigners and that the number of visitors over the recent years has been rising steeply. He noted that the economic

benefits of cross-border travel underpinned Turkey's policy of easily accessible borders. Mr. Knaus recalled, however, that Turkey also serves as a transit country for a considerable number of irregular migrants whose final destination is the EU, and that this is one of the main reasons why visa requirements with the EU have not yet been lifted. While he noted that the co-operation between Turkey and EU's external border agency Frontex has resulted in a fall in the number of detected irregular border crossings, Mr. Knaus called for further improvements concerning human rights protection, in particular, with regard to the treatment of Lesbian, Gay, Bisexual and Transgender persons in Turkey. Mr. Knaus concluded that protection of human rights should be seen as a necessary pre-condition for visa liberalization.

During the ensuing discussion, the participants agreed that no innovative approach, including the use of modern technologies, could compensate for lack of trust, which hampers facilitation of cross-border mobility. Some participants pointed to mutual confidence as a pre-requisite for freedom of movement across borders, whereas some argued that cross-border mobility is in fact the first step towards building trust. The overarching need to strike a balance between welcoming foreigners and the health and safety of the citizens of the host country was noted.

Different views were expressed by the participants concerning the link between cross-border mobility and respect for human rights and rule of law. Some argued against a direct linkage between the free movement of persons and the protection of human rights, whereas a number of others stressed that convergence of values was a pre-condition for cross-border mobility across the OSCE region. One participant reiterated that the EU and other actors should be consistent in their application of conditionality and standards, thereby rendering the visa facilitation process more reliable and transparent.

A few participants recalled that freedom of movement is a fundamental human right within the framework of the human dimension of the OSCE and, as such, is part of a comprehensive package of inter-linked human dimension commitments, which should be discussed and implemented together. In this context, a participant invited the OSCE participating States to consider whether a certain hierarchy was applicable to human rights, and if it would be appropriate to single out some fundamental rights as more significant than others.

Another participant drew attention to the fact that the right to freedom of movement does not include the right of persons to enter the territory of a foreign state and that the criteria for the admission of foreign nationals remain the subject of the sovereign authority of each OSCE participating State. One participant reiterated that certain international borders within the OSCE region remain closed solely on the basis of political considerations.

Participants also drew on examples of good practices in the facilitation of cross-border mobility, such as Local Traffic Border regimes, which promote business, culture, and civil society contacts, and reduce suspicion and distrust, thus contributing to the broader objective of the OSCE. The participants highlighted the benefits of the use of modern technologies in the visa application and issuance process, and called for respect of personal data protection and personal dignity. Some participants noted the need to lower administrative fees and to create favourable conditions for visa applicants. One participant also highlighted the differences between visa issuance procedures in the USA,

where the trustworthiness of the individual applying for a visa is assessed and multi-entry visas are issued and the practice of the EU, which in turn evaluates the trustworthiness of the purpose of the particular trip and therefore provides mainly single-entry visas. The participant urged the OSCE participating States to replicate the good practice of the USA.

One participant recalled that the OSCE as well as civil society have a role in the visa facilitation and liberalization across the OSCE region. The participant also called for the engagement of national minorities in this process, as they are often those who seek asylum in the EU. In this context, some participants noted the importance of co-operation between countries of origin and destination, as well as the need for the OSCE/ODIHR, the OSCE High Commissioner on National Minorities (HCNM) as well as OSCE field operations to co-operate on the engagement of national minorities in the visa facilitation and liberalization processes in the OSCE region.

The following specific recommendations were made in Session III:

Recommendations to OSCE participating States:

- OSCE participating States should be consistent in their application of conditionality and standards, thereby rendering visa facilitation process more transparent to the public;
- OSCE participating States should respect and strive to implement all OSCE commitments and should not make an *à la carte* selection among them, in particular in relation to freedom of movement;
- OSCE participating States should enhance co-operation between countries of origin and destination to address issues related to the provision of international protection;
- OSCE participating States should replicate good practices in the facilitation of cross-border mobility, such as Local Traffic Border Agreements, the use of modern technologies in the visa application and issuance process as well as the practice of the USA, where the trustworthiness of the individual is assessed rather than the purpose of travel and a greater number of long-term multi-entry visas is issued;
- OSCE participating States should lower administrative fees and create favourable conditions for visa applicants;
- OSCE participating States should strive to establish the necessary mutual trust and confidence as a pre-condition for the facilitation of cross-border travel by their citizens;
- OSCE participating States should reach an agreement on a Ministerial Council Decision on freedom of movement and human contacts.
- OSCE participating States should also explore informal venues for discussion on the facilitation of cross-border mobility beyond the remits of the OSCE Permanent Council.

Recommendations to the OSCE institutions and field operations:

- OSCE/ODIHR, the OSCE High Commissioner on National Minorities (HCNM) as well as OSCE field operations should broaden their co-operation to engage national minorities in the visa facilitation process;

- OSCE field operations should create a network for sharing good practices with the OSCE participating States in the Eastern Neighbourhood, building on the experience of the visa liberalization process between the EU and South Eastern Europe.
- OSCE (ODIHR) should contribute to the sharing of good practices in the area of facilitation of cross-border mobility;
- OSCE (ODIHR) should intensify its engagement in relation to the topic of freedom of movement and human contacts;
- OSCE (ODIHR) should ensure that freedom of movement and human contacts are discussed as special topics at the Human Dimension Implementation Meeting 2013.

Recommendations to civil society:

- Civil society should contribute to the process of facilitation of cross-border movement.

3. ANNEXES

Annex 1: Agenda



Supplementary Human Dimension Meeting

FREEDOM OF MOVEMENT AND HUMAN CONTACTS

25-26 April 2013
Hofburg, Vienna

AGENDA

| | |
|---------------|--|
| Day 1 | 25 April 2013 |
| 15:00 – 16:00 | OPENING SESSION <i>Opening remarks:</i> Ambassador Ihor Prokopchuk , Chairperson of the OSCE Permanent Council, Permanent Representative of Ukraine to the OSCE Ambassador Janez Lenarčič , Director of the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) <i>Keynote speech:</i> Ms Marta Cygan , Director of Strategy and Delivery Steering Directorate in Directorate General Home Affairs of the European Commission <i>Technical information</i> by Ms. Nathalie Tagwerker , Deputy Head of Democratization Department of the OSCE/ODIHR |
| 16:00 – 18:00 | <u>SESSION I: OSCE commitments on freedom of movement and challenges to their implementation</u> <i>Moderator:</i> Mr. Oleksandr Sushko , Research Director, Institute for Euro-Atlantic Co-Operation, Ukraine <i>Introducer:</i> Mr. Anvar Azimov , Ambassador-at-Large of the Ministry of Foreign Affairs of the Russian Federation |
| 18:00 – 19:00 | Reception hosted by the Ukrainian Chairmanship |

Day 2

26 April 2013

10:00 – 12:00

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

Moderator:

Ms. Natalia Gherman, Deputy Minister of Foreign Affairs and European Integration of the Republic of Moldova

Introducer:

Ms. Tanja Fajon, Member of the European Parliament and Rapporteur on Visa Liberalization of the European Parliament

12:00 – 14:00

Lunch

14:00 – 16:00

SESSION III: Innovative approaches to facilitate cross-border mobility in the OSCE region

Moderator:

Ms. Nilgün Arisan Eralp, Director of the EU Institute at the Economic Policy Research Foundation of Turkey (TEPAV)

Introducer:

Mr. Gerald Knaus, Chairman of European Stability Initiative

16:00 – 16:30

Break

16:30 – 17:30

CLOSING SESSION

Reports by the Moderators of the Working Sessions

Comments from the floor

Closing remarks

Ambassador Janez Lenarčič, Director of the OSCE/ODIHR

17:30

Closing

Annex 2: Opening Remarks

**Opening address of Ambassador, Chairperson of the OSCE Permanent Council
Mr. Ihor Prokopchuk
at the OSCE Supplementary Human Dimension Meeting
on Freedom of Movement and Human Contacts
Hofburg, Vienna, 25 – 26 April 2013**

Excellencies,
Ladies and Gentlemen,

On behalf of the Ukrainian Chairmanship it is my pleasure to welcome all of you to the Supplementary Human Dimension Meeting (SHDM) on Freedom of Movement and Human Contacts. The topic of this year's first SHDM demonstrates the importance of freedom of movement as a fundamental right in facilitating human contacts between citizens of the OSCE participating States. It is also an indicator of the interest of the participating States to make an overview of the situation related to cross-border mobility in the OSCE region, strengthen the implementation of freedom of movements commitments and promote best practices.

Full implementation of commitments by all participating States on human rights, democracy and the rule of law is placed at the top of the Ukrainian Chairmanship's agenda. Freedom of movement is one of the topics the Chairmanship attaches special attention to.

Freedom of movement encompasses a wide range of pertinent issues that concern not only the free movement of people within and across the borders of their own state but also extend to entry procedures into the territory of states by citizens of other participating States. Moreover, it is important to underline that freedom of movement is often a pre-requisite for exercising many other rights in the human dimension.

Let me recall that **under the 1975 Helsinki Final Act and the 1990 Copenhagen Document** the OSCE participating States have recognized the importance of freer cross-border movement. They also acknowledged the necessity to simplify entry procedures in the context of promoting freer cross border travel and contacts among their citizens, and for the promotion of human rights and fundamental freedoms.

This Supplementary Human Dimension Meeting seeks to address how the right to freedom of movement can be advanced and protected and how further progress could be achieved in facilitating cross-border human contacts. It may help to identify the challenges the OSCE participating States currently face and possible ways of addressing them, in order to ensure the full enjoyment of freedom of movement in the OSCE region.

With this objective in view the meeting will address the subject through the following three sessions:

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

- *Benefits of cross-border human contacts and strengthening co-operation among the OSCE participating States in this field.* This session will discuss benefits of freer cross border travel and will seek to explore the impact of visa facilitation and liberalization dialogues between the OSCE participating States on cross-border mobility in the OSCE region in the context of the protection and promotion of human rights as well as the good practices developed as a result of these dialogues.
- *Innovative approaches to facilitate cross-border mobility in the OSCE region.* This session will look into ways to improve policies and legislation as well as practical tools which the OSCE participating States can introduce to facilitate cross-border mobility in line with OSCE human contacts commitments.

Dear ladies and gentlemen,

While significant progress had been made in the promotion of freer cross border human contacts, in particular through concluding regional multilateral and bilateral agreements or through unilateral steps, aimed at establishing visa-free cross-border travel or otherwise facilitating travel for their citizens, a number of challenges still remain.

Let me highlight a few aspects.

Limitations to freedom of movement, often in the form of complex administrative requirements or procedures for residence registration have an impact on the ability of citizens to access services, as well as on opportunities to exercise other human rights (education, employment, housing, etc.).

Freedom of movement is a qualified right and is subject to justified and proportionate restrictions, which may be introduced for military, safety, ecological or other legitimate government interests, in accordance with their national laws, consistent with OSCE commitments and international human rights obligations. However, the OSCE participating States have pledged to keep such restrictions to a minimum.

Guaranteeing the fundamental right to freedom of movement also means that the OSCE participating States are obliged to allow their citizens to leave and return to their country. Here, conditions of issuance and possible denial to provide a person with a valid travel document sometimes render the exercise of this right unattainable.

The promotion of cross-border human contacts between citizens of participating States often gains prominence as rightfully reflects our public's expectations and is an important constituent part of the OSCE commitments in the human dimension. It can be viewed as an essential inter-and intra-State confidence-building measure from social, cultural and economic perspectives. Over the years the significant progress that the OSCE participating States have made in facilitating freer travel across borders has materialized in the establishment of various regional visa-free areas in the OSCE area. Yet, further efforts should be invested to facilitate cross-border human contacts with the aim of strengthening personal, professional, cultural, humanitarian ties between citizens, as they contribute to enhanced cooperation, increased cultural understanding and trust across the OSCE region. I am confident that we have many good practices to share in that respect.

While facilitation of cross-border human contacts would foster positive developments across the OSCE area, it is also obvious that in today's globalized world states are facing substantive

issues with regard to undesirable forms of human movements. Negative phenomena such as movement of terrorists and money-launderers, trafficking in persons, migrant exploitation and specious asylum seekers pose considerable challenges to managing cross-border human contacts in full respect of existing international human rights obligations. The complex nature of these phenomena calls for innovative policy solutions that would effectively ban illegal activities while ensuring implementation of international human rights standards.

Dear participants,

While significant efforts have been invested by the OSCE participating States since the Helsinki Final Act to bring their legislation and policies in line with the relevant OSCE commitments, many challenges remain.

I would therefore like to encourage the participating States to use the opportunity offered by this SHDM to discuss issues of concern, share good practices and contribute to promoting co-operation on issues related to freedom of movement and cross-border human contacts.

I wish all participants a constructive and productive discussion on important topics of this meeting. Following the conclusion of the first working session today, the Ukrainian Chairmanship is happy to host a reception to which you are cordially invited.

Thank you very much for your attention!

**Opening Remarks by Ambassador Janez Lenarčič
Director of the OSCE Office for Democratic Institutions and Human Rights
at the OSCE Supplementary Human Dimension Meeting
on Freedom of Movement and Human Contacts
Hofburg, Vienna, 25 – 26 April 2013**

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 a 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.

Annex 3: Keynote speech by Ms. Marta Cygan

- Freedom of movement is a **fundamental human right**, which forms part of the core values of the EU both in terms of internal movement and in its relations with third countries.
- Overall, a lot of progress has been made to facilitate freedom of movement since the signature of the Helsinki Final Act and the 1990 Copenhagen Document in the OSCE area.
- The EU has substantially contributed to this considerable progress, notably through the appropriate bilateral channels between the EU and respective participating States.

The Schengen success story

- We have achieved an area of free movement of citizens within the EU. In 1985, five Member States met in the small town of Schengen, in Luxembourg, to sign an agreement on the gradual abolition of checks at common borders, followed by the signing in 1990 of the Convention implementing that agreement. Born as an intergovernmental initiative, the developments brought about by the Schengen Agreements have now been incorporated into the Treaties.
- Today, the Schengen Area encompasses most of the EU's Member States and a number of 'associated' non-EU States, and we hope that the Council will soon decide that internal border controls with Bulgaria and Romania can finally be lifted.
- The creation of the Schengen area allowing travellers to move within the area without being submitted to border checks at internal borders is undoubtedly one of the most tangible, popular and successful achievements of the EU. Indeed, some 420 million people are now residing in the area and enjoying the freedom of movement which it entails, making some 1.25 billion journeys within the EU every year. **That concerns not just EU citizens but also numerous third-country nationals with the legal right to travel within the Schengen area.**
- And we have also much advanced on facilitating freedom of movement in the EU's relations with other OSCE participating States. For instance today, most countries of the Western Balkans can travel to the EU without visa.
- Enhancing mobility of citizens in a security and well-managed environment is one of the important elements of the 'Eastern Partnership' policy.
- We have made considerable progress in the visa facilitation in the Eastern Neighbourhood and through concluding 'Mobility Partnerships'. We have well advanced with several of our partners during a short framework of time, once they have taken the necessary steps to enhance document security, improve their border management and data protection.

Respect for core OSCE commitments

- To come back to the core of the OSCE commitments on freedom of movement, the EU continues to firmly believe that everyone has the **right to freedom of movement and residence within the borders of their own country and that everyone has the right to leave any country**, including their own, and return to his or her country.

- The EU **opposes unnecessary denial or restriction of these rights of free movement**. However, today we are still in a situation where some participating States continue to enforce restrictions on freedom of movement from, to and even within the state for their own citizens. We are convinced that practices, such as systems of residency registration should be abolished to ensure that the rights of all citizens to freedom of movement are respected.
- From this point of view the EU has made historic progress through establishing the **free movement principle** as one of the fundamental freedoms for its citizens. EU citizens are fully entitled to travel and reside across the whole EU territory. For the great majority of the EU it takes place without any controls on the EU internal borders.
- At the same time, the EU is strongly committed to the **dialogue with the third countries** concerned and in particular with its closest partners who are also present in the room today. The development of people-to-people contacts between the EU and its partners is an inherent part of that dialogue.

The GAMM

- For this purpose the EU has developed its 'Global Approach to Migration and Mobility' – **GAMM**– as an overarching dimension of the EU external migration policy which allows the EU to speak with **one voice** on issues related to migration and mobility.
- The Global Approach is an example of international cooperation at its best – taking account of the interests and objectives of all involved: EU, partner countries and migrants themselves. The agenda is balanced and comprehensive, aimed at **four equally important objectives**: (a) better organising legal migration and mobility, (b) preventing and curbing irregular migration, (c) maximising the development impact of migration and mobility, and (d) promoting international protection.
- The GAMM is, more than anything else, a **methodology** of how to enter into dialogues with third countries. We are discussing **all four areas** of potential cooperation with **all relevant third countries**.
- Offering the same basic agenda to all does not imply that our policies towards third countries are identical. The **intensity** of the dialogue still differs (the neighbourhood comes first); GAMM does allow for **differentiation**.
- At the moment the EU is engaged in structured **bilateral dialogues** and cooperation on migration and mobility with more than **25 countries, including in the OSCE area**.

The Union's short term visa policy

- While bearing in mind that there is no OSCE commitment on visa-free travel and the issue of **visa regimes** is and will be dealt outside the OSCE framework, let me briefly present to you the EU short term visa policy and cooperation with third countries in this area.
- Mobility enshrined in the GAMM means obviously also strengthening cooperation on visas. The Schengen short stay visa gives a unique opportunity to travel across the whole Schengen territory (i.e. 26 States).

- The EU does aim **at enhancing** in the people-to-people contacts while ensuring that those contacts are organised in a **secure environment**.
- Issues like documents security including the issuance of biometric passports or the border management are crucial to setting correctly such a secure environment.
- Any facilitation in the visa regimes brings inevitable increase of the flow of persons crossing the borders. E.g. only with Russia between 2009 and 2011 the number of visa applications rose from over 3 million up to over 5 million.
- Obviously great majority of those flows are constituted by the *bona fide* travellers. However our authorities need to be well equipped to detect anyone who would like to abuse these increased flows using a forged travel documents or while trying to traffic illicit materials over the border.

An example: LBT

- The best example of EU willingness “not to divide” is **Local Border Traffic** system allowing for inhabitants of border areas (which share common history and daily life). This system allows to those persons to move across the external EU border with a special document valid for several years without requirement to have a visa.
- This instrument proves to be very efficient and allows for keeping the ties between the communities while avoiding artificial separation.
- Most recently, the EU recognised special position of the **Kaliningrad** region while covering its all residents by the LBT regime as well as additional parts of Polish territory. This further enhanced contacts between two communities in that region.
- Another example of the EU commitment to facilitate contact of its citizens with the citizens of our partners are **visa facilitation agreements**.
- Until now **9 Visa facilitation agreements** with third countries have entered into force: Russia (1 June 2007), Ukraine, Moldova, FYROM, Serbia, BiH, Montenegro, Albania (1 January 2008) and Georgia (March 2011). All these countries are in the OSCE participating States.
- In 2012, the Commission and Presidency have signed Visa facilitation agreements with **Armenia** as well as the revised, **upgraded** Visa facilitation agreements with **Moldova** and **Ukraine**. The negotiations with Azerbaijan in view of the conclusion of a Visa facilitation agreement are still ongoing (since March 2012) and since February 2011 the Commission is ready to engage in similar negotiations with Belarus. The Commission is also currently negotiating with **Russia** the revision of the existing Visa facilitation agreement.
- In order to ensure **coherence and a balanced approach** in addressing irregular migration risks, while facilitating legitimate travel into the EU of bona fide visa applicants, the Visa facilitation agreements have been concluded and implemented **in parallel** with European **Readmission agreements**.

- The VFAs provide different types of very concrete **procedural facilitations** for visa applicants, which are included in most or all Visa facilitation agreements:
 - simplification and harmonisation of **documentary evidence** regarding the purpose of travelling (e.g. participation in official meetings, consultations, etc.);
 - wider issuance of **multiple-entry** visas valid for a long period of validity to certain categories of frequent travellers (e.g. business people, journalists etc.);
 - a lowering of **visa fee** to 35€ and a fee waiver for certain categories of persons (e.g. disabled persons, participants in cultural, scientific activities etc.);
 - a **maximum processing time** for visa applications of 10 calendar days;
 - facilitating departure in case of stolen or lost documents;
 - extension of short stay visas in cases of force majeure;
 - exemption of holders of **diplomatic passports** from the visa obligation.
- The implementation of the Visa facilitation agreements has been shown to have an **overall positive impact**: for instance the VFA with **Russia** currently in place allowed for an important increase of visa applications from 4.2 million applications in 2010 to 6.1 million in 2012, i.e. a 44% increase. **Less than 1% of applications were refused in 2012 in Russia**. Also the number of multiple-entry visas (MEV) grows steadily.
- The statistics for other countries are also encouraging and satisfactory.

Visa liberalisation, monitoring, suspension

- Obviously the most advanced stage of our cooperation on visa issues with third countries are **visa dialogues with the ultimate objectives of visa-free regimes**.
- Those dialogues were and are carried out on the EU side **in accordance with the EU internal legislation** which requires that before granting visa free regime the rules are in place properly regulating document security, migration and border management, public order and security as well as external relations and human rights. Those rules are there in order to ensure that once the visa free regime is in place the abuses will be limited and possible to monitor.
- Some of those **dialogues have already successfully led to lifting visa regime** by the EU. This however was only possible following **substantial reforms** by those partners across all those areas.
- The visa dialogues that the Commission conducted with the governments of **Serbia, Montenegro, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina and Albania** between 2008 and 2010 compelled these countries to introduce a set of core reforms in the rule of law area. Such reforms ranged from document security to border, migration and asylum management, steps to combat organised crime and corruption and measures to enforce fundamental rights.
- Thanks to that, visa-free travel with those countries today functions in a secure environment. The overwhelming majority of Western Balkans travellers to the EU remain *bona fide* travellers. Meanwhile a small minority of travellers continues to **misuse the visa-free travel regime** to submit unfounded applications for asylum in certain Member States.

- The Commission has put in place a **monitoring mechanism** that draws upon an alert scheme operated by FRONTEX and additional information supplied by Europol and the European Asylum Support Office. The **post-visa liberalisation monitoring reports** for the Western Balkans are published and they have encouraged these countries to address the issue of unfounded asylum applications by implementing further reforms.
- The Commission has also proposed the adoption of a **suspension mechanism** to temporarily suspend visa-free travel for the citizens of third countries in certain emergency situations. The European Parliament, the Council and the Commission are currently negotiating the details of this proposal. Finally, the Commission has proposed amending the Asylum Procedures Directive to tighten the conditions under which applicants may submit multiple applications for asylum if their underlying situation has not changed.
- Following those visa liberalisation dialogues, similar ones are currently under way with **Russia, Ukraine, Moldova, Kosovo and Georgia**, and will hopefully start soon with **Turkey**. Those **dialogues are on various stages** according to the country and are carried out in accordance with their action plans (common steps) listing the requirements to be in place before the visa free regime may be considered.
- The Commission is determined to **carry those dialogues promptly** but with due account to the requirements laid down in Action Plans (Common Steps).

Mobility partnerships

- Last but not least, the most elaborated bilateral cooperation framework under the Global Approach is the **Mobility Partnership**, which are considered the '**prime bilateral framework**' to address relevant migration and mobility issues of mutual concern, primarily with **EU neighbourhood countries**.
- MPs offer a **political framework** for an enhanced and **tailor-made** dialogue and cooperation with third countries in a wide range of fields related to migration and mobility, with **concrete actions** covering the **four pillars** of cooperation.
- Among the OSCE participating states, so far MPs have been established with **Moldova** (2008, 15 MS), **Georgia** (2009, 16 MS) and **Armenia** (2011, 10 MS). Discussions on a MP with **Azerbaijan** are about to start.
- A MP is first and foremost a Partnership that aims at **enhancing and promoting mobility of people**.
- In addition to this key objective of promoting mobility, a MP also tries to achieve other objectives such as:
 - Preventing and combating irregular migration; enhance border management capacities, border surveillance, improve document security and better cooperation on return, readmission and reintegration of returning migrants. In this context the negotiation of **readmission agreements** is key.
 - Maximizing the development impact of migration; reaching out to diasporas, and facilitating their investments in country of origin, including through remittances; facilitating return of highly skilled nationals.

- Enhancing asylum systems, promote international protection.
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- I trust that the above overview demonstrates clearly the EU commitment to foster the people to people contacts across the borders. While significant progress has been made over the past years, a lot of work is still ahead of us.
 - The bulk of EU work on freedom of movement takes place outside the OSCE framework, in the agreed fora of detailed dialogue. We will continue to work with our partners through these channels.
 - I would like to thank the Chairmanship for organising this meeting. We remain ready to work with all participating States on issues related to the OSCE commitments in the area of freedom of movement.

Annex 4: Biographical Information on Introducers and Moderators

Supplementary Human Dimension Meeting

FREEDOM OF MOVEMENT AND HUMAN CONTACTS

25-26 April 2013

Hofburg, Vienna

Biographical Information: Speakers and Moderators

Keynote speaker:

Ms. Marta Cygan

Ms. Cygan is currently Director of Strategy and Delivery Steering Directorate in Directorate General Home Affairs of the European Commission. Ms. Cygan began her career at the Polish Ministry of Foreign Affairs in 1993, where she worked as Head of the European Law Section in the Legal and Treaties Department. Subsequently, she served as First Counsellor in the Polish Mission, later Polish Permanent Representation to the European Union dealing, in particular, with the accession negotiations and institutional issues. From 2004 to 2009, Ms. Cygan worked as Deputy Head of Cabinet of Ms. Danuta Huebner, Commissioner for Regional Policy. From 2009 to 2013, she served as Director for Immigration and Asylum in Directorate General Justice, Freedom and Security and Directorate General Home Affairs. Ms. Cygan has studied Law and Languages at the Jagiellonian University in Krakow, as well as at the College of Europe in Bruges and the European College in Parma.

SESSION I: OSCE commitments on freedom of movement and challenges to their implementation

Mr. Anvar Azimov (Introducer)

Mr. Azimov represents the Ministry of Foreign Affairs of the Russian Federation in the Russia – EU visa liberalization dialogue. After graduating from the Moscow State Institute of International Affairs in 1973, Mr. Azimov joined the Ministry of Foreign Affairs of the Russian Federation and has since held a number of senior diplomatic posts there. From 2000 to 2002, he served as Head of Human Rights Department at the Office of the High Representative in Bosnia and Herzegovina. In 2003, he was appointed Deputy Director of the Department for European Cooperation, and from 2005 to 2008, served as Ambassador of the Russian Federation in Zambia. Subsequently, Mr. Azimov was appointed Permanent Representative of the Russian Federation to the OSCE, a post he held until 2011. Currently, Mr. Azimov serves as Ambassador-at-Large.

Mr. Oleksandr Sushko (Moderator)

Mr. Sushko is Research Director at the Institute for Euro-Atlantic Co-operation, an independent think-tank based in Kyiv. From 2000 to 2006, he was Director of the Center for Peace, Conversion and Foreign Policy of Ukraine (CPCFPU), an NGO founded in 1992. Since 2000, Dr. Sushko has served as editor of the Ukrainian Monitor, a journal launched by CPCFPU in 1997 to provide an in-depth analysis of the foreign and security policy of Ukraine, as well as its role in the European and Euro-Atlantic politics. Mr. Sushko was a Visiting Fellow of Freedom House and at the Monterey Center for Non-proliferation Studies in 2002. He obtained a Ph.D. from the Institute for World Economy & International Relations, National Academy of Sciences of Ukraine in 1998.

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

Ms. Tanja Fajon (Introducer)

Ms. Fajon is a Slovenian politician and journalist, and has been serving as a Member of the European Parliament (EP) since 2009. Since then, she has been the EP Rapporteur on Visa Liberalization, responsible for South Eastern Europe, and has been instrumental in facilitating visa liberalization processes between South Eastern European countries and the European Union. Ms. Fajon is a member of the Committee on Civil Liberties, Justice and Home Affairs and a substitute on the Committee on Transport and Tourism. She holds Bachelor's degrees in Journalism and in Marketing in Non-profit Organizations, and a Master's degree in International Studies from the College of Inter-disciplinary Studies in Belgium. Ms. Fajon has also been awarded an honorary doctorate from the American University in Bosnia and Herzegovina.

Ms. Natalia Gherman (Moderator)

Ms. Gherman is Deputy Minister of Foreign Affairs and European Integration of the Republic of Moldova, and represents the Ministry of Foreign Affairs in the EU - Moldova visa liberalization dialogue. Ms. Gherman joined the Ministry of Foreign Affairs in 1991, and has held a number of senior posts since. From 1994 to 1997, she was Deputy Head of the Permanent Delegation of Moldova to the OSCE and other International Organizations in Vienna. Subsequently, Ms. Gherman held posts of Deputy Head of the Department of European Security and Political-Military Affairs from 1997 to 2001 and of Minister-Counsellor of the Embassy of Moldova to Belgium and Deputy Head of the Mission of Moldova to NATO from 2001 to 2002. From 2002 to 2006, Ms. Gherman served as Ambassador to Austria and Permanent Representative to the OSCE and other International Organizations. Prior to assuming her current post, Ms. Gherman was Ambassador of Moldova to Sweden, Norway and Finland. Ms. Gherman holds a Master's degree in War Studies from King's College, London University.

SESSION III: Innovative approaches to facilitate cross-border mobility in the OSCE region

Mr. Gerald Knaus (Introducer)

Mr. Knaus is the founding Chairman of the European Stability Initiative (ESI), a think tank which produces analysis and recommendations concerning visa liberalization processes between the EU and its eastern neighbors. Having studied in Oxford, Brussels and Bologna, he taught economics at the State University of Chernivtsi in Ukraine and worked for five years in Bulgaria and Bosnia for NGOs and international organizations. From 2001 to 2004, he was Director of the Lessons Learned Unit of the EU Pillar of the UN Mission in Kosovo. Mr. Knaus has published a number of articles and reports, which have triggered wide public debate, including "Travails of the European Raj" on Bosnia (2003) and "Member State Building and the Helsinki Moment" on the EU role in the Balkans (2004). He has also co-authored more than 60 ESI reports, as well as scripts for several TV documentaries on South East Europe. Mr. Knaus is a founding member of the European Council on Foreign Relations and Associate Fellow at the Carr Center for Human Rights Policy at Harvard University's Kennedy School, where he lectured on state building and intervention as a Visiting Fellow in 2010 - 2011.

Ms. Nilgün Arisan Eralp (Moderator)

Ms. Eralp is Director of EU Institute at the Economic Policy Foundation of Turkey (TEPAV), where she focuses on the visa facilitation and liberalization process between Turkey and EU as part of her foreign policy studies portfolio. Before joining TEPAV, Ms. Eralp served as Advisor for the public administration of Turkey, including the Ministry of State in charge of EU Affairs, the Deputy Prime Ministry, and the Prime Ministry of Turkey. Previously, Ms. Eralp worked as an expert in the State Planning Organization, Directorate General for EU Affairs. She holds a Bachelor's degree in Economics from Middle East Technical University, as well as Master's degrees in Economic Development from Leicester University and in European Studies from the London School of Economics.