

## Tolerance, Non-Discrimination, and Anti-Semitism in the OSCE – The Emergence of a New Field of Activity<sup>1</sup>

Ever since the signing of the Helsinki Final Act of 1975, the field of activity known as the human dimension (originally the “third basket”) has been a central – if particularly controversial – aspect of the work of the CSCE/OSCE. Nonetheless, one would seek in vain any mention in the Final Act of the issues we now bring together to form the triad of “tolerance, non-discrimination, and anti-Semitism”. Although point seven of the Decalogue contained in the Final Act does name “Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief” as a guiding principle for relations between the participating States, it did little more than refer to the Universal Declaration of Human Rights and other relevant international covenants. And while non-discrimination was of course a topic of concern for the CSCE until the end of the Cold War in the late 1980s, it tended to be highlighted selectively, and above all with reference to the protection of national minorities.

The prominent role currently played by this trio of topics was thus by no means inevitable from the inception, and nor should we take it for granted today. It required a long process of political awareness-raising and subsequent implementation, which was certainly not straightforward within the OSCE. Ultimately, however, the OSCE has made a firm commitment to meeting this challenge. Today, the view that intolerance, discrimination, and – as a special case of the above – anti-Semitism not only represent grave violations of human dignity but also constitute a fundamental challenge to the cohesion and therefore the stability of democratic societies is universally accepted among OSCE participating States. The issue is now given the significance it deserves.

### *The Development of the Topic*

While CSCE/OSCE documents from the 1990s contain many references to the necessity of combating intolerance and discrimination, racism, and xenophobia, they tend to be framed in very non-specific terms. At this time, virtually no mention is made of anti-Semitism. Nor was the effort made to turn resolutions into practical programmes of action. The closest the Organization came to this was in the mandate of the High Commissioner on National Mi-

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<sup>1</sup> The opinions expressed in this contribution are the author’s alone.

norities, who was called upon to pay special attention to “all aspects of aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism” by the CSCE Council in Rome in December 1993.<sup>2</sup>

The events of 11 September 2001 lent this issue new topicality. Bearing this in mind, the OSCE foreign ministers adopted a decision at their meeting in Bucharest on 3 and 4 December 2001, in which they expressed concern over “manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-semitism and violent extremism”<sup>3</sup> and called for effective steps to be taken to counter these phenomena. As an initial framework for this, a catalogue of measures for combating terrorism was adopted in Bucharest.

This triggered an intensive debate within the OSCE, which lasted throughout the whole of 2002. In Vienna, the Portuguese Chairmanship established an informal group consisting of representatives of around a dozen participating States to discuss the issue. The debate very soon began to turn on the question of anti-Semitism. To a large extent, this was the result of external stimuli: On the one hand, in Washington in May 2002, the US Congress’s Helsinki Committee held a hearing into “Anti-Semitic Violence in Europe”, a reaction to the UN-organized world anti-racism conference that was held in Durban in 2001, and which had, on the instigation of the Arab nations, singled out Zionism for condemnation. This appeared to implicitly lower the threshold of tolerance of anti-Semitism.

A further political factor was the adoption of a resolution by the OSCE parliamentarians at their summer session in Berlin in July 2002, which called upon the OSCE to act decisively to combat anti-Semitism and to hold a conference dedicated to this topic. The US and German delegations were the main movers behind this, led by Congressman Christopher Smith (Republican) and Member of the *Bundestag* Gert Weisskirchen (SPD), respectively. The German position was less the result of concern that Germany could find itself in the dock as a result of anti-Semitic incidents within its borders but was rather based on the conviction that it was necessary to pursue the struggle that had been relentlessly carried out against anti-Semitism within Germany unreservedly within the international framework of the OSCE as well. Further contemporary political factors may also have played a role: Following the rejection of American policy in Iraq by the German government, anti-Semitism represented a topic in relation to which Germany could demonstrate solidarity with the USA.

The engagement of the parliamentarians, which was supported by many NGOs, including the major Jewish organizations in the USA, was quickly

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2 Conference on Security and Co-Operation in Europe, Fourth Meeting of the Council, Rome, 30 November - 1 December 1993, in: Arie Bloed (ed.), *The Conference on Security and Co-Operation in Europe. Basic Documents, 1993-1995*, The Hague 1997, pp. 192-214, here: p. 212.

3 Organization for Security and Co-operation in Europe, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 391-417, Decision No. 5 by the Ministerial Council, pp. 411-412, here: p. 411.

replicated at governmental level. Here, US-German understanding was again of crucial importance. The first result was Ministerial Decision No. 6 on Tolerance and Non-Discrimination, which was adopted by the Porto Ministerial Council in December 2002.

It strongly condemns “all manifestations of aggressive nationalism, racism, chauvinism, xenophobia, anti-Semitism and violent extremism”<sup>4</sup> and calls for “separately designated”<sup>5</sup> conferences to be convened on these topics. There was much wrangling over the wording of this document. This provided the first clear evidence of the internal divisions that existed within the OSCE on this issue: A number of participating States, particularly those from the Mediterranean area, but also the United Kingdom, were vehemently opposed to treating anti-Semitism separately from the topic as a whole and suspected that the aim was to pre-emptively disallow criticism of Israel for the way it was combating the *Intifada*. The critics also argued that singling out anti-Semitism created a “hierarchy of suffering” that was inappropriate, given the discrimination also suffered by Muslims.

The USA opposed this position. As late as the run-up to Porto, the US government had treated anti-Semitism as a secondary issue within the OSCE. A briefing on current OSCE questions given to Congress on 10 October by then Assistant Secretary of State Elizabeth Jones gave no hint that the issue was a priority. This had changed completely by the time of the Porto conference. By then, the USA, supported above all by the German delegation, was resolutely in favour of prioritizing anti-Semitism as a result of the historically proven danger that it poses.

Delegations that had hesitated up to that point now fell into line. The result was a paragraph that decisively condemns anti-Semitism as “a major threat to freedom”.<sup>6</sup> As a concession to critically minded delegations, a passage was also included in the decision that rejected violence against Muslims and the “identification of terrorism and extremism with a particular religion or culture”.<sup>7</sup>

Porto brought about a change of course that was followed by the incoming 2003 Dutch Chairmanship. During that year, the basic framework of relevant decisions that remain binding to this day were developed and endorsed by the OSCE foreign ministers at their December conference. However, once again this did not occur without disputes that brought the OSCE to the edge of disintegration. The controversy once more concerned the extent to which anti-Semitism should be assigned a special place within the overall area of non-discrimination. In the course of this debate, it became clear that

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4 Organization for Security and Co-operation in Europe, Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 421-455, Decision No. 6, Tolerance and Non-Discrimination, pp. 449-451, p. 450.

5 Ibid., p. 451.

6 Ibid.

7 Ibid.

there was no agreement among the participating States regarding the priority of the fight against anti-Semitism.

The focus of attention now shifted to the conference project. A concept paper presented by the Dutch Chairmanship in early March recommended – without placing any stress on the issue of anti-Semitism – that a conference be held on all aspects of tolerance and non-discrimination, including “discrimination against Muslims”. This did not go unopposed. A key role in the formation of opinion on this issue was played by an informal group established by the OSCE Chairmanship and including members of some 20 delegations. No less important was the discussion within the EU, whose members accounted for almost half of OSCE participating States. The influence of the German delegation was critical here. After much fraught debate, hesitant EU delegations – critically the UK, but also Belgium and the Netherlands – were ultimately persuaded of the expedience of a separate OSCE conference on anti-Semitism.

A preliminary step towards this was an OSCE meeting on anti-Semitism, which was held in Vienna on 19 and 20 June 2003. Prominent political representatives, including the former mayor of New York, Rudy Giuliani, and Robert Badinter, a former French minister of justice, spoke in favour of an international conference on the topic. Claudia Roth, a Member of the German *Bundestag* and the German government’s human rights commissioner, gave a speech strongly supportive of the plan. The many NGOs present at the conference, above all Jewish organizations from the USA, called for new initiatives in the fight against anti-Semitism. At the close of this meeting, in accordance with the instructions of the Foreign Office, I issued an invitation on behalf of the German delegation to a conference on anti-Semitism to be held in Berlin, provisionally in the spring of 2004.

This set the scene for the next stage of the OSCE’s discussion. On 4 and 5 September 2003, a further meeting was held in Vienna to consider racism, xenophobia, and discrimination. The “two-conference model” appeared to be firmly established. However, much additional persuasion was required before this was truly the case. In the meantime, the OSCE Human Dimension Implementation Meeting, which was held in Warsaw from 6 to 17 October 2003, in accordance with a decision adopted by the Permanent Council on 30 January, shortly after Porto, had a special focus on “the prevention of discrimination, racism, xenophobia, and anti-Semitism”.

Warsaw provided a platform for many programmatic statements articulated not only by representatives of governments but also by NGO activists. For Germany, Claudia Roth repeated her government’s invitation to a conference on anti-Semitism in Berlin. The US representative welcomed this emphatically, adding a call for the OSCE participating States to unambiguously distance themselves from all instances of anti-Semitism. He called particularly for steps to be taken in the area of education. Representatives of NGOs, and the Anti-Defamation League in particular, went further, establishing a

connection between anti-Semitism and hate propaganda against Israeli policy inspired by Arab governments. During the debate, there were attempts (for instance by the representatives of Azerbaijan and Moldova) to establish a link between the topic of discrimination/anti-Semitism and unresolved internal conflicts, thereby leveraging it for these countries' own political ends.

The Warsaw meeting was the prelude to final negotiations among the OSCE delegations in Vienna, which aimed to enable the foreign ministers to make operational decisions at their annual meeting in Maastricht in early December. The bulk of the work was carried out by the above-mentioned informal group of some 20 delegations created by the Dutch Chairmanship; once again, informal discussions among the delegations of the 25 EU countries, among whom there remained significant differences of opinion regarding the best way to continue, had a strong influence on the course of the negotiations.

Controversy still reigned over the extent to which anti-Semitism should be given a special place within the overall context of non-discrimination. Although the Netherlands, the holder of the OSCE Chairmanship during 2003, was one of the more sceptical countries, nonetheless, it ultimately acted fairly to ensure a compromise was reached. This was possible thanks to close co-operation between Germany and the United States, expressed in the form of regular working- and high-level contacts. In bilateral meetings, the German and American delegations attempted to win the more sceptical countries round to their views, among them, crucially, Russia. The fact that Russia finally did agree to a compromise it was willing to support, if not enthusiastically then at least loyally, was largely a result of these efforts.

This compromise solution served the OSCE foreign ministers in Maastricht as a template for a decision establishing the basis of further activities in this area. A speech given to the plenary by Germany's foreign minister Joschka Fischer on 1 December, in which he underlined his personal commitment to combating intolerance, and anti-Semitism in particular, helped to persuade those who remained unconvinced as to urgency of the topic.

The Maastricht decision considers intolerance and non-discrimination in their totality, and thus includes problems relating to Roma and Sinti, gender equality, and migrants. Nonetheless, anti-Semitism was still singled out for special attention. The agreement on the following detailed programme of action appeared to suggest that prior disagreements had largely been resolved:

- Holding conferences on anti-Semitism in Berlin on 28 and 29 April 2004 and on racism, xenophobia, and discrimination in Brussels on 13 and 14 September 2004; agreeing to hold a further meeting on internet propaganda and hate crime in Paris on 15 and 16 June 2004.
- Calling upon all OSCE participating States to collect statistics on hate crimes and make regular reports. Close co-operation with other organizations already active in this area was recommended, above all the UN, the EU, and the Council of Europe.

- Charging ODIHR to work closely in this area with relevant internationally active institutions as an information and co-ordination centre and to give guidance in the form of proven best practices.

After two years of intense debate, the OSCE had succeeded in creating a binding programme of action for all participating States. This framework has remained valid to the present day. During the following year (2004), it was filled out with decisions on further concrete measures.

*The Berlin Anti-Semitism Conference of 28 and 29 April 2004 and Follow-Up Meetings*

The next stage was the anti-Semitism conference agreed upon in Maastricht, which was held at the German foreign office in Berlin on 28 and 29 April under Bulgarian chairmanship. It became the climax of all the OSCE's efforts on this range of topics, and there was a remarkable degree of media interest in almost every OSCE state. If the OSCE's aim was to raise public awareness in its participating States of the antidemocratic and misanthropic nature of anti-Semitism, this was achieved here.

The event in Berlin was originally considered merely a "special conference". However, this was the first time in the history of the Organization that a conference of this type had been attended by such eminent persons.

Many OSCE participating States, including the USA, Canada, Poland, Romania, and Spain, had sent their foreign ministers. The opening speech was given by the German president, Johannes Rau. He called for more civic engagement in the fight against anti-Semitism and argued that, while criticism of Israeli actions is not impermissible *a priori*, it must nonetheless always be made in an appropriate form. Chancellor Gerhard Schröder of Germany, who received the conference participants in the Chancellery, condemned anti-Semitism as a threat to democracy. Holocaust survivors Simone Veil and Elie Wiesel spoke movingly to the conference participants. The Israeli president, Moshe Katsav, planned an official visit to Germany to allow him to speak to the conference.

On 22 April, immediately prior to the Berlin conference, the OSCE Permanent Council in Vienna had adopted the text of a decision on combating anti-Semitism drawn up jointly by the German and US delegations. Once more, differing viewpoints on a number of matters could be seen to have played a role in the drafting of this document, including the role of education in combating anti-Semitism, which had been criticized by the delegation of the Holy See. The text of the decision upon which consensus was finally reached became the basis of a declaration made in Berlin by the Bulgarian foreign minister, Solomon Passy, on behalf of the OSCE Chairmanship. At its heart was a categorical condemnation of anti-Semitism in all its manifest-

ations. By stating that international developments “including those in Israel”<sup>8</sup> could never justify anti-Semitism, the declaration took sides on an issue that had previously been a matter of some controversy. In the following – operational – section of the declaration, the participating States committed themselves to a number of concrete tasks relating to legal systems, education, and the media. The supervisory capacity of ODIHR was confirmed. Although it was left to the next ministerial council to adopt the formal decision, the Berlin declaration amounted to a set of instructions for this. In this respect, too, the conference broke new ground: it was the first time that an event classified as a special conference was effectively granted decision-making powers.

The success of the Berlin conference inspired the participants at the other two conferences scheduled for 2004: one largely expert-level meeting in Paris, focusing on combating hate crime and anti-Semitic propaganda, and a further special conference on combating racism, xenophobia, and discrimination, which was held in Brussels in September, again with much high-level political participation. Both produced draft resolutions for the OSCE foreign ministers; in Paris, the USA again stressed its particular interest in the topic by presenting a ten-point programme for combating hate speech on the internet.

After the political climax, which had been achieved above all by the special conference in Berlin, the focus of the OSCE’s work turned more and more to the implementation of its programmes. The key issue here was the appointment of personal representatives of the Chairman-in-Office, whose task – at a time when work was already underway to establish the ODIHR/OSCE anti-Semitism programme of action – was to promote the fight against intolerance, discrimination, and anti-Semitism both within the participating States and beyond. In relation to this, an old dispute erupted in a new form: Should there be a single special representative responsible for every aspect of the overall topic, or should various tasks be shared among several people? In this dispute, supporters of a vehemently holistic standpoint were opposed by those who also wanted to highlight in the OSCE’s operational activities the fact that anti-Semitism is a particularly dangerous form of intolerance. Expressions of concern that the OSCE should be careful not to introduce a “hierarchy of suffering” were again voiced in this context.

This dispute dominated preparations for the OSCE’s annual ministerial meeting, which was due to convene in Sofia in 2004. The US position, which had obviously been strongly influenced by Jewish organizations, was clearly defined. It was officially formulated by Assistant Secretary of State Elizabeth Jones, who, in a hearing before the US Congress on 15 September, called for the creation of a separate OSCE representative for anti-Semitism; the powers

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8 OSCE, Bulgarian Chairmanship, The Chairman-in-Office, Berlin Declaration of 29 April 2004, available online at: [http://www.osce.org/documents/cio/2004/04/2828\\_en.pdf](http://www.osce.org/documents/cio/2004/04/2828_en.pdf); also reprinted in: Gert Weisskirchen, The OSCE Anti-Semitism Conference in Berlin, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 317-328, here: pp. 326-327, p. 326.

of the proposed representative were to include the ability to make recommendations. In Vienna, there was initially considerable opposition to this concept, not only from Russia, but also from a number of EU states.

Russia had remained critical but disengaged during the whole anti-Semitism debate and had kept a relatively low profile at the special conferences. There was mistrust, as a leading representative of the Russian delegation once expressed it in Vienna, of developments that amounted to “merely political show”. Ultimately, however, Russia was always ready to co-operate and support the compromises that were reached, and was generally understanding of Germany’s active role on this issue.

The disagreement over the question of the special representative was finally resolved by means of a compromise in which the mediating role of the German delegation was once again of crucial importance: It was agreed to establish three personal representatives of the OSCE Chairman-in-Office, including one with responsibility for combating anti-Semitism, and another for combating intolerance and discrimination against Muslims. All three were required to exercise their offices in close co-operation with each other. Explicit mention was made of combating Islamophobic tendencies in EU countries. Shortly before Sofia, this compromise once more ran into trouble due to the energetic intervention of the Holy See, which insisted that non-discrimination against Christians also be mentioned by name. This request was finally granted.

### *Future Prospects*

By means of the various special conferences held in 2004, the OSCE had established an effective political framework within which the fight against intolerance, discrimination, and anti-Semitism could now be put into practice. The Sofia Ministerial Council sanctioned the instruments that were designed to provide the OSCE with comprehensive powers in this area. The subsequent ministerial meetings in Ljubljana in 2005 and in Brussels in 2006 largely oriented themselves on these landmarks, underlining the political significance of the topic once again and fine-tuning some of the instruments available to the OSCE. The OSCE also strove to make the concept accessible to its Mediterranean partners for co-operation, including Israel and the Arab states of the Maghreb and the Middle East: The key event in this was a conference held in Sharm el-Sheikh on 18 and 19 November 2004 on the invitation of the Egyptian government.

On 8 and 9 June 2005, a further OSCE special conference on “Anti-Semitism and on Other Forms of Intolerance” convened. The conference’s Spanish hosts had deliberately chosen to hold the event in Cordoba, a city heavy with a history that emblemized the close connections between Judaism, Christianity, and Islam. In Cordoba, discrimination against Muslims

took a correspondingly more prominent role; those who had argued that this form of intolerance was deserving of special attention similar to that granted to anti-Semitism felt vindicated. An action programme was again adopted, in the form of the Cordoba Declaration, and subsequently confirmed by the OSCE foreign ministers.

However, Cordoba also marked a definite turning point in the treatment of the overall topic of intolerance: The necessity of high-level conferences appeared to be exhausted, as all the key political messages had been pronounced competently several times. The absolute priority now had to be the implementation of the agreed programmes of action. Attention therefore focused on the work performed by ODIHR and the activity of the three personal representatives of the OSCE Chairman-in-Office, who had been in office since 2005. As a first step, it was necessary to reach consensus on the provision of ODIHR with the necessary human and financial resources. This task was successfully completed under the Slovenian Chairmanship.

In the meantime, it also no longer appears certain that all OSCE participating States share the view that no further political conferences on the topic are necessary. A further conference on the Cordoba model was held in Bucharest on 7 and 8 June 2007. It reconfirmed the need to combat anti-Semitism while also calling for action against other common forms of religious and ethnic intolerance, particularly Islamophobia.

What are the net results of the OSCE's activities in combating the various manifestations of intolerance and discrimination? It is certainly too early to draw up a final balance sheet. However, it is incontestable that, since 2002, the OSCE has made a major contribution to increasing public awareness of the critical nature of the issue. And despite all the differences of opinion that have arisen, it has succeeded in maintaining a sense of unity. The work to come will require patience, purposefulness, and a sustained effort. It may be illusory to expect sweeping change across the whole OSCE in the short-term.

At the same time, in pursuing these efforts, it will be vital not to fall into routine and to sustain the necessary political momentum. It would also be desirable to co-operate even more closely with all the international organizations that have long dealt with this topic. The duplication of activities should be avoided, and the OSCE's unique contribution should be kept clearly visible. The Organization should however remain aware of its calling to demonstrate particular commitment and to perform groundbreaking work – especially in relation to the practical tasks it undertakes. The work already performed by ODIHR is exemplary in this connection, above all in creating a computer-based data collection system and in developing teaching materials.

In the best instance, this special dedication will lead the OSCE to increase both its internal cohesion and its external credibility. The struggle against intolerance, discrimination, and anti-Semitism is a cross-dimensional matter that affects all OSCE participating States, regardless of their political orientation. The Organization is accused often enough of focusing too much

on problems “East of Vienna”. Here is an example that can refute those allegations.