

Mediterranean Academy of Diplomatic Studies (MEDAC)



Derek Lutterbeck and Monika Wohlfeld

Med Agenda — Special Issue

MEDAC Publications in Mediterranean IR and Diplomacy

Mediterranean Academy of Diplomatic Studies (MEDAC)

OSCE Code of Conduct: Outreach Conference for the Southern Mediterranean Region (Tunis, 2015)



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Malta, 2016

Med Agenda — Special Issue
Dr. Derek Lutterbeck and Dr. Monika Wohlfeld

MEDAC Publications in Mediterranean IR and Diplomacy



Med Agenda Special Issue
MEDAC Series in Mediterranean IR and Diplomacy

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Report on the Regional Outreach Conference on the OSCE Code of Conduct on Politico-Military Aspects of Security for the Southern Mediterranean Region

Tunis, 1-3 September 2015

Dr. Derek Lutterbeck and Dr. Monika Wohlfeld

Introduction

From 1 to 3 September 2015, at the initiative and with funding from the Ministries of Defence of Switzerland and Germany, and hosted by the Tunisian Republic, a **Regional Outreach Conference on the OSCE Code of Conduct on Politico-Military Aspects of Security for the Southern Mediterranean Region** was held in Tunis. The outreach conference was organised in partnership with the Geneva Centre for Democratic Control of Armed Forces (DCAF) and the Mediterranean Academy of Diplomatic Studies, Malta (MEDAC). The event marked the first ever conference on the OSCE CoC to be held in and at the invitation of a southern Mediterranean country.

The conference was undertaken as a follow-up to the **Regional Conference on the OSCE Code of Conduct on Politico-Military Aspects of Security for the Mediterranean Region**, which was held in September 2013 in Malta. One of the main conclusions of the Malta conference was that the OSCE CoC (see annex for the OSCE CoC in English and Arabic), even though now more than 20 years old, remained a very relevant and valuable document in the current political and security environment, including and perhaps in particular, for the Mediterranean region. Even though it was agreed that the CoC could not - and should not - be transposed in its entirety to the southern Mediterranean region, it was concluded that some of its main elements, adjusted to national needs and regional dynamics, can serve as an inspiration for shaping and reforming civil-military. Moreover, the Malta Conference also called for

the organisation of outreach events on the OSCE CoC to be held in OSCE Mediterranean Partner States.¹

This report provides a brief background to the Tunisia Regional Outreach Conference as well as a summary of the conference itself and its main conclusions.

Background to the Conference

The OSCE Code of Conduct on Politico-Military Aspects of Security

The Code of Conduct on Politico-Military Aspects of Security (CoC) was adopted in 1994 by the then-Conference on Security and Co-operation in Europe (CSCE) Forum for Security Co-operation. The CoC is widely considered a landmark document on civil-military relations and security sector governance, setting out a number of basic principles governing civil-military relations and security forces more generally.

The CoC commits the 57 participating States of the Organization for Security and Co-operation in Europe (OSCE) to maintain, at all times, effective guidance and control of its military, paramilitary and security forces by constitutionally established authorities, and to ensure that they remain politically neutral and comply with the provisions of international humanitarian law. It also commits participating States which assign internal security missions to their armed forces to carry these out under the effective control of the civilian authorities. They must also, at all times, respect the rule of law as well as the principle of proportionality in cases where the use of force cannot be avoided. Moreover, the CoC prescribes that in such missions, international law and international humanitarian law must be respected by the armed forces at all times. The CoC further prohibits the use of armed forces to suppress the peaceful and lawful exercise of civil rights by individuals, or to deprive them of their national, religious, cultural, linguistic or ethnic identity. Finally, the OSCE participating States must guarantee

¹ See Derek Lutterbeck and Monika Wohlfeld, *OSCE Code of Conduct: Regional Conference for the Mediterranean*, Malta, January 2014, p. 27. https://www.um.edu.mt/_data/assets/pdf_file/0008/227456/OSCE_Code_of_Conduct_-_Regional_Conference_for_the_Mediterranean_-_Dr._Wohlfeld_and_Dr._Lutterbeck.pdf

that the human and civil rights of armed and security forces personnel are respected at all times.

Responsibility for implementing the CoC lies with the participating States, which each year report on their national practices in implementing the Code's provisions (based on a questionnaire). This annual information exchange builds confidence and security, as promoted by the Code. The reports of the participating States are published on the OSCE public website. In July 2012, the first Annual Discussion on the Implementation of the Code of Conduct was held in Vienna. During the meeting, the suggestion was put forward to pursue a strengthened outreach of the Code of Conduct to the OSCE Partners for Co-operation.

It should be noted that while the CoC applies to OSCE participating States only, southern Mediterranean States which are OSCE Partner States² are encouraged to implement the OSCE acquis (which includes the CoC) on a voluntary basis. Indeed, the delegations of the Mediterranean Partner States to the OSCE are regularly exposed to the Code of Conduct and the work participating States undertake to implement it, as they participate as observers in the deliberations of the Forum for Security Co-operation of the OSCE. Partners also attend the OSCE Annual Discussions on the Implementation of the Code of Conduct. As the Code of Conduct questionnaire which participating States answer as part of the review process on an annual basis and their answers are made public on the OSCE website, southern Mediterranean States also have access to these documents. Furthermore, reportedly, the CoC guided in some cases the work on civil-military relations in states of other regions. In this respect, the Regional Outreach Conference heard presentations from experts on civil-military relations from Germany, Tunisia, Lebanon and Argentine on their countries' efforts.

Recent developments in civil-military relations and security sector governance in the southern Mediterranean region

Since the eruption of the popular uprisings across the southern Mediterranean region, often referred to as the 'Arab Spring', civil-military relations and issues related to security sector governance have been of crucial importance to the political evolution of the region. Prior,

2 Algeria, Egypt, Israel, Jordan, Morocco and Tunisia.

during as well as in the aftermath of the 'Arab revolutions', the role and governance of military and security forces have been key factors shaping developments in the region, including potential transformations towards more democratic rule.

The popular upheavals themselves have to a large extent been driven by a growing dissatisfaction among the populations of many southern Mediterranean countries with repressive and corrupt security forces. Indeed, it is no coincidence that the event which initially sparked the uprising in Tunisia, from where it spread across the entire region, is considered to have been a reaction to an abuse suffered by a citizen at the hands of a security officer.

The responses of security forces, both internal and external, to the protest movements have varied considerably from one country to the next, but in all cases have profoundly influenced the outcome of the popular uprisings. These responses have varied from a siding with the demands of the demonstrators against the regime in power, to an adoption of a neutral stance, to the forceful repression of pro-democracy movements. Whether incumbent leaders have been overthrown by the popular upheavals, or have been able to hang on to power despite large-scale protests, has to a large extent depended on whether or not they have been able to count on the loyalty of their armed and security forces.

Finally, since the toppling of several long-standing leaders of southern Mediterranean countries, civil-military relations and security sector governance issues have remained of key significance. Again, developments have varied quite widely across the region. On one end of the spectrum, post-revolutionary governments have at least declared their willingness to reform security forces in line with democratic principles, the rule of law and respect for human rights, and security forces themselves have accepted the principle of civilian and democratic oversight. On the other hand, there have also been countries in the region where security forces have not only retained but possibly even strengthened their grip on the political system, and where no significant steps towards reforming security agencies have been undertaken. Some other countries have even descended into outright civil war, where reforming civil-military relations and security sectors more generally seems a very distant prospect.

Emerging challenge of terrorism

A further challenge affecting potential efforts to reform civil-military relations and security sectors in the southern Mediterranean region has been the growing threat of terrorism. In practically all countries of the region, there has been a rise in terrorist attacks against both civilians and state officials, including security forces. As shown by the recent experience of Tunisia, acts of terrorism are no longer confined to peripheral areas of the country but have increasingly struck at the heart of urban population centres. In most cases, such attacks have been carried out by organisations or individuals adhering to an extreme religious (Islamist) ideology. Many if not all southern Mediterranean states currently consider terrorism –however defined– as the most serious threat to their internal stability.

In response, many southern Mediterranean countries have stepped up their counter-terrorist measures and adopted new legislation aimed at more effectively combating the growing threat of terrorism. Often this has also involved equipping security forces with wider powers and greater immunity as well as restrictions on individual freedoms. Numerous commentators have pointed out that this escalation of counter-terrorist measures –while understandable in light of the increasing number of terror attacks– might lead to a side-lining of the sector reform agenda and thus derail not only potential security sector reform efforts but also democratisation processes more generally.



The Tunis Outreach Conference

Against this background, the Tunis conference aimed to raise awareness of the OSCE CoC among Mediterranean Partners for Co-operation, and to discuss its relevance for the region, including in the context of the growing threat of terrorism. The Conference was attended by some 50 participants (see annex for the List of Participants) from Tunisia and most of the countries of the southern Mediterranean.

Participants included high ranking military and police officers, civil servants from the defence, interior and foreign ministries, as well as independent experts from think tanks and civil society organisations. The OSCE Secretariat also contributed to the Conference.

The first part of the Conference focused mainly on the OSCE CoC and its main elements and guiding principles, as well as lessons learned from military and security sector reform efforts in other regional contexts. The second session aimed to provide an overview of the main developments in the field of security sector governance and reform in the southern Mediterranean region since the eruption of the 'Arab Spring'. This was followed by a session on the parliamentary dimension of the CoC. The second day of the Conference began with a discussion of current regional security challenges in the Mediterranean, with a particular emphasis on the growing threat of terrorism. The last part was dedicated to the presentation of so-called 'national tables', where different OSCE participating States as well as Mediterranean Partners for Co-operation displayed and explained their main documents and guidelines relevant for governance of military and security forces (see annex for the Conference Programme).

The OSCE CoC and its relevance for the southern Mediterranean region

Similarly to the Malta conference, there was a general consensus expressed at the Tunis conference that the OSCE CoC remained a key document governing civil-military relations, and the role of security forces more generally. Even though the document was adopted in an entirely different geopolitical and regional context, namely the end of the Cold War and the rapprochement between East and West, it was considered of considerable relevance for the current transformation occurring in the southern Mediterranean region. Its underlying principles of indivisible and co-operative security, and emphasis on the rule of law, were seen as pivotal for the future evolution of southern Mediterranean states.

In addition to the core principles of the OSCE CoC, the experiences of Germany in reforming its military and civil-military relations after the end of World War II and the Nazi regime were also presented at the Conference. A key dimension of these reforms has been to ensure

far-reaching parliamentary control of the German Armed Forces (*Bundeswehr*). Indeed, the *Bundeswehr* is often referred to as a 'parliamentary army', given the German parliament's wide ranging oversight functions over the armed forces. This is reflected not only in the German Parliament's right to decide on military deployments abroad, but also in the office of the Parliamentary Commissioner for the Armed Forces, whereby each individual soldier has the right to directly address the Commissioner in the event of a (potential) violation of his/her rights.

Prospects and challenges in applying the CoC to southern Mediterranean countries

One southern Mediterranean country where a number of reforms of military and security forces in line with several principles of the OSCE CoC have been undertaken in recent years is Lebanon. A core aspect of these reforms has been the adoption of new 'codes of conduct' governing the country's various security forces, such as the National Defence Code, the General Code of Conduct for the Armed Forces and other Security Institutions as well as other legal documents. Areas which are covered by these codes include employment in the security sector; defence expenditures; trials, punishment and rewards of security personnel; recruitment, assignment and promotions; respect for human rights law and international humanitarian law; rights and duties of military personnel; and procurement. Moreover, oversight functions exercised by civilian authorities, including parliament, over security forces have been strengthened. Overall, there was said to be considerable overlap between the Lebanese codes of conduct governing military and security forces and the OSCE CoC in that several of the latter's basic elements have been enshrined in the former. However, some core principles of the OSCE CoC do not feature in the Lebanese codes, such as the regional and cooperative approach to security, or measures aimed at enhancing transparency and public access to defence and security-related information.

It was also pointed out that efforts to reform military and security forces of southern Mediterranean states in line with the OSCE CoC needed to take into account several fundamental differences between Europe and the Arab world. Three main differences were pointed out at

the conference. First, Arab states are considerably more diverse than their European counterparts. While Arab states, or the member states of the Arab League, share a common culture, in particular in the form of the Arabic language, their political, economic and social characteristics vary widely. One finds in the region, for example, monarchies and republics; millennial states, post-colonial states and failed states; industrialised and barely industrialised economies; states relying heavily on petroleum products, whereas in others this is of marginal importance; or greatly varying degrees of tribalism or urbanisation. As a consequence, projects aimed at reforming civil-military relations or security sectors more generally should take into account these basic differences and be tailor-made to each individual country concerned.

Second, while the post-World War II (and post-totalitarian) experience of European countries has been one of economic expansion, growth in cultural confidence and rising living standards, the post-independence period of most Arab states, has been marked by the pauperisation of societies, the deterioration of educational systems, as well as rapid population growth and urbanisation. The rise of 'political Islam' in recent years, while having its roots in the pre-independence period, can to a considerable degree be explained by the increasingly dysfunctional political, economic and social orders in post-independence Arab states, in the form, for example, of secular despotism, kleptocratic rule, but also injudicious Western interventions in the region.

Finally, the form of international co-operation between Western and Eastern European countries after the end of the Cold War on the one hand, and that between European and Arab states on the other, has differed profoundly, and thus also the prospects for reforming military and security forces in accordance with democratic principles and the rule of law. While for Eastern European states, the prospect of joining western institutions such as the EU and NATO proved crucial factors in bringing their security apparatus in line with those of Western countries and the standards set out by European regional organisations, vis-à-vis the Arab world no such 'European enlargement' has taken place.

Despite these differences between Europe and the Arab world, however, speakers at the Conference generally agreed that the basic values underlying the OSCE CoC, such as respect for human rights and the rule of law, good governance or the comprehensive nature of security, were equally relevant for the southern Mediterranean region. The OSCE CoC

can thus serve as a source of inspiration for security governance in this region as well.

The case of Tunisia

A significant part of the conference was dedicated to current developments in civil-military relations and security sector governance in the host country, Tunisia. Representatives of the Tunisian Defence and Interior Ministries highlighted that the aim of the current Government was to establish a system of a 'republican' and politically neutral security service which is at the service of the citizens, and which is also inspired by the experiences of other countries having undergone a process of democratisation. This implied putting an end to the practices of the previous regime when the security apparatus served mainly as an instrument of repression. Current areas of reform mentioned by representatives of the Tunisian government included the improvement of working conditions of security officers, better career planning, the right to join unions, human rights training for security officers, better relations between security forces and the media, and the sensitisation of the public to security-relevant issues, whereby each citizen should have the right to denounce violations committed by security forces.

Development of a new Code of Conduct for Security Forces in Tunisia

At the level of the Tunisian Interior Ministry, a project to develop a new 'code of conduct' for security forces is currently underway, which would also be inspired by the experiences of other countries. The main objective of this code is to implement the concept of 'republican security' and ensure respect for democratic principles and human rights by security forces. Key elements of the code were said to be the protection of the right to life and freedom, respect of relevant UN conventions, and ensuring security officials' accountability to the citizens. The code would also include provisions obliging security officers to refuse to carry out order which were against the law, and regulating the use of force by security forces, which should be gradual with lethal force being the last resort only.

Representatives of the Tunisian Defence Ministry and the Tunisian Armed Forces pointed out that the Armed Forces were generally imbued with a 'democratic spirit', and that the military was the most fervent proponent of the principle of civilian and democratic control of armed forces in Tunisia. Indeed, ensuring and strengthening democratic control of the military was also said to be in their own interest as it would raise awareness among the civilian authorities of the material and financial needs of the Armed Forces. The fact that a large number of Tunisia officers followed training courses abroad was also seen as contributing the military's 'democratic spirit'.

When it comes to the governance of the Tunisian Armed Forces, a number of shortcomings under the previous regime were pointed out at the Conference. At the level of the Presidency, for example, the main problem during the Ben Ali period was that the so-called National Security Council, which in principle was tasked with defining the broad outlines of the country's security and defence policy, had no practical relevance. The Tunisian Parliament in turn only played a limited role, as there was no parliamentary committee on security or defence matters, and parliamentary monitoring of the Armed Forces was restricted to its secondary tasks, such as contributing to national development projects. At the level of the Tunisian Government and the Ministry of Defence, the main shortcoming was seen in the absence of the institution of a Joint Chief of Staff whose role was effectively played by the Minister of Defence and his Cabinet. Since the overthrow of the previous regime, progress has been made in some respects although more remains to be done. For example, while the National Security Council has been reactivated, its modus operandi has not yet been defined. At the level of Parliament, a Security and Defence Committee has been created, but the translation of its powers into concrete actions remains limited.

Security sector governance and the Tunisian Constitution of 27 January 2014

Tunisia's new constitution firmly anchors good security sector governance at the constitutional level by:

- Guaranteeing **fundamental human rights and liberties** (Arts. 21-49);
- Committing the administration – without exception – to the principles of **good governance** (Art. 15) and guaranteeing **the right to information** (Art. 32);
- Ensuring full **parliamentary oversight of the security sector**, including parliamentary control of 'states of emergency' declared by the President of the Republic (Art. 80), the obligation that changes in the organisation of the armed and internal security forces need to be adopted through an organic law passed by the Assembly (Art. 65) as well as the capacity to discuss, amend and adopt the budgets of the Ministries of Interior and National Defence. Furthermore, Parliament also has the capacity to approve the declaration of war and conclusion of peace as well as the deployment of troops abroad (Art. 77).

For a more detailed analysis, see *Rapport: La Constitution tunisienne du 27 janvier 2014 et la gouvernance du secteur de la sécurité*, DCAF, Genève et Tunis, 2015

Fight against terrorism in Tunisia

With regard to the current fight against terrorism in Tunisia, representatives of the Tunisian Government emphasised that the country's counter-terrorist policies had to remain strictly within the framework of the rule of law. It was, however, also pointed out that respecting the principles of the OSCE CoC in the fight against terrorism was a challenge, given that the terrorists themselves acted without any restraint and showed no respect for human rights. Moreover, the state's response could not be limited to repressive measures only, but also needed to address the 'root causes' of radicalisation, in particular the lack of adequate education. Given the transnational nature of current forms of terrorism, better regional and international co-operation is another key element of counter-terrorist policies. The improved co-operation with Algeria along the common border was mentioned in this

context, and stronger collaboration with Europe, the USA, China as well as other countries was also seen as key.

Comparative perspectives

A number of sessions at the Conference focused on the experiences of other southern Mediterranean countries, as well as countries of other regions, in the area of civil-military relations and (potential) security sector reform. The speaker from *Egypt* pointed out that notions such as transparency and accountability had limited value in Egypt and the Arab world more generally. The Egyptian military, it was argued, not only played a key role in the history of the country, but was nowadays also perceived as having saved the country from the potentially severe instability under the rule of former President Mohammed Morsi. At the level of the Interior Ministry, several police officers were currently being held accountable for violations committed under the previous regime. Nevertheless, the Interior Ministry continued to be perceived as practicing torture. The police itself was said to be keen on reforms, possibly inspired by the security reforms carried out in former Eastern bloc states, but in Egypt there currently is no real strategy on security sector reform. There was also a need to improve the public image of the police and to strengthen exchanges and confidence between the police and civil society more generally.

In *Morocco*, as well, there is a need to reform its security forces. In the past, in particular during the so-called 'years of lead', Moroccan security forces used to operate largely outside the rule of law, even participating in the assassination of political opponents. In recent years, some reforms have been undertaken. The new Constitution of 2011 was mentioned in this context which enshrines the 'right to security' as a fundamental right of each individual. However, there is a need for more involvement of civil society in the work of security forces. A further reform imperative is to enhance transparency and accountability as well as parliamentary control of the country's security agencies.

The speaker from *Algeria* pointed out that the common depiction of Algeria as a military-controlled regime was no longer entirely correct. Even though some of Algeria's Presidents came from the military, they were primarily political leaders, often with little military training. Much more important factors than the military in shaping the Algerian

political system, it was argued, was the Presidency as well as the economic situation. Civil-military relations in Algeria were also in continuous flux, and the perception of the military as all controlling no longer corresponded to current reality. The role of civil society in Algeria had changed considerably, due to higher levels of education and more broadly available information. As a result, civil society was also able to exercise more control of the military institution than in the past.

The key challenge for *Jordan* when it came to civil-military relations was said to be the country's geostrategic location in a very troubled region and the growing threat of terrorism in recent years, in particular in the form of the IS. New laws aimed at more effectively combating terrorism were said to be in preparation. The speaker also highlighted recent military reform in Jordan, which included laws aimed at punishing security forces for the violation of the rights of prisoners, or the establishment of bodies tasked with prosecuting crimes committed by soldiers in their units. The fact that Jordan had ratified all UN Human Rights Conventions, and that the country is a large contributor to UN peace-keeping forces was also mentioned.

A further comparative perspective from beyond the Mediterranean region was offered by the speaker from *Argentina*. He presented the difficult process of military and security sector reform in the country since the 1980s. This comprised inter alia the drafting of new laws governing the armed forces, the intelligence services, and the police. The main objectives of these laws were to strengthen civilian and parliamentary oversight over the armed and security forces, ensuring respect for human rights by security officers, and combating corruption within the security forces. The OSCE CoC was said to be a 'fine tool' which would have greatly facilitated the reform process in Argentina had the CoC applied to the country.

Overall, all speakers from southern Mediterranean countries (and beyond) highlighted the need for reforms of civil-military relations and security sector governance more generally. While the situation and thus reform requirements are different from one country to the next, in most if not all of them there is the need for stronger civilian control and greater accountability and transparency of security forces. A further area where reforms are necessary across the region is to ensure better protection of the rights and improved working conditions of the members of security forces.

Conclusions and recommendations

The main conclusion to be drawn from the Tunis Outreach Conference is that there remain numerous challenges in the fields of civil-military relations and security sector governance in the southern Mediterranean region, and that the OSCE CoC can serve as a useful tool in guiding reform efforts in these areas. Moreover, the growing threat of terrorism across the southern Mediterranean region calls not only for better international and regional co-operation but has also given greater urgency to ensuring that counter-terrorist measures remain within the framework of the rule of law and respect for human rights. Unfortunately, however, knowledge and awareness of the CoC are currently very limited in the southern Mediterranean region. The most important policy recommendations emerging from the Conference regarding the (potential) role of the OSCE CoC were as follows:

- There is a need for more outreach events aimed at promoting awareness of the OSCE CoC in the southern Mediterranean region. In so doing, the specificities of the region as a whole as well as of each individual country should be taken into account.
- Given the growing concern with terrorism across the southern Mediterranean region, there is a need to ensure that counter-terrorist measures remain within the framework of the rule of law and that human rights be respected at all times. Promoting awareness of the OSCE CoC can serve as a useful tool in this respect.
- Ensuring the respect of basic rights, freedoms, and socio-economic needs of military and security service personnel is an important prerequisite for proper service delivery. As one participant put it, 'you cannot expect the police to protect citizens and their rights, if we are struggling to feed our family'.
- Given the increasingly transnational dimension of current forms of terrorism, there is a need for developing effective regional coordination and consultation mechanisms for dealing with transnational threats such as terrorism. Regional fora focusing on the OSCE CoC can help to facilitate such collaboration in counter-terrorist measures.



REGIONAL CONFERENCE ON THE OUTREACH OF THE OSCE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY FOR THE SOUTHERN MEDITERRANEAN REGION

Tunis, 1st - 3rd September 2015
Carthage Thalasso Resort – La Marsa-Gammarth, Tunisia

AGENDA

Tuesday, 1st September

Afternoon *Arrival of participants*

19:00 *WELCOME DRINK*

19:45 *Buffet dinner*

- Restaurant “Restaurant La Fontaine”,
Carthage Thalasso Resort

Hosted by Switzerland and Germany

Wednesday, 2nd September

09:00-10:00 **OPENING SESSION**

- *Moderator: LtCol. Thomas Schmidt
(Switzerland)*
- Representative of Tunisian Ministry of
the Interior
- Mr. Christian Wägli (CPC, OSCE)
- Dr. Derek Lutterbeck (MEDAC)
- H.E. Ambassador Dr. Andreas Reinecke
Embassy of Germany

10:00-10:30

Coffee break

10:30-11:30

INTRODUCTORY SESSION ON THE OSCE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY AND THE TUNISIAN CODE OF CONDUCT FOR THE PUBLIC SERVICE

- *Moderator: Mr. Christian Wägli (CPC, OSCE)*
- Col. Prasenjit Chaudhuri (Switzerland)
- Representative of the Presidency of the Government in charge of Public Service (Tunisia)

11:30-13:00

SESSION I – THE CODE OF CONDUCT AND THE CAPITAL IMPORTANCE OF GOOD GOVERNANCE OF ARMED AND SECURITY FORCES

Good governance of armed forces, police, and intelligence agencies in the Code of Conduct: concept and experiences.

- *Moderator: Mr. Jonas Loetscher (DCAF Tunis)*
- Col (GS) Axel Schneider (Germany)
- Mr. Jaime Garreta (Argentina)
- General (ret.) Hany Nakhleh (Lebanon)

13:00-14:30

Lunch

14:30-16:00

SESSION II – CURRENT TRANSFORMATION IN GOVERNANCE OF THE SECURITY SECTOR IN THE SOUTHERN MEDITERRANEAN REGION

Presentations by regional experts on the transformations in their countries

- *Moderator: Col Prasenjit Chaudhuri (Switzerland)*
- Gen (ret) Mahmoud Mezoughi (Tunisia)

- Ms Anissa Hassouna, Council of Foreign Relations (Egypt)
- Mr. Habib Belkouch, CEDHD (Morocco),
- Dr. Nacer Djabi (Algeria)

16:00-16:30 *Coffee break*

16:30-17:15 THE CODE OF CONDUCT FROM A PARLIAMENTARIAN PERSPECTIVE

- *Moderator: Col GS Hans Lüber (Switzerland)*
- Dr. Lotfi Nabli, President of Parliamentary Committee on Security and Defence (Tunisia)
- Lt.Col. Thomas Schmidt (Switzerland)

Evening Free time

Thursday, 3rd September

09:00-10:30 SESSION III – NATIONAL AND REGIONAL EXPERIENCES BY STATES OF THE SOUTHERN MEDITERRANEAN REGION / LEAGUE OF ARAB STATES AND THE 2013 MALTA CONFERENCE ON THE OSCE CODE OF CONDUCT

National and regional examples, views and experiences made with regard to security sector reform, the democratic control of armed and security forces, inter-state regional security co-operation by selected OSCE Mediterranean Partners for Co-operation and the League of Arab States

- *Moderator: Col. Prasenjit Chaudhuri (Switzerland)*
- Ambassador Talal Shubailat, League of Arab States
- Mr. Maher Gaddour, Ministry of the Interior (Tunisia)

- Col. Fahed Al Reshoud, Jordanian Armed Forces (Jordan)

10:30-11:00 *Coffee break*

11:00-12:00 **SESSION IV – REGIONAL SECURITY CHALLENGES, THE FIGHT AGAINST TERRORISM AND THE OSCE CODE OF CONDUCT**

- *Moderator: Dr. Derek Lutterbeck (MEDAC)*
- Mr. Hakim Ben Soltane, Ministry of Foreign Affairs (Tunisia)
- Mr. Nor-eddine Benfreha, Ministry of Foreign Affairs (Algeria)
- Col. Abdelmajid Adouni, Director of Co-operation and International Relations, Ministry of Defence (Tunisia)

12:30-13:15 *Lunch*

13:15-14:30 **SESSION V - NATIONAL TABLES PRESENTATION**

Presentation by means of national tables organized directly by one OSCE participating State and by States of the southern Mediterranean region of practical implementation/application practices, such as training manuals, national strategies/concepts, guidelines etc. with regard to training of armed forces in international humanitarian law, respect for human rights of armed forces, security sector reform and the democratic control of armed and security forces

- *Co-ordinator: Lt. Col. Thomas Schmidt (Switzerland)*
- National tables presented by one OSCE participating State representative (Switzerland) and selected States of the southern Mediterranean region (Tunisia, Jordan, Algeria).

- 14:30-15:00 *Coffee break*
- 15:00-16:00** **SESSION VI – PARALLEL WORKING GROUP DISCUSSIONS**
Group discussions in two working groups:
- WG 1: “Outreach - the OSCE Code of Conduct as normative reference for the countries of the Southern Mediterranean Region”
Moderator: Col. Prasenjit Chaudhuri (Switzerland)
 - WG 2: “Combating terrorism without breaching norms and principles of the OSCE Code of Conduct – Achieving the impossible?”
Moderator: Gen (ret) Moussa Khalfi (Tunisia)
- 16:15-17:00** **PLENARY PRESENTATION AND DISCUSSION ON RESULTS OF WORKING GROUPS**
De-brief by working groups and plenary discussion
- Moderators of working groups and participants
- 17:00-17:30** **CLOSING SESSION**
- *Moderator: Col. Prasenjit Chaudhuri (Switzerland)*
 - Col. Abdelmajid Adouni, Director of Co-operation and International Relations, Ministry of Defence (Tunisia)

- Mr. Christian Wägli (CPC, OSCE)
- Lt. Col. Thomas Schmidt (Switzerland)

19:30 *Farewell dinner*

- Restaurant “Le Grand Bleu”, Gammarth
Hosted by Switzerland and Germany

Friday, 4th September

All Day *Departure of participants*



List of Participants

Algeria		
	Mr. Nor-eddine BENFREHA	Deputy Director, Ministry of Foreign Affairs, Algeria
	Col. Lies MEZALI	Ministry of National Defense, Algeria
	Mr. Mostapha BENAINI	Police Inspector, National Police of Algeria
Egypt		
	H.E. Mr. Ayman MOUCHRAFA	Ambassador of Egypt to Tunisia
	Ms El BAYASTY	Councilor and third secretary, Embassy of Egypt, Tunisia
Germany		
	H.E. Amb. Dr. Andreas REINECKE	German Embassy, Tunis
	Col (GS) Axel SCHNEIDER	Centre for Verification, Armed Forces of Germany
Jordan		
	Col. Abdalhakim ABDELMAHDI ALAZZAM	Directorate of International Affairs, Jordanian Armed Forces
	Col. Fahed MUSBEH ALRESHOUD	Directorate of International Affairs, Jordanian Armed Forces

Switzerland		
	Col. Prasenjit CHAUDHURI	Deputy Head of Euro-Atlantic Security Co-operation Division, Head Project Organisation Swiss OSCE Chairmanship 2014, Department of Defence, Armed Forces, International Relations
	Col. (GS) Hans LÜBER	Military Adviser, Swiss Delegation to the OSCE
	Lt Col. Thomas SCHMIDT	Deputy Head Regional Military Co-operation, Project Officer Swiss OSCE Chairmanship 2014 Department of Defence, Armed Forces Staff, International Relations
Tunisia		
	Mr. Hakim BEN SOLTANE	Ministry of Foreign Affairs, Tunisia
	Col.-Major Abdelmajid ADOUNI	Director General of Co-operation and International Relations, Ministry of National Defense, Tunisia
	Dr. Lotfi NABIL	President, Parliamentary Committee for Security and Defense, Assembly of the People's Representatives, Tunisia
	Mr. Maher GADDOUR	Ministry of Interior, Tunisia

	Mr. Walid HAKIMA	Ministry of Interior, Tunisia
	Mr. Mossaab MEJRI	Ministry of Interior, Tunisia
	Mr. Slah BARHOUMI	Ministry of Interior, Tunisia
	Mr. Maher KADDOUR	Ministry of Interior, Tunisia
	Mr. Zouhaier KHAYATI	Ministry of Interior, Tunisia
	Mr. Sami HAMDY	Ministry of Interior, Tunisia
	Mr. Habib SBOUI	Ministry of Interior, Tunisia
	Mr. Sami NACEUR	Ministry of Interior, Tunisia
	Mr. Ahmed JAAFAR	Ministry of Interior, Tunisia
	Mr. Adel GARMA	Ministry of Interior, Tunisia
	Ms. Dhaouha AKKARI	Ministry of Interior, Tunisia
	Ms. Ghada DHAOUADI	Ministry of Interior, Tunisia
League of Arab States		
	H.E. Mr. Talal SHUBAILAT	Executive Director, EC-LAS Liaison Office, Malta

Experts		
	Dr. Nacer DJABI	Professor, University of Algiers 2, Algeria
	Mr. Jaime GARRETA	Former Deputy Minister of Defense, Argentina
	Ms Anissa HASSOUNA	Council of Foreign Relations, Egypt
	Mr. Habib BELKOUCH	Centre for the Study of Human Rights and Democracy (CEDHD), Morocco
	Gen (ret) Hany NAKHLEH	Former General, Lebanese Armed Forces
	Gen (ret) Mahmoud MEZOUGHFI	Former General, Tunisian Armed Forces
	Gen (ret) Moussa KHALFI	Former General, Tunisian Armed Forces
Geneva Centre for the Democratic Control of Armed Forces (DCAF)		
	Mr. Jonas LOETSCHER	Head of Mission, DCAF Tunis
OSCE		
	Mr. Christian WAegli	OSCE Conflict Prevention Centre
UNDP		
	Mr. Housseem Eddine ISHAK	National expert on security sector reform, UNDP Tunisia

	Mr. Eduardo LOPEZ-MANCISIDOR	Rule of Law Programme, UNDP Tunisia
	Mr. Miled ACHOUR	National expert on judicial reform, UNDP Tunisia
Mediterranean Academy of Diplomatic Studies		
	Dr. Derek LUTTERBECK	Deputy Director and Holder of the Swiss Chair

OSCE Code of Conduct: Outreach Conference for the Southern Mediterranean Region



Conference Panel



Conference Participants



Family photo of the Conference Participants

OSCE Code of Conduct: Outreach Conference for the Southern Mediterranean Region



Conference Panel



Conference Participants

OSCE Code of Conduct: Outreach Conference for the Southern Mediterranean Region

ندوة التوعية للتوعية بمدونة السلوك لمنظمة الأمن والتعاون في
مجال الجوانب السياسية والعسكرية للأمن في منطقة جند
égionale de sensibilisation au code de conduite de l'OSCE
militaires de la sécurité pour la région sud de la méditerranée
ference on the Outreach of the OSCE Code of Conduct
ary Aspects of Security for the Southern Mediterranean Region
e. 1 - 3 September 2013 - Carthage (Tunisia) - Casablanca (Morocco)



Conference Panel



Working Group at the Conference

CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

(Adopted at the 91st Plenary Meeting of the Special Committee of the CSCE Forum for Security Co-operation in Budapest on 3 December 1994)

PREAMBLE

The participating States of the Conference on Security and Co-operation in Europe (CSCE),

Recognizing the need to enhance security co-operation, including through the further encouragement of norms of responsible and co-operative behaviour in the field of security,

Confirming that nothing in this Code diminishes the validity and applicability of the purposes and principles of the Charter of the United Nations or of other provisions of international law,

Reaffirming the undiminished validity of the guiding principles and common values of the Helsinki Final Act, the Charter of Paris and the Helsinki Document 1992, embodying responsibilities of States towards each other and of governments towards their people, as well as the validity of other CSCE commitments,

Have adopted the following Code of Conduct on politico-military aspects of security:

I

1. The participating States emphasize that the full respect for all CSCE principles embodied in the Helsinki Final Act and the implementation in good faith of all commitments undertaken in the CSCE are of fundamental importance for stability and security, and consequently constitute a matter of direct and legitimate concern to all of them.
2. The participating States confirm the continuing validity of their comprehensive concept of security, as initiated in the Final Act, which

relates the maintenance of peace to the respect for human rights and fundamental freedoms. It links economic and environmental co-operation with peaceful inter-State relations.

3. They remain convinced that security is indivisible and that the security of each of them is inseparably linked to the security of all others. They will not strengthen their security at the expense of the security of other States. They will pursue their own security interests in conformity with the common effort to strengthen security and stability in the CSCE area and beyond.

4. Reaffirming their respect for each other's sovereign equality and individuality as well as the rights inherent in and encompassed by its sovereignty, the participating States will base their mutual security relations upon a co-operative approach. They emphasize in this regard the key role of the CSCE. They will continue to develop complementary and mutually reinforcing institutions that include European and transatlantic organizations, multilateral and bilateral undertakings and various forms of regional and subregional co-operation. The participating States will co-operate in ensuring that all such security arrangements are in harmony with CSCE principles and commitments under this Code.

5. They are determined to act in solidarity if CSCE norms and commitments are violated and to facilitate concerted responses to security challenges that they may face as a result. They will consult promptly, in conformity with their CSCE responsibilities, with a participating State seeking assistance in realizing its individual or collective self-defence. They will consider jointly the nature of the threat and actions that may be required in defence of their common values.

II

6. The participating States will not support terrorist acts in any way and will take appropriate measures to prevent and combat terrorism in all its forms. They will co-operate fully in combating the threat of terrorist activities through implementation of international instruments and commitments they agree upon in this respect. They will, in particular,

take steps to fulfil the requirements of international agreements by which they are bound to prosecute or extradite terrorists.

III

7. The participating States recall that the principles of the Helsinki Final Act are all of primary significance and, accordingly, that they will be equally and unreservedly applied, each of them being interpreted taking into account the others.

8. The participating States will not provide assistance to or support States that are in violation of their obligation to refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Charter of the United Nations and with the Declaration on Principles Guiding Relations between Participating States contained in the Helsinki Final Act.

IV

9. The participating States reaffirm the inherent right, as recognized in the Charter of the United Nations, of individual and collective self-defence.

10. Each participating State, bearing in mind the legitimate security concerns of other States, is free to determine its security interests itself on the basis of sovereign equality and has the right freely to choose its own security arrangements, in accordance with international law and with commitments to CSCE principles and objectives.

11. The participating States each have the sovereign right to belong or not to belong to international organizations, and to be or not to be a party to bilateral or multilateral treaties, including treaties of alliance; they also have the right to neutrality. Each has the right to change its status in this respect, subject to relevant agreements and procedures. Each will respect the rights of all others in this regard.

12. Each participating State will maintain only such military capabilities as are commensurate with individual or collective legitimate security needs, taking into account its obligations under international law.

13. Each participating State will determine its military capabilities on the basis of national democratic procedures, bearing in mind the legitimate security concerns of other States as well as the need to contribute to international security and stability. No participating State will attempt to impose military domination over any other participating State.

14. A participating State may station its armed forces on the territory of another participating State in accordance with their freely negotiated agreement as well as in accordance with international law.

V

15. The participating States will implement in good faith each of their commitments in the field of arms control, disarmament and confidence- and security-building as an important element of their indivisible security.

16. With a view to enhancing security and stability in the CSCE area, the participating States reaffirm their commitment to pursue arms control, disarmament and confidence- and security-building measures.

VI

17. The participating States commit themselves to co-operate, including through development of sound economic and environmental conditions, to counter tensions that may lead to conflict. The sources of such tensions include violations of human rights and fundamental freedoms and of other commitments in the human dimension; manifestations of aggressive nationalism, racism, chauvinism, xenophobia and anti-semitism also endanger peace and security.

18. The participating States stress the importance both of early identification of potential conflicts and of their joint efforts in the field of conflict prevention, crisis management and peaceful settlement of disputes.

19. In the event of armed conflict, they will seek to facilitate the effective cessation of hostilities and seek to create conditions favourable to the political solution of the conflict. They will co-operate in support of humanitarian assistance to alleviate suffering among the civilian population, including facilitating the movement of personnel and resources dedicated to such tasks.

VII

20. The participating States consider the democratic political control of military, paramilitary and internal security forces as well as of intelligence services and the police to be an indispensable element of stability and security. They will further the integration of their armed forces with civil society as an important expression of democracy.

21. Each participating State will at all times provide for and maintain effective guidance to and control of its military, paramilitary and security forces by constitutionally established authorities vested with democratic legitimacy. Each participating State will provide controls to ensure that such authorities fulfil their constitutional and legal responsibilities. They will clearly define the roles and missions of such forces and their obligations to act solely within the constitutional framework.

22. Each participating State will provide for its legislative approval of defence expenditures. Each participating State will, with due regard to national security requirements, exercise restraint in its military expenditures and provide for transparency and public access to information related to the armed forces.

23. Each participating State, while providing for the individual service member's exercise of his or her civil rights, will ensure that its armed forces as such are politically neutral.

24. Each participating State will provide and maintain measures to guard against accidental or unauthorized use of military means.

25. The participating States will not tolerate or support forces that are not accountable to or controlled by their constitutionally established authorities. If a participating State is unable to exercise its authority over such forces, it may seek consultations within the CSCE to consider steps to be taken.

26. Each participating State will ensure that in accordance with its international commitments its paramilitary forces refrain from the acquisition of combat mission capabilities in excess of those for which they were established.

27. Each participating State will ensure that the recruitment or call-up of personnel for service in its military, paramilitary and security forces is consistent with its obligations and commitments in respect of human rights and fundamental freedoms.

28. The participating States will reflect in their laws or other relevant documents the rights and duties of armed forces personnel. They will consider introducing exemptions from or alternatives to military service.

29. The participating States will make widely available in their respective countries the international humanitarian law of war. They will reflect, in accordance with national practice, their commitments in this field in their military training programmes and regulations.

30. Each participating State will instruct its armed forces personnel in international humanitarian law, rules, conventions and commitments governing armed conflict and will ensure that such personnel are aware that they are individually accountable under national and international law for their actions.

31. The participating States will ensure that armed forces personnel vested with command authority exercise it in accordance with relevant national as well as international law and are made aware that they can be held individually accountable under those laws for the unlawful exercise of such authority and that orders contrary to national and international law must not be given. The responsibility

of superiors does not exempt subordinates from any of their individual responsibilities.

32. Each participating State will ensure that military, paramilitary and security forces personnel will be able to enjoy and exercise their human rights and fundamental freedoms as reflected in CSCE documents and international law, in conformity with relevant constitutional and legal provisions and with the requirements of service.

33. Each participating State will provide appropriate legal and administrative procedures to protect the rights of all its forces personnel.

VIII

34. Each participating State will ensure that its armed forces are, in peace and in war, commanded, manned, trained and equipped in ways that are consistent with the provisions of international law and its respective obligations and commitments related to the use of armed forces in armed conflict, including as applicable the Hague Conventions of 1907 and 1954, the Geneva Conventions of 1949 and the 1977 Protocols Additional thereto, as well as the 1980 Convention on the Use of Certain Conventional Weapons.

35. Each participating State will ensure that its defence policy and doctrine are consistent with international law related to the use of armed forces, including in armed conflict, and the relevant commitments of this Code.

36. Each participating State will ensure that any decision to assign its armed forces to internal security missions is arrived at in conformity with constitutional procedures. Such decisions will prescribe the armed forces' missions, ensuring that they will be performed under the effective control of constitutionally established authorities and subject to the rule of law. If recourse to force cannot be avoided in performing internal security missions, each participating State will ensure that its use must be commensurate with the needs for enforcement. The armed forces will take due care to avoid injury to civilians or their property.

37. The participating States will not use armed forces to limit the peaceful and lawful exercise of their human and civil rights by persons as individuals or as representatives of groups nor to deprive them of their national, religious, cultural, linguistic or ethnic identity.

IX

38. Each participating State is responsible for implementation of this Code. If requested, a participating State will provide appropriate clarification regarding its implementation of the Code. Appropriate CSCE bodies, mechanisms and procedures will be used to assess, review and improve if necessary the implementation of this Code.

X

39. The provisions adopted in this Code of Conduct are politically binding. Accordingly, this Code is not eligible for registration under Article 102 of the Charter of the United Nations. This Code will come into effect on 1 January 1995.

40. Nothing in this Code alters the nature and content of the commitments undertaken in other CSCE documents.

41. The participating States will seek to ensure that their relevant internal documents and procedures or, where appropriate, legal instruments reflect the commitments made in this Code.

42. The text of the Code will be published in each participating State, which will disseminate it and make it known as widely as possible.



Organization for Security and Co-operation in Europe

منظمة الأمن والتعاون بأوروبا

مدونة قواعد السلوك
في المجالات السياسية والعسكرية للأمن

3 كانون الأول/ديسمبر 1994

برنامج لسلسلة الإجراءات الفورية، رقم 7

ملاحظة: تم اعتماد هذه الوثيقة في الجلسة العامة الـ91 للجنة الخاصة لمنتدى منظمة الأمن والتعاون بأوروبا للتعاون الأمني في بودابست بتاريخ 3 كانون الأول/ديسمبر 1994 (انظر جريدة FSC/اليومية، العدد 94).

وثيقة 95/1/FSC

3 كانون الأول/ديسمبر 1994

النسخة الأصلية: بالإنجليزية

21 كانون الأول/ديسمبر 1994

مدونة قواعد السلوك في المجالات السياسية والعسكرية للأمن

التمهيد

إن الدول المشاركة في مؤتمر الأمن والتعاون بأوروبا (منظمة الأمن والتعاون بأوروبا)،

تقر ضرورة تعزيز التعاون الأمني، وذلك من خلال مواصلة التشجيع على معايير السلوك المسؤول والتعاوني في المجال الأمني،

إذ تؤكد أنه ما من عامل في هذه المدونة من شأنه أن يقلل من صلاحية وقابلية تطبيق أهداف ومبادئ ميثاق الأمم المتحدة أو غيرها من أحكام القانون الدولي،

إذ تعيد التأكيد على الصلاحية غير المنقوصة للمبادئ التوجيهية والقيم المشتركة لوثيقة هلسنكي الختامية، وميثاق باريس ووثيقة هلسنكي لعام 1992 التي تجسد مسؤوليات الدول تجاه بعضها البعض والحكومات تجاه شعوبها، فضلاً عن صلاحية الالتزامات الأخرى لمنظمة الأمن والتعاون بأوروبا،

وقد اعتمدت مدونة قواعد السلوك التالية في المجالات السياسية والعسكرية للأمن:

أولاً

1. تؤكد الدول المشاركة على أن الاحترام الكامل لكافة مبادئ مؤتمر الأمن والتعاون بأوروبا الواردة في وثيقة هلسنكي الختامية والتنفيذ بحسن نية لكل الالتزامات التي تعهدت بها في مؤتمر الأمن والتعاون بأوروبا، لهما أهمية أساسية لتحقيق الاستقرار والأمن، وبالتالي يشكلان مسألة اهتمام مباشرة وشرعية بالنسبة إليها.

2. كما تؤكد الدول المشاركة على استمرار صلاحية مفهومها الشامل للأمن، كما هو منصوص عليه في الوثيقة الختامية، والتي تربط بين صون السلام واحترام حقوق الإنسان والحريات الأساسية. هذا وتربط التعاون الاقتصادي والبيئي بالعلاقات المتبادلة السلمية بين الدول.

3. وهي لا تزال مقتنعة بأن الأمن لا يتجزأ، وأن أمن كل منها يرتبط بشكل غير قابل للفصل بأمن الدول الأخرى. وهي لن تعزز من أمنها على حساب أمن الدول الأخرى. وسوف تحقق مصالحها

الأمنية الخاصة مع الامتثال للجهود المشتركة المبذولة لتعزيز الأمن والاستقرار في منطقة مؤتمر الأمن والتعاون بأوروبا وخارجها.

4. وإذ تؤكد من جديد على احترامها للمساواة في السيادة والفردية لبعضها البعض والحقوق الطبيعية والمشمولة في نطاق سيادتها، ستؤسس الدول المشاركة علاقاتها الأمنية المتبادلة بناءً على نهج تعاوني. وهي تشدد في هذا الصدد على تعزيز دور مؤتمر الأمن والتعاون بأوروبا. وسوف تستمر في تطوير مؤسسات مكملة ومعززة لبعضها البعض تشمل منظمات أوروبية ومنظمات عبر الأطلسي ومبادرات الهيئات الثنائية والمتعددة الأطراف ومختلف أشكال التعاون الإقليمي وشبه الإقليمي. وسوف تتعاون الدول المشاركة لضمان أن جميع الترتيبات متوائمة مع مبادئ والتزامات مؤتمر الأمن والتعاون بأوروبا وفق هذه المدونة.

5. وهي مصممة على العمل في إطار من التضامن إذا ما انتهكت قواعد مؤتمر الأمن والتعاون بأوروبا والتزاماته، وعلى تسهيل الاستجابات الجماعية على التحديات الأمنية التي قد تواجهها نتيجة لذلك. وتتشاور على وجه السرعة، وفقاً لمسؤولياتها المنبثقة من مؤتمر الأمن والتعاون بأوروبا، مع أي دولة مشاركة تطلب المساعدة في تحقيق الدفاع الذاتي الفردي أو الجماعي. وسوف تبحث بصورة مشتركة في طبيعة التهديد والأعمال التي قد يتطلبها الدفاع عن قيمها المشتركة.

ثانيًا

6. لن تدعم الدول المشاركة الأعمال الإرهابية بأي شكل من الأشكال، وستتخذ التدابير المناسبة لمنع الإرهاب ومكافحته بكافة أشكاله. وسوف تتعاون بشكل كامل في مكافحة تهديد الأنشطة الإرهابية من خلال تنفيذ الآليات والالتزامات الدولية التي وافقت عليها في هذا الصدد. وسوف تتخذ، على وجه الخصوص، الخطوات اللازمة للوفاء بمتطلبات الاتفاقيات الدولية التي تلتزم بها لمقاضاة الإرهابيين أو تسليمهم.

ثالثًا

7. تذكّر الدول المشاركة بأن جميع مبادئ وثيقة هلسنكي الختامية في غاية من الأهمية، وتبعًا لذلك، سيتم تطبيقها على قدم المساواة ومن دون أي تحفظ، مع الأخذ بعين الاعتبار المبادئ الأخرى.

8. ولن تقدم الدول المشاركة المساعدة أو الدعم للدول التي خالفت التزاماتها بشأن الامتناع عن التهديد أو استخدام القوة ضد الوحدة الإقليمية أو الاستقلال السياسي لأي دولة أو على أي تصرف آخر لا يتفق مع ميثاق الأمم المتحدة والإعلان المتعلق بالمبادئ التوجيهية للعلاقات بين الدول المشاركة الوارد في وثيقة هلسنكي الختامية.

رابعاً

9. تكرر الدول المشاركة تأكيدها على الحق في الدفاع الفردي والجماعي عن النفس كما هو معترف به في ميثاق الأمم المتحدة.

10. كل دولة مشاركة، وازعة في الاعتبار الشواغل الأمنية المشروعة للدول الأخرى، لها الحرية الكاملة في تحديد مصالحها الأمنية بنفسها على أساس المساواة في السيادة والحق في حرية اختيار ترتيباتها الأمنية الخاصة بها وفقاً للقانون الدولي والالتزام بمبادئ مؤتمر الأمن والتعاون بأوروبا وغاياته.

11. لكل الدول المشاركة الحق السيادي في الانتماء أو عدم الانتماء إلى المنظمات الدولية، وأن تكون أو لا تكون طرفاً في المعاهدات الثنائية أو المتعددة الأطراف، بما في ذلك معاهدات التحالف، وكذلك الحق في الحياد. ولكل منها الحق في تغيير وضعها في هذا الصدد، وفقاً للاتفاقات والإجراءات ذات الصلة. وسوف تحترم كل منها حقوق الآخرين في هذا الصدد.

12. وسوف تحتفظ كل دولة مشاركة فقط بالقدرات العسكرية بما يتناسب مع الاحتياجات الأمنية الفردية أو الجماعية المشروعة، مع الأخذ بعين الاعتبار التزاماتها بموجب القانون الدولي.

13. وسوف تحدد كل دولة مشاركة قدراتها العسكرية على أساس إجراءات ديمقراطية وطنية، مع مراعاة الاهتمامات المشروعة للدول الأخرى حول الأمن وكذلك الحاجة إلى المساهمة في تحقيق الأمن والاستقرار الدوليين. وسوف تمتنع أي دولة من الدول المشاركة عن أي محاولة لفرض الهيمنة العسكرية على أي دولة أخرى مشاركة.

14. ويجوز لأي من الدول المشاركة أن تضع قواتها المسلحة على أراضي أي دولة أخرى مشاركة بموجب اتفاقية تم التفاوض عليها بينهما بشكل حر ووفقاً للقانون الدولي.

خامساً

15. سوف تنفذ الدول المشاركة بحسن نية كافة التزاماتها في مجال الحد من التسلح ونزع السلاح وبناء الثقة والأمن باعتباره عنصرًا هامًا من أمنها الغير قابل للتجزئة.

16. في إطار تعزيز الأمن والاستقرار في منطقة مؤتمر الأمن والتعاون بأوروبا، تؤكد الدول المشاركة مجددًا على التزامها بمواصلة الحد من التسلح ونزع السلاح وبناء تدابير الثقة والأمن.

سادساً

17. تلتزم الدول المشاركة بالتعاون، من خلال تطوير الأوضاع الاقتصادية والبيئية السليمة، لمواجهة التوترات التي قد تؤدي إلى النزاع. وتشمل مصادر التوتر انتهاكات حقوق الإنسان والحريات الأساسية والالتزامات الأخرى ذات البعد الإنساني؛ والمظاهر العدوانية القومية والعنصرية وعداء الأجانب ومعاداة السامية التي تهدد أيضاً السلام والأمن.

18. وتشدد الدول المشاركة على أهمية الكشف المبكر على حد سواء عن احتمالات حدوث الصراعات وعلى جهودها المشتركة في مجال منع نشوب النزاعات وإدارة الأزمات والتسوية السلمية للصراعات.

19. في حال نشوب نزاع مسلح، تتعهد بالسعي نحو تيسير الوقف الفعلي للأعمال العدائية وتهيئة الظروف المواتية لإيجاد حل سياسي للنزاع. وسوف تتعاون لدعم المساعدة الإنسانية للعمل على تخفيف معاناة السكان المدنيين، بما في ذلك تيسير حركة الأفراد والموارد المخصصة لمثل هذه المهام.

سابعاً

20. وتعتبر الدول المشاركة أن الرقابة الديمقراطية السياسية للقوات العسكرية، وقوات الأمن شبه العسكرية والدخالية فضلاً عن أجهزة الاستخبارات والشرطة عناصر لا غنى عنها للاستقرار والأمن. وسوف تقوم بالتالي بدعم إدماج هذه القوات المسلحة في المجتمع المدني كتعبير هام عن الديمقراطية.

21. وستوفر كل دولة مشاركة في جميع الأوقات توجيهًا وإرشادًا فعالاً للسيطرة على قواتها العسكرية وشبه العسكرية والأمنية من قبل سلطات دستورية لها شرعية ديمقراطية. وسوف تقدم كل دولة مشاركة الضوابط اللازمة لضمان أن هذه السلطات تتحمل مسؤولياتهم الدستورية والقانونية. كما ستحدد بوضوح دور ومهام هذه القوات والتزاماتها للعمل حصرياً في إطار دستوري.

22. وسوف توفر كل دولة مشاركة ما يلزمها من موافقات تشريعية لنفقات الدفاع. ومع مراعاة الواجبة لمطالبات الأمن القومي، ستمارس كل دولة مشاركة ضبط النفس في نفقاتها العسكرية، وتوفير الشفافية وإمكانية وصول الجمهور إلى المعلومات ذات الصلة بالقوات المسلحة.

23. إضافة إلى ضمان ممارسة كل فرد من أفراد الخدمة العسكرية لحقوقه المدنية، ستكفل كل دولة مشاركة أن تكون قواتها المسلحة محايدة سياسياً.

24. وسوف تتخذ كل دولة مشاركة التدابير اللازمة للوقاية من الاستخدام العرضي أو غير المصرح به للوسائل العسكرية والمحافظة عليها.

25. ولن تتسامح الدول المشاركة أو تدعم القوى غير المسؤولة أمام سلطاتها المنشأة دستوريًا أو غير الواقعة تحت سلطتها. وفي حال عدم قدرة الدول المشاركة على فرض سيطرتها على هذه القوات، فيتعين عليها أن تطلب إجراء مشاورات في نطاق مؤتمر الأمن والتعاون بأوروبا للنظر في الخطوات الواجب اتخاذها.

26. وستضمن كل دولة مشاركة وفقًا لالتزاماتها الدولية، منع قواتها شبه المسلحة من الحصول على قدرات قتالية تفوق الأغراض التي أنشئت من أجلها.

27. وستضمن كل دولة مشاركة أن عملية تجنيد أو استدعاء عناصر الخدمة في قواتها العسكرية وشبه العسكرية والأمنية تتفق مع التزاماتها وتعهداتها في مجال حقوق الإنسان والحريات الأساسية.

28. وسوف تجسد كل دولة مشاركة في قوانينها أو الوثائق الأخرى ذات الصلة حقوق وواجبات أفراد القوات المسلحة. وستنظر في إدخال إعفاءات أو بدائل للخدمة العسكرية.

29. وستطبق الدول المشاركة على نطاق واسع في بلدانها القانون الدولي الإنساني للحرب. وسوف تعكس وفقًا للممارسة الوطنية، التزاماتها في هذا المجال في برامجها وأنظمتها المتعلقة بالتدريب العسكري.

30. وسوف تقوم كل دولة مشاركة بتلقين أفراد قواتها المسلحة القانون الدولي الإنساني والقواعد والمعاهدات والالتزامات التي تحكم النزاع المسلح، وسوف تضمن أن هؤلاء الموظفين يدركون أنهم محاسبون على أفعالهم بموجب القانون الوطني والدولي.

31. وستضمن الدول المشاركة أن تكون لأفراد القوات المسلحة سلطة قيادية وأن تكون ممارستهم لها وفقًا للقانون الوطني والدولي وأن يكونوا مدركين بأنه يمكن محاسبتهم بشكل فردي بموجب تلك القوانين لممارستهم غير المشروعة لهذه السلطة وأنه لا يجوز إصدار الأوامر التي تتعارض مع القانون الوطني والدولي. ولا تعفي مسؤولية الرؤساء المرؤوسين من أي مسؤولية من مسؤولياتهم الفردية.

وستضمن كل دولة مشاركة أن يكون أفراد القوات العسكرية، وشبه العسكرية والأمنية قادرين على التمتع بحقوقهم الإنسانية وممارسة حرياتهم الأساسية التي تعكسها وثائق مؤتمر الأمن والتعاون بأوروبا.

32. ووفقًا للأحكام الدستورية والقانونية ذات الصلة مع الأخذ بعين الاعتبار لمقتضيات الخدمة.

33. وسوف تنفذ كل دولة مشاركة الإجراءات القانونية والإدارية المناسبة لحماية حقوق جميع أفراد قواتها.

ثامناً

34. ستأكد كل دولة مشاركة أن قواتها المسلحة، في السلم والحرب، تدار وتدرّب وتجهّز وتؤهل بشكل يتفق مع أحكام القانون الدولي والالتزامات الخاصة به والتعهدات المتعلقة باستخدام القوات المسلحة في النزاعات المسلحة، على النحو المنصوص عليه في معاهدتي لاهاي لعام 1907 و1954، ومعاهدات جنيف لعام 1949 والبروتوكولات الملحقّة بها عام 1977، وكذلك اتفاقية 1980 بشأن بعض الأسلحة التقليدية.

35. وستضمن كل دولة مشاركة أن سياستها وعقيدتها الدفاعية تتماشى مع القانون الدولي ذي الصلة في ما يتعلق باستخدام القوات المسلحة، بما في ذلك النزاعات المسلحة، والالتزامات ذات الصلة بهذه المدونة.

36. وستضمن كل دولة مشاركة أن أي قرار بشأن تعيين قواتها المسلحة في مهام أمنية داخلية يتفق مع الإجراءات الدستورية. وسيشمل هذا القرار مهام القوات المسلحة، بما يضمن أن يتم تنفيذها تحت الرقابة الفعالة للسلطات الدستورية القائمة، ووفقاً لأحكام القانون. وإذا كان من غير الممكن تجنب اللجوء إلى القوة في تنفيذ مهام أمنية داخلية، وسوف تضمن كل دولة مشاركة أن يكون استخدامها متناسباً مع احتياجات التنفيذ. وستراعى القوات المسلحة تجنب وقوع إصابات في صفوف المدنيين أو ممتلكاتهم.

37. ولن تستخدم الدول المشاركة القوات المسلحة للحد من الممارسة السلمية والقانونية لحقوق الإنسان من قبل الأشخاص سواء بصفتهم الفردية أو كممثلين لمجموعات أو لحرمانهم من هويتهم القومية أو الدينية أو الثقافية واللغوية أو العرقية.

تاسعاً

38. كل دولة من الدول المشاركة مسؤولة عن تنفيذ هذه المدونة. وسوف تقدم، عند الطلب، توضيحات مناسبة بشأن تنفيذها. وسوف تستخدم الجهات المعنية لمؤتمر الأمن والتعاون بأوروبا الآليات والإجراءات المناسبة لتقييم تنفيذ هذه المدونة ومراجعتها وتطويرها إذا لزم الأمر.

عاشراً

39. إن الأحكام المعتمدة في مدونة قواعد السلوك هذه ملزمة سياسياً. وتبعاً لذلك، فإن هذه المدونة لا تتطلب التسجيل بموجب المادة 102 من ميثاق الأمم المتحدة. ويسري هذا القانون اعتباراً من أول كانون الثاني/يناير 1995.

40. لا يغير أي بند من هذه المدونة من طبيعة ومضمون الالتزامات الأخرى المتعهد بها في وثائق مؤتمر الأمن والتعاون بأوروبا.

41. وستسعى الدول المشاركة لضمان إدراج الالتزامات المنصوص عليها في هذه المدونة في وثائقها وإجراءاتها الداخلية ذات الصلة أو، عند الاقتضاء في الصكوك القانونية، التي تعكس التزامها بهذه المدونة.

42. وسيُنشر نص المدونة في كل دولة من الدول المشاركة، والتي سوف تقوم بتوزيعه والتعريف به على أوسع نطاق ممكن.



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