CSCE
FOURTH MEETING OF THE COUNCIL
ROME 1993

CSCE/4-C/Dec.2
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LEGAL CAPACITY AND PRIVILEGES AND IMMUNITIES

1. At its Rome Meeting from 30 November to 1 December 1993, the CSCE Council considered the report submitted to the 24th CSO Meeting by the CSCE ad hoc Group of Legal and Other Experts on the relevance of an agreement granting internationally recognized status to the CSCE institutions.

2. The Ministers reaffirmed the importance of enhancing the ability of the institutions to better accomplish their functions, while preserving the flexibility and openness of he CSCE process. They agreed that, in order to help achieve a firmer basis for security and cooperation among all CSCE participating States, the CSCE could benefit from clearer administrative structures and a well defined operational framework

3 The Ministers were encouraged by the fact that the Governments hosting the CSCE Secretariat, the Conflict Prevention Centre (CPC) and the Office for Democratic Institutions and Human Rights (ODIHR) have taken steps under their las to confer upon these institutions and CSCE personnel as well as representatives of the CSCE participating States treatment comparable to that accorded to the United Nations and its personnel and to the representatives to it.

4 The Ministers noted the expanded operations within CSCE participating States of CSCE institutions and their personnel and of CSCE missions and the importance that all participating States provide for those institutions and individuals appropriate treatment

5 The Ministers agreed on the usefulness of legal capacity being granted to the CSCE institutions in the territories of all the CSCE participating States, in particular the capacity to contract, to acquire and dispose of movable and immovable property, and to institute and participate in legal proceedings

6. The Ministers further agreed that it was appropriate that certain privileges and immunities be granted to the CSCE institutions and their officers and staffs, as well as to the Secretary General of the CSCE-and the High Commissioner on National Minorities and their staffs, members of CSCE missions and the representatives of the participating States to the extent necessary to the exercise of their duties.

7. In most participating States, however, the competence to make rules concerning the legal status of the CSCE institutions and privileges and immunities rests with the legislature.

8. In view of these considerations and in order to assist in harmonizing the rules to be applied, the Ministers adopted the provisions set out in Annex 1. They recommend that participating States implement these provisions, subject to their constitutional and related requirements.

The participating States will inform the Secretary General of the CSCE of the steps taken in this respect, no later than 31 December 1994.

9. The Ministers agreed that the present decision supersedes paragraph I.1. (Legal Basis) of Recommendations of the ad hoc Group of Experts of the participating States on administrative, financial and personnel arrangements for the CSCE institutional structures created by the Paris Summit, adopted by the Committee of Senior Officials on 29 January 1991 (document CSCE/HB/Dec.1), and that it does not apply to other undertakings with respect to privileges and immunities made within the framework of the CSCE.

It is understood, however, that this decision does not affect the treatment conferred upon the CSCE institutions referred to in paragraph 3 above, to the CSCE personnel as well as to the representatives of the CSCE participating States by legislation or administrative measures taken by the host States in accordance with the above decision adopted by the Committee of Senior Officials (document CSCE/HB/Dec.1).

CSCE/4-C/Dec.2
Annex 1

PROVISIONS CONCERNING THE LEGAL CAPACITY OF THE CSCE INSTITUTIONS AND PRIVILEGES AND IMMUNITIES.

LEGAL CAPACITY OF THE CSCE INSTITUTIONS.

1. The CSCE participating States will, subject to their constitutional, legislative and related requirements, confer such legal capacity as is necessary for the exercise of their functions, and in particular the capacity to contract, to acquire and dispose of movable and immovable property, and to institute and participate in legal proceedings, on the following CSCE institutions:

- The CSCE Secretariat,

- The Office for Democratic Institutions and Human Rights (ODIHR),

- Any other CSCE institution determined by the CSCE Council.

PRIVILEGES AND IMMUNITIES
General

2. The CSCE participating States will, subject to their constitutional, legislative and related requirements, confer the privileges and immunities as set out in paragraphs 4-16 below.

3. Privileges and immunities will be accorded to the CSCE institutions in the interests of those institutions. Immunity may be waived by the Secretary General of the CSCE in consultation with the Chairman-in-Office.

Privileges and immunities will be accorded to individuals not for the personal benefit of the individuals concerned, but in order to safeguard the independent exercise of their functions. Immunity will be waived in any case where the immunity would impede the course of justice and can be waived without prejudice to the purpose for which the immunity is accorded. Decision to waive immunity will be taken:

with respect to officers and staff of the CSCE institutions and to members of CSCE missions, by the Secretary General of the CSCE in consultation with the Chairman-in-Office;

with respect to the Secretary General and the High Commissioner on National Minorities, by the Chairman-in-Office.

The Government concerned may waive immunity with respect to its representatives.

CSCE Institutions

4. The CSCE institutions, their property and assets, wherever located and by whomever held, will enjoy the same immunity from legal process as is enjoyed by foreign States.

5. The premises of the CSCE institutions will be inviolable. The property and assets of the CSCE institutions, wherever located and by whomever held, will be immune from search, requisition, confiscation

and expropriation.

6. The archives of the CSCE institutions will be inviolable.

7. Without being restricted by financial controls, regulations or moratoria of any kind:

(a) the CSCE institutions will be able to hold funds and keep amounts in all currencies to the extent necessary for the exercise of operations corresponding to their objectives;

(b) the CSCE institutions will be free to transfer their funds or currency from one country to another or within any country and to convert any currency held by them into another currency.

8. The CSCE institutions, their assets, income and other property will be:

(a) exempt from all direct taxes; it being understood, however, that the CSCE institutions will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) exempt from customs duties on imports and exports in respect of articles imported or exported by the CSCE institutions for their official use; it being understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country.

9. Where goods or services of substantial value necessary for the exercise of the official activities of the CSCE institutions are made or used, and when the price of such goods and services includes taxes or duties, the State that has levied taxes or duties will grant exemption or provide reimbursement of the amount of duty or tax.

10. The CSCE institutions will enjoy for their official communications the same treatment as that accorded to diplomatic missions.

Permanent Missions of the participating States

11. Participating States in whose territory permanent missions to the CSCE are located will accord diplomatic privileges and immunities in conformity with the Vienna Convention on Diplomatic Relations of 1961 to those missions and their members.

Representatives of participating States

12. Representatives of participating States attending CSCE meetings or taking part in the work of the CSCE institutions will, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) immunity from legal process relating to acts performed by them in their official capacity;

(b) inviolability for all papers and documents;

(c) exemption in respect of themselves and their spouses from immigration restrictions and aliens registration as accorded to diplomatic agents of foreign States;

(d) the same privileges in respect of exchange facilities as are accorded to diplomatic agents of foreign States;

(e) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents of foreign States.

The provisions of this paragraph will not apply as between a representative and the State of which he or she is or has been the representative.

In this paragraph the expression "representative" means all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

CSCE Officials

13. CSCE officials will enjoy the following privileges and immunities:◂

a) immunity from legal process, in respect of acts, including words written and spoken, performed by them in their official capacity;

(b) exemption from national service obligations;

(c) exemption in respect of themselves and their spouses and relatives dependent on them from immigration restrictions and aliens registration as accorded to diplomatic agents of foreign States;

(d) the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(e) the same repatriation facilities in time of international crisis in respect of themselves and their spouses and relatives dependent on them as diplomatic envoys;

(f) the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question and to export the same free of duty when they leave their post.

No participating State will be obliged to accord the privileges and immunities referred to under items (b)-(f) above to its own nationals or to permanent residents of that State.

The question of exemption from income tax for CSCE officials is not covered by this paragraph.

In this paragraph the term "CSCE officials" means the Secretary General, the High Commissioner on National Minorities and persons holding positions determined by the appropriate CSCE decision-making body or designated by it.

14. The employees of the CSCE institutions will be exempt from the social security regulations of the host State provided that they are subject to the social security law of their home State, or participate in a voluntary insurance scheme with adequate benefits.

Provided that the employees of the CSCE institutions are covered by a social security scheme of the CSCE institution, or by a scheme to which the CSCE institution adheres, providing adequate benefits, they will be exempt from compulsory national social security schemes.

Members of CSCE Missions

15. Members of CSCE missions, established by the CSCE decision-making bodies, as well as personal representatives of the Chairman-in-Office, will enjoy the following privileges and immunities while performing their duties for the CSCE:

(a) immunity from personal arrest or detention;

(b) immunity from legal process, even after the termination of their mission, in respect of acts, including words spoken or written, performed by them in the exercise of their functions;

(c) inviolability for all papers and documents;

(d) the right to use codes and to receive papers or correspondence by courier or in sealed bags, which will have the same immunities and privileges as diplomatic couriers and bags;

(e) the same exemption from all measures restricting immigration and from alien registration formalities as are accorded to diplomatic agents of foreign States;

(f) the same privileges in respect of exchange facilities as are accorded to diplomatic agents of foreign states;

(g) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;

(h) the same repatriation facilities in time of international crisis as diplomatic agents;

(i) the right to use specific symbols or flags on their premises and vehicles.

Equipment used by the CSCE missions to accomplish their mandate shall enjoy the same treatment as provided for in paragraphs 4, 5, 8 and 9.

16. Members of other missions under the auspices of the CSCE than those mentioned in paragraph 15 will, while performing their duties for the CSCE, enjoy the privileges and immunities prescribed in paragraph 15 (b), (c), (e) and (f). The Chairman-in-Office may request that these members be granted the privileges and immunities prescribed in paragraph 15 (a), (d), (g), (h), and (i) in situations where such members may encounter specific difficulties.

CSCE IDENTITY CARD

17. The CSCE may issue a CSCE Identity Card to persons on official duty travel for the CSCE. The document, which will not substitute for ordinary travel documents, will be issued in accordance with the form set out in Annex A and will entitle the bearer to the treatment specified therein.

18. Applications for visas (where required) from the holders of CSCE Identity Cards will be dealt with as speedily as possible.

Annex A

CSCE IDENTITY CARD

Name:

Surname:

Date of Birth:

National of:

Holder of passport/diplomatic passport no..., issued on...by...

It is hereby certified that the person named in the present document is on official business of the Conference on Security and Co-operation in Europe ("CSCE") during the period from... to ... in the following CSCE participating State(s)....

The CSCE hereby requests all whom it may concern that the persons named herein

- **be allowed to pass without delay or hindrance,**
- **in case of need be accorded all necessary lawful assistance and protection.**

This document does not replace travel documents that may be required for entry or exit.

Issued in ....on....by....(relevant CSCE authority)

Signature:

Title:

Note: The document will be used in six official CSCE languages. It will also contain a translation into the language or languages of the country or countries which the holder of the document will visit as well as a translation into the language or languages used by those military or police forces which might be present in the area of the duty travel.

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