SKOPJE DECLARATION
Summary

The OSCE and its participating States should overcome the organisation's paralysis, stop continued aggression, ensure justice, respond to expanding conflicts and growing repression, and reflect on the future of the Helsinki process

OSCE Parallel Civil Society Conference 2023 in Skopje

1. When the OSCE is needed most in times of crisis, it is paralysed by the abusers
At the time when the OSCE must address enormous challenges central to its mission, it is essentially paralysed. Blocking the ability of the OSCE to take important decisions is caused by the abuse of the consensus decision-making rule by Russia and its ally, Belarus, which systematically undermine the international order, blatantly violate the Helsinki principles, and attack the mandates of autonomous institutions. Fifty five states have essentially become hostages to the aggressive and destructive actions of the two states. While expulsion or suspension of the systemic abusers is not possible in the OSCE, others must seek ways to isolate them and identify possibilities to enable decision-making through different means. The OSCE executive bodies, institutions, and participating States need to find solutions to this internal crisis quickly in order to enable the organisation to address the ongoing global crisis.

2. Stopping the Russian aggression on the basis of international law and increasing support to Ukraine
As the large-scale aggression against Ukraine lasts for almost two years, war crimes and crimes against humanity in respect of Ukrainians continue on a daily basis. If the aggressor is not stopped and brought to account, if its ability to wage wars is not undermined, the danger of the war spreading to other states will be very real. Calling for a diplomatic solution now without insisting on the conditions based on the fundamental principles of international law would be the appeasement of the aggressor and an invitation to new acts of aggression. Democratic States should substantially increase their support for Ukraine. It should include political, economic, and military support. It is important to undermine the ability of the Kremlin to continue waging the war. It is also essential to put to work an compensation and reparations mechanism, based on effective and legally sound ways to manage seized Russian assets.

3. Ensuring accountability for the crime of aggression, war crimes, and crimes against humanity in Ukraine
Ensuring accountability for international crimes committed against Ukraine is essential. The problem is not with the documentation of evidence; the overarching problem is a jurisdiction gap. Existing justice systems do not have the capacity or jurisdiction to effectively deliver justice in respect of war crimes, crimes against humanity, and the crime of aggression. The Ukrainian justice system is not able to cope alone with the massive number of cases of war crimes and crimes against humanity. Moreover, leaders in top positions are protected by immunity from prosecution in national courts. Only an international tribunal may overcome this barrier. However, the ICC would be able to pursue only a few top suspects. Therefore, establishment of a special tribunal for war crimes and crimes against humanity committed in Ukraine is necessary, possibly in the form of a hybrid mechanism established by an agreement between Ukraine and the United Nations. In its turn, only creation of a separate ad hoc international tribunal can ensure accountability for the crime of aggression. It could be established through an agreement between Ukraine and the UN or by an ad hoc coalition of states and a European institution. This tribunal should be truly international, not of a hybrid nature, due to valid concerns about legitimacy, impartiality, and the challenge of overcoming the immunity protection.

4. Ending impunity for crimes against humanity in Belarus
More than three years after the start of unprecedented repression in Belarus, there has been no progress in bringing perpetrators to justice. Impunity continues to prevail, encouraging authorities to intensify repression. Feeling the impunity, the Lukashenka regime prepares for new "elections" to reinstate his lost legitimacy. Commission of crimes against humanity in Belarus has been confirmed by the UN High Commissioner for Human Rights examination and non-governmental organisations who have documented thousands of cases of torture. They are ready for a transfer to investigation bodies, but this has not happened. Investigations by national justice systems based on the principle of universal jurisdiction have stumbled and face many obstacles. Active efforts are needed to launch other international justice mechanisms to end the impunity of the Lukashenka regime. This includes an investigation by the International Criminal Court by referring to the ICC Prosecutor the situation in Belarus and neighbouring countries, on the grounds of the interrelated crimes against humanity of persecution, which was committed inside Belarus, and of deportation to these neighbouring states. Since most other crimes against humanity in Belarus fall outside the ICC jurisdiction, creation

of a Special Tribunal for Belarus would be an effective international response. Aside from pursuing individual criminal responsibility, the responsibility of the state of Belarus should be addressed by initiating a state dispute with Belarus on violation of CAT and/or CEDAW with regards to the use by the authorities of torture and other forms of ill-treatment, in particular sexualised violence against women, and referring it to the International Court of Justice. It is imperative to bring Lukashenka and his associates to justice for complicity in the aggression against Ukraine, along with Putin and his associates, and for the commission of crimes against humanity in Ukraine, including deportation of Ukrainian children.

5. Supporting Russian opponents of the Kremlin's policy of aggression and repression

Bringing Putin and thousands of perpetrators of crimes in Ukraine to justice is of key importance for ending impunity, delivering justice for victims, and ensuring compensations and reparations. The criminal regime and its active supporters, participants, enablers, and beneficiaries of the war against Ukraine, and adherents of Kremlin's repressive policies, in the numbers of probably up to 30 percent of the Russian population, should be isolated and punished by economic sanctions and travel restrictions, and prosecuted when they commit crimes. Recognition of the Putin regime and its actions as criminal will serve as a safeguard against the continuation of Putinism, will help prevent the nurturing of resentment, elaboration of revanchist plans, rebuilding the military capacity, and starting a new aggression. The Russian public needs to know that the international community recognises the Putin regime as criminal and that its leaders are wanted by an international tribunal. Severe repression and draconian war-time legislation have stifled critical voices in Russia. Thousands have been heavily fined for anti-war statements and telling the truth about war crimes of the Russian army, and dozens convicted to long prison terms. Under these conditions, mass protests in Russia are impossible. Despite the high risks, many continue speaking out against the war and repression, provide support to the deported Ukrainians and help them return home, find information about imprisoned Ukrainians and provide legal assistance to them. Some are fighting on the frontline side by side with Ukrainians. Every ally in the fight against the aggression counts. The role of critically minded Russians in making it more difficult for the Putin regime to wage the war and brainwash other Russians should be factored into the equation. It is important to recognise the difference between the Putin regime and various segments of the Russian public. This requires acknowledging that its significant part, an estimated 15 million, are our allies in the struggle against aggression and dictatorship. These allies, who are a minority today in Russia, should be supported, assisted in overcoming international isolation, and acknowledged as partners. Another estimated 55-60 percent of the Russians, who are subjected to poisonous propaganda and dependent on the authorities in their daily subsistence, do not have an active position on the aggression and constitute a silent majority. Those who are disoriented and silent today should not be isolated and punished but rather be seen as potential allies when a window of opportunity opens. Isolating and punishing them will further push them into the hands of the regime.

6. Reinvigorating OSCE work on early warning, conflict prevention and resolution, and post-conflict rehabilitation

The failure of the OSCE to prevent Russian aggression against Ukraine and the resolution of the Nagorno Karabakh conflict by the use of force by Azerbaijan testifies to the need to reinvigorate OSCE work on conflicts and ensure much stronger commitment by participating States to engage with relevant OSCE bodies. Violent inter-state and inter-ethnic conflicts or state violence against minorities or protesters have expanded, and the use of force to resolve disputes has increased. We see a paradox between the strong expertise and capacity in the OSCE in working on conflicts and its inability to prevent new conflicts or address protracted conflicts. This may be explained by growing divisions and disappearing trust among States. The lack of political will by States to make use of the OSCE's toolboxes and the lack of resources are the leading factors in bridging the early warning – early action gap. The potential of civil society remains untapped in the OSCE's conflict-related work. Civil society information and expertise, including the role of women in conflict prevention, resolution, and peacebuilding, are not used effectively. Lack of progress in addressing protracted conflicts and the emergence of new conflicts call for a strategic review of the OSCE's capacities to prevent and resolve conflicts. All recommendations in our 2021 Stockholm Declaration remain valid, encompassing conceptual approaches, capacity and institutional arrangements, gender aspects, early warning and conflict prevention, crisis response and conflict resolution, post-conflict transformation and peacebuilding, and engagement with civil society.

7. Protecting civil society space across the OSCE region and ensuring a stronger role for civil society in the OSCE

Shrinking civil society space across the OSCE region remains our key concern. A number of States have moved from suppressing civic activism to waging a war against NGOs, aimed at the complete elimination of independent civil society. Aggressive application of restrictive legislation, adoption of new repressive laws, and the use of fabricated criminal charges against NGOs and activists have put civil society in many States on the verge of extinction. Politically motivated trials and conviction to long-term sentences of many of our colleagues show that dictatorial regimes see independent civil society as their enemy. Transborder repression, based on cooperation of law enforcement agencies of authoritarian regimes, is on the rise. Democratic states, intergovernmental organisations, and donors should treat CSOs as agents of change, not merely as objects of solidarity, and move from the strategy of enabling civil society survival to scaling up assistance so that civil society groups can play a leading role in overcoming the crisis. This requires a proactive strategy of institutional support. We reiterate our key recommendations: the OSCE should enhance civil society engagement in

all OSCE activities and across the three dimensions; OSCE Chairpersonships, institutions and participating States should utilise civil society contribution, give proper consideration to its information, analysis, and policy recommendations, engage in discussing them, and provide substantive feedback; incoming Chairpersonships should extend the mandate of the Special Representative on Civil Society, established by North Macedonia, and include in it addressing shrinking civil society space and mainstreaming civil society engagement in OSCE activities; all OSCE Chairpersonships should include cooperation with civil society and protection of civil society space in their priorities; outcome documents of parallel civil society conferences should be distributed among participants of MC Meetings; concerned States should establish a Group of Friends of Civil Society to develop strategies on reversing the backlash against civil society and expanding civil society space in the OSCE; Chairpersonships and ODIHR should develop a system of prompt reaction to cases of pressure on civil society and persecution of activists; ODIHR should set up an expert panel on freedom of association and security of human rights defenders to assist in the implementation of commitments and guidelines.

8. Effectively combating torture and enforced disappearances in the OSCE region: Putting MC Decision 7/20 to work

Adoption of MC Decision 7/20 is a historic moment for the OSCE in implementing the prohibition of torture. It confirmed all the previously adopted commitments in this field and introduced a number of new ones – in particular, the commitment to prevent prolonged incommunicado detention and the focus on applying an integrated and victim-centred approach. In 2022, the Civic Solidarity Platform conducted an assessment of compliance with the commitments on prohibition of torture in the OSCE region. The conclusions are disappointing: over the past two years, the situation with implementation of Decision 7/20 has worsened. None of the OSCE participating States fulfils its commitments in full. In the last two years, we have also witnessed an increase in the practices of torture and ill-treatment of human rights defenders and civic activists during conflict situations and mass protests violently suppressed by the authorities. The common issue is the lack of a proper response by States to acts of violence, torture, and ill-treatment of activists and non-implementation of the obligation to support the efforts of relevant national actors. In 2022-2023, the CSP researched the issue of enforced disappearances in the OSCE region. The practice of enforced disappearances not only tortures the main victim by placing them in isolation, but also torments the family members. This practice is a form of terror. Enforced disappearances are the tool of repressive regimes to silence opposition and is practiced in conflict zones with the capture of soldiers and civilians by the armies, governments, and other armed parties. Russia is just one example of political repression. Its actions in conflicts in Chechnya and Ukraine, including disappearing people, point to the scope and breadth of the regime's brutality. Similar cases can be found in Belarus, Tajikistan, Turkmenistan, and Nagorno Karabakh. We also have important lessons to learn from the Balkans, where unresolved cases of enforced disappearances continue to the present day. Disappearances are also used as a tool against minority groups, including in Chechnya, where LGBTQI people are terrorised and disappeared by the regime. OSCE participating States should develop national action plans for the implementation of MC Decision 7/20, including a reform of statistics on documented cases of torture; bring the Criminal Code articles criminalizing torture and criminal sanctions for acts of torture in full compliance with the CAT; develop protocols for the investigation of cases of torture and ill-treatment; carry out reforms of medical services in the police and penitentiary institutions; develop mandatory protocols for recording evidence of torture and use them in practice in accordance with the Istanbul Protocol; develop programs for the rehabilitation of torture survivors and reserve funds for their implementation; develop and amend training programs for law enforcement officials, based on training practical modules on relevant human rights standards. ODIHR should develop an action plan for the implementation of MC Decision 7/20; resume the work of the Advisory Panel on the Prevention of Torture with a mandate to monitor the implementation of MC Decision 7/20 and provide support to the OSCE and participating States in reform efforts; develop a model protocol setting the standards for the disclosure of statistical data on cases of torture; and develop a model protocol with guidelines for effective torture investigation and preservation of evidence. OSCE actors should focus their attention on the problem of enforced disappearances and develop action plans to address it across the OSCE region in cooperation with civil society. For ODIHR, this means developing an action plan for its work on the implementation of MC Decision 7/20 provisions regarding enforced disappearances in places of detention. For States, such action plans should concern not only eradicating enforced disappearances committed by their governments or their agents in their own countries and effectively investigating their past crimes of disappearances, but also effectively addressing enforced disappearances in all OSCE participating States. We consider that all provisions of MC Decision 7/20 apply to incommunicado detention in the same way as they apply to torture. This means that participating States have committed to the same responsibilities to eradicate enforced disappearances in places of detention as they have done in respect of preventing and eradicating torture and other cruel, inhuman or degrading treatment or punishment, as spelled out in the MC Decision.

9. Addressing other key challenges

There are a number of other key challenges that the OSCE, its participating States and civil society need to work on. They include eliminating gender inequality, persistent gender discrimination and gender-related violence; vigorously addressing the climate crisis and its consequences for the human condition in ways that do not exacerbate existing inequalities; exposing and combating abuse of media freedom, addressing the limiting of pluralism of the media, and

preventing propaganda, hate speech, misinformation, and incitement to war from endangering peace and security of our societies; addressing democratic backsliding, including undermining of democratic institutions and standards by introducing changes in constitutions, weakening the system of checks and balances, perpetuating the rule of the incumbent, twisting the outcomes of elections, suppressing genuine civic election observation, and failing to provide workable conditions for ODIHR monitoring missions; resisting the abuse of security concerns relating to combating the threat of terrorism and violent extremism and the protection of state security, aimed at limiting fundamental rights and freedoms; placing meaningful limits on the use of artificial intelligence and surveillance systems to spy on and control the life of members of the public; stopping the suppression of peaceful assemblies and the disproportional use of force by law enforcement bodies; combating racism, intolerance, hate crimes and pervasive discrimination based on race, ethnic, LGBTIQ, religious or other background; managing migration challenges in a humane and human rights compliant way; fighting trans-border corruption facilitated by the current world financial system, leading to extremes of uneven wealth distribution, and to the building of kleptocratic and authoritarian government structures.

10. Approaching the 50th anniversary of the Helsinki Accords: The moment to reinvent the OSCE?

The current security crisis is not only a result of problems in the military-political dimension. Recent years have shown that increasing disregard for human rights, including suppression of civil society and independent media as mechanisms of public oversight over government actions, is a source of instability and creates conditions for state violence. States that grossly and massively violate human rights within their national borders sooner or later become a threat to peace and international security. The lack of timely and concerted international reaction to a democratic backsliding, massive human rights violations, and aggressive foreign policy by a number of States paved the way for the current catastrophic development. Therefore, gross and systematic human rights violations should serve as early warning signs of not only a human dimension crisis but also a potential security crisis. The failure of the OSCE to fulfil the central purpose of its existence, ensuring security and preventing conflicts, is painfully clear. It is obvious to us that fundamental reforms of the OSCE are required. A serious reflection and deliberation process that includes active participation of civil society is needed. We are talking about "reinventing the OSCE" to make it fit for the new challenging times. The comprehensive security concept, the importance of multilateralism, and the unique place the OSCE provides for civil society are as essential today as they were 50 years ago. We need to uphold this conceptual framework and develop new instruments that would allow the Helsinki concept to be effectively put to work at the time when many States are not like-minded anymore. In particular, the notion of a "human dimension crisis" should be introduced, leading to the establishment of emergency procedures and the creation of a coordination mechanism within the OSCE to exchange information among key actors, including civil society, to coordinate with other intergovernmental organisations, and to take concrete decisions on relevant steps. OSCE mechanisms of rapid response to crises and conflict situations require modification, political will of participating States, or creativity to be applied effectively, such as the Vienna Mechanism, the Moscow Mechanism, special monitoring missions, or the "consensus minus one" and the "consensus minus two" rules. In addition, new rapid response mechanisms should be established, including an emergency reaction procedure. The CSP has repeatedly called for a more active use of non-consensual tools as a timely reaction to early warning signs of a human dimension crisis that could lead to a security crisis. The application of the Moscow Mechanism and production of a report should not be an ad hoc reaction but a part of systematic work in the OSCE. The report should become the basis for developing a strategy and a concrete plan for further international action in relation to the State under assessment. We reiterate our calls for creative interpretation of the mandates of OSCE institutions, Secretary General, and the Secretariat, allowing them to be more effective. These include more active use of the powers of Chairpersonship to organise events, make statements, and appoint Special Representatives; a stronger follow-up to conclusions and recommendations in expert reports; a stronger role of the Human Dimension Committee; and last but not least, enhancing cooperation with civil society in all three dimensions. Finally, we call for the active use of expert assessment and recommendations by OSCE bodies in the foreign policy of democratic States. When progress through multilateral action in OSCE institutional framework is blocked, democratic States should take responsibility for addressing key problems through their foreign policy and collective action both outside of and inside the OSCE. We have an even stronger sense of urgency for major changes in the way the OSCE operates than we had a year or two ago. The approaching 50th anniversary of the Helsinki Final Act in 2025 provides an excellent opportunity to elaborate proposals on reforms of the OSCE, find agreement, and start implementing them. However, we cannot wait until 2025. A process of critical and honest reflection about failures and gaps, about should be strengthened and what needs to be left behind, and which new decision-making and implementation tools and mechanisms should be developed, must start now so that by 2025 we have a set of concrete proposals to decide upon. A reflection process should be not confined to deliberations by diplomats but must involve broad circles of civil society, academia, parliamentarians, and active citizens. This will ensure stronger ownership of the OSCE by States and societies and make it grounded in real life. The Civic Solidarity Platform and broader civil society are ready to contribute to this process and are willing to work with the incoming Chairpersonships, interested States, and OSCE institutions towards making the OSCE more effective and capable of adequately and effectively responding to the current crisis and new challenges.