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OSCE Yearbook 2008

Yearbook on the Organization for Security and
Co-operation in Europe (OSCE)



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Preface by the Chairman-in-Office

Helsinki has been associated with many turning points in the history of the OSCE and the relations between our States. In 1975, the “spirit of Helsinki” brought together Cold War rivals and was instrumental in helping to bridge the East-West divide. In 1994, the Conference on Security and Co-operation in Europe was transformed into an organization and became a major actor for conflict prevention and crisis management.

Finland adopted the mantle of the OSCE Chairmanship in 2008 keenly aware of and inspired by this history. Finland started its Chairmanship with a sense of the past, a clear-eyed view of the state of affairs in the OSCE area, and an unambiguous commitment to push the Organization further and make maximum use of its potential.

On assuming the OSCE Chairmanship in January 2008, we put forward a set of goals and priorities. I am happy that we have been able to make headway on a number of important issues.

During our Chairmanship, we have underscored the importance of the OSCE’s activities in Kosovo. Our view is that the OSCE mandate to support democratic institutions and the rule of law and to monitor human rights in the region is far from complete. I am glad that despite the diverging views of the participating States on the status of Kosovo, the OSCE has been able to continue its important work on the ground.

There has been some positive movement in the Transdniestrian settlement process. Our aim has been to take advantage of the existing momentum and consolidate the negotiations.

Election observation has been successfully executed in all the important elections held in the OSCE area, with the exception of the presidential elections in the Russian Federation. In the past months, the participating States have also had the opportunity to engage in a dialogue on election-related issues. I hope that this exchange of views has been found beneficial.

The usefulness of the Quintet, which enabled co-operation between the Troika countries of Spain, Finland, and Greece and the two incoming Chairmanships of Kazakhstan and Lithuania, has been proven. I hope that through the Quintet we have been able to promote continuity and coherence in the OSCE’s activities.

We did not assume that our twelve months at the helm of the Organization would be easy, but neither did we expect to witness such a drastic transformation in the European security landscape. The Georgian crisis in August clearly marked a turning point not only for Europe but also for the wider international community. The conflict challenged the existing security structures and put both regional and international organizations to the test.

As the holder of the OSCE Chairmanship, Finland did its utmost to defuse tensions, negotiate and strengthen the ceasefire, and promote a peaceful settlement. The OSCE was able to react swiftly and took an early decision to send additional military monitoring officers to the area.

The OSCE should remain active in working towards a feasible solution to the Georgian crisis. We need to work closely with other organizations and ensure that the negotiations are based on a sound, international foundation.

Over the course of three decades, the CSCE/OSCE has undergone constant evolution. The Organization has shown a remarkable ability to adapt to changes in the European security landscape – from the Cold War to the fall of the Berlin Wall, from the wars in the former Yugoslavia to the terrorist attacks of 11 September 2001. The evolution of the Organization is woven into the history of Europe of the last thirty years.

At each of these junctures, the OSCE participating States have shown flexibility and imagination in fashioning a new role for the Organization in a changed landscape. This process of change and adaptation has been gradual, but it has been ceaseless.

My mission statement for the OSCE is threefold. The OSCE is needed:

- to solve conflicts,
- to support transition processes, and
- to bolster co-operative security across the Euro-Atlantic region.

The unresolved conflicts in the OSCE area have become entrenched and long-term obstacles to human security, democratization, and economic development in their neighbourhoods. The international community, the OSCE especially, must invest more in seeking their settlement. I believe that the OSCE should be in the business of resolving conflicts, not just managing them.

The OSCE also works to support transition in its participating States. The commitment that all OSCE participating States have taken to respect human rights and fundamental freedoms includes the pledge to build political systems on democratic principles and guided by the rule of law. These commitments form the bedrock of the OSCE's work. OSCE institutions and field operations are the main channels through which the Organization lends its support to participating States and works to help them make progress in these directions.

The OSCE is a standard bearer of co-operative security from Vancouver to Vladivostok: We do things together in order to increase our common security, and, in this, we act with the participating States, civil society actors, and other international organizations. Our approach must remain inclusive and our concept of security dynamic.

I firmly believe that our Organization can make a difference in these three fields and promote stability, prosperity, and democracy throughout the OSCE area. Building a united and peaceful Europe is a process that is set to

be long and complex, requiring tireless engagement and constant debate about values and their application. Our common goal is to keep the momentum going and the targets in sight.

Foreword

“Not Frozen but Red Hot: Conflict Resolution in Georgia Following the Change of Government” – that was the title of Marietta König’s contribution to the OSCE Yearbook 2006, in which she already gave urgent warning of an imminent escalation of the territorial conflicts in Georgia that had been “frozen” since the mid-1990s.¹ The restoration of territorial integrity became a matter of the highest priority for Mikheil Saakashvili, who had succeeded Eduard Shevardnadze as president in January 2004. In seeking to achieve this, the Georgian leadership often used “police and quasi-military operations [...] contributing to worrying escalations in both conflict zones”, i.e. South Ossetia and Abkhazia.²

Four conflicts on the territory of the former Soviet Union have been considered “frozen” since the mid-1990s: The dispute between Armenia and Azerbaijan over Nagorno-Karabakh, the conflicts over the Georgian breakaway provinces of South Ossetia and Abkhazia, and the Transdnistria conflict in Moldova. The OSCE Yearbook has continually kept its readers informed of all these theatres.³ Most recently, in 2007, König pointed out that Kosovo’s expected unilateral declaration of independence and its international recognition could have serious consequences for the secession conflicts in the post-Soviet space.⁴ That contribution appeared in the section on “Burning Issues”. In the current Yearbook, for obvious and tragic reasons, the conflict in South Ossetia takes up an entire section and has four contributions devoted to it.

After months of escalating provocation and armed clashes between the conflict parties, Georgian troops marched into the breakaway province on 8 August 2008, the day of the opening ceremony of the Beijing Olympics. There was heavy fighting with South Ossetian militia before the Georgian army occupied the South Ossetian capital Tskhinvali. When Russian forces launched a counter-offensive and – following the recapture of Tskhinvali – advanced into Georgian territory proper, the conflict broadened into a war between Georgia and Russia. At the same time, this previously regional con-

1 Marietta S. König, Not Frozen but Red Hot: Conflict Resolution in Georgia Following the Change of Government, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFHS (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 85-96.

2 Ibid., p. 85.

3 See, in particular, the special focus section on “The Caucasus” in the OSCE Yearbook 2004, in which leading experts analyse the conflicts in detail and place them in their regional context.

4 Cf. Marietta S. König, The Effects of the Kosovo Status Negotiations on the Relationship between Russian and the EU and on the De Facto States in the Post-Soviet Space, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFHS (ed.), *OSCE Yearbook 2007*, Baden-Baden 2008, pp. 37-50.

flict took on supra-regional and even global significance: For the first time since the collapse of the Soviet Union, Russia was applying military force outside its own territory.

Although there had been increasing evidence of imminent escalation not only in South Ossetia and Abkhazia (Azerbaijan, too, was no longer ruling out the military option in the case of Nagorno-Karabakh, a view it lent support to by sharply increasing its defence budget, facilitated by soaring oil prices⁵) since 2004 at the latest, all efforts to mediate between the conflict parties and prevent the escalation proved futile. Did the international community fail in the case of Georgia's unresolved conflicts? Did it underestimate these conflicts' escalation potential and explosive power? Had the "frozen conflicts" become, as the IFSH concluded in a recent study, "synonymous with vanishing public interest and political inaction"? The study goes on to describe how the war in South Ossetia illustrated how a fire that is in reality still "smouldering [...] can suddenly blaze up again when the international environment changes". The study claims that the international community omitted "to keep a close enough eye on conflict hotspots in the region between the Black and Caspian Seas, merely because the flames of violence appeared to have been extinguished".⁶

Against this background, S. Neil MacFarlane's comprehensive and acute analysis of the Georgian-South Ossetian conflict shines a light on its complexity and contexts by attempting to answer the questions of why it has so far proved impossible to resolve the territorial conflicts in the post-Soviet space; under what conditions they flare up again; what interests inform the actions of the various actors; what implications the war in Georgia has for regional security in the Caucasus, and for international security policy; and, in particular, what it tells us about Russia's future role in the European security system.

International organizations have been monitoring the secession conflicts in Georgia since the cessation of direct hostilities in the early 1990s. In this regard, the South Ossetia conflict was largely the preserve of the OSCE. The Organization has maintained a long-term mission in Georgia since December 1992, one of whose mandated tasks is to conduct mediation between the conflict parties. The OSCE Mission also has the task of supporting the United Nations in attempting to resolve the Georgian-Abkhazian conflict, as well as

5 Cf., for example, Rexane Dehdashti-Rasmussen, The Conflict over Nagorno-Karabakh: Causes, the Status of Negotiations, and Prospects, in: *OSCE Yearbook 2006*, cited above (Note 1), pp. 189-210, here: p. 201.

6 Michael Brzoska et al., *Der Kaukasuskrieg 2008. Ein regionaler Konflikt mit internationalen Folgen, eine Stellungnahme des IFSH* [The 2008 Caucasus War. A Regional Conflict with International Repercussions, an IFSH Position Paper], *Hamburger Informationen zur Friedensforschung und Sicherheitspolitik* No. 45/2008, Hamburg (forthcoming), p. 9. In 2006, Marietta König had already drawn attention to the fact that "in the last instance [...] the term 'frozen' is misleading – at least when applied to the conflicts themselves. In truth, armed clashes between the conflict parties were and remain commonplace. What was frozen [...] were the various conflict resolution processes [...]" König, cited above (Note 1), pp. 85-86.

to promote democracy, human rights, and the rule of law throughout Georgia. Before the fighting started in August, the mission had 200 local and international members, including eight unarmed military observers. The contribution that international missions can make to the resolution of secession conflicts, in particular, depends not only on the activities and competencies with which they are endowed, but also on the willingness to co-operate on the part of the conflict parties. If the parties to a conflict are unwilling to compromise and do not desire to achieve a settlement, but instead hold on to maximalist positions, success is impossible. Equally negative outcomes can, however, be the result of ineffective regional strategies, an absence of political and economic incentives, and a lack of engagement on the part of the international community. In Georgia, the OSCE mission ultimately failed to be recognized by the conflict parties as an impartial mediator and to win the trust of, in particular, the secessionist South Ossetian side (something similar can be said of the United Nations mission in Abkhazia). The reasons for this are explored by Hansjörg Eiff, one of the first heads of the OSCE Mission to Georgia, in his contribution on the mediation process, its early successes, and the great promise it held.

The events in Georgia were perceived quite differently in Russia and in the West. What Russia considers necessary and appropriate is criticized by the West as unacceptable and disproportionate. Russian security interests and concerns regarding the phases of NATO enlargement that have already taken place, but particularly a further round of enlargement that would see CIS members Georgia and Ukraine join; plans to station anti-missile systems in Poland and the Czech Republic; and the increasing engagement of the West in a region that Russia sees as its sphere of special interest were largely played down in recent years. Evidence of Russia's growing dissatisfaction and an increasing need to demonstrate its new strength – something not entirely without an economic and political basis – were ignored. Against this backdrop, Elena Kropatcheva examines the way the conflict was presented in the Russian media and the perception of the Russian public.

Georgia's campaign in South Ossetia ultimately did the country no favours: The restoration of Georgian territorial integrity – the declared goal of President Saakashvili – has receded into the distance. The economic consequences of the war are an enormous burden. The result is a serious danger of destabilization. David Aprasidze describes the developments in Georgia between the parliamentary election in January 2008 and the outbreak of hostilities in August – events that followed a seeming return to domestic political peace following the major crisis that had reached its peak in November 2007.

The war in Georgia showed just how quickly and with what penetrating power apparently limited regional conflicts can bring about a drastic deterioration in international relations. Despite our horror at events in the South Caucasus and the apparent inability of international organizations to successfully deal with such conflicts, resignation is not the appropriate reaction. Instead,

we must observe and evaluate international relations and the conditions necessary for success in international conflict prevention realistically. In this regard, the current volume contains two contributions devoted to detailed analysis of European security as a whole – before and after the war in Georgia: P. Terrence Hopmann takes as his subject the future of the OSCE in the European security architecture, while Michael Merlingen, Manuel Mireanu, and Elena B. Stavrevska deal with the state of European security as a whole.

As in the OSCE Yearbook 2007, we are again highlighting a second topic that stands in the spotlight of European security concerns: Kosovo's now successfully concluded declaration of independence. This event cannot be considered in isolation from the secession conflicts in the former Soviet Union, as most recently demonstrated by Russia's recognition of South Ossetia and Abkhazia. Bernhard Knoll subjects the Kosovan declaration to a comprehensive and exceptionally detailed analysis from the perspective of international law.

With regard to the interests and commitment of individual OSCE participating States, the United States Permanent Representative to the OSCE, Ambassador Julie Finley, grants an insight into her country's view of the Organization and highlights the tasks it considers a priority, while Margit Hellwig-Bötte describes the lengthy and suspenseful process leading up to the decision on Kazakhstan's 2010 OSCE Chairmanship and the tangible effect it is already having on both that country and the Organization.

It would be amiss not to pay due attention to the intensive and frequently beneficial efforts the OSCE makes in the many problem areas of European security. In this year's section on the long-term missions and other OSCE field presences, Solveig Richter undertakes a comparative analysis of the effectiveness of OSCE democratization strategies in Croatia, Serbia, and Bosnia and Herzegovina; Alice Ackermann and Christian Loda describe the strategy behind the closure of the OSCE Mission to Croatia and its replacement by the new OSCE Office in Zagreb; Sebastian Dworack analyses the tense political situation in Macedonia before and after the elections held in the summer of 2008; and Ambassador Vladimir Pryakhin details the activities of the OSCE Office in Tajikistan.

Another expert in international law, Hans-Joachim Heintze, explores the question of whether the OSCE can consider itself a "club of dyed-in-the-wool democrats", an expression that has become "a cliché that is wheeled out whenever anyone wants to criticize Moscow". Eva Biaudet, OSCE Special Representative and Co-ordinator on Combating Trafficking in Human Beings describes the ongoing shortcomings in dealing with this major human-rights issue and appeals to the OSCE and its participating States to increase their efforts in this area. In the field of politico-military security, Jan Kantorczyk and Walter Schweizer examine the role of the OSCE Forum for Security Cooperation, which is – alongside the Permanent Council – one of the OSCE's two permanent consulting and decision-making bodies. Two contributions

focus on the OSCE's economic and environmental dimension: Gabriel Leonte and Saba Nordström describe the conflict and co-operation potential associated with water resources in selected regions of the OSCE area. And Kilian Strauss emphasizes the future role of the OSCE's second dimension.

Two of the OSCE's most important institutions are the focus of the chapter on organizational aspects: The OSCE High Commissioner on National Minorities, Knut Vollebæk, looks back, 15 years after the creation of his office, on one of the most successful of all conflict-prevention instruments. Similarly, Arnaud Amouroux reviews ten years of the OSCE Representative on Freedom of the Media. Kurt P. Tudyka carries out a detailed appraisal of the 2007 Spanish OSCE Chairmanship and Anna Kreikemeyer presents the training given to Kazakh diplomats by the Centre for OSCE Research (CORE) at the IFSH in preparation for Kazakhstan's 2010 Chairmanship.

Last but by no means least, OSCE Secretary General Marc Perrin de Brichambaut focuses on the fascinating discussion of the current and – above all – future engagement of the OSCE in Afghanistan, while Frank Evers explores the prospects for co-operation between the OSCE and China.

We would like to thank the Finnish Foreign Minister and OSCE Chairman-in-Office, Alexander Stubb, for providing the preface to this year's OSCE Yearbook.

The editorial board and the editors would also like to express their gratitude to our authors, whose extraordinary dedication and expertise have made the production of this OSCE Yearbook possible.

With the help of international mediation, the war in Georgia was ended after only a few days. On 15 and 16 August, respectively, Georgia and Russia signed a ceasefire agreement that had been jointly drafted by the EU and the OSCE and negotiated under the overall guidance of the French President and Chairman of the European Commission, Nicolas Sarkozy – the “six-point plan”. On 19 August, the Permanent Council of the OSCE passed a decision to raise the number of military observers in the OSCE Mission to Georgia to 100. Twenty of them were immediately deployed “in the areas adjacent to South Ossetia”. The Organization's constructive involvement in efforts to defuse the conflict thus began at a relatively early stage. The negotiations on the modalities for the deployment of the remaining observers, however, collapsed as a result of differences of opinion with Russia over the location of their future deployment. On 15 September, the EU resolved to send its own mission of around 200 civil observers, who were tasked with monitoring the ceasefire and compliance with the six-point plan. The EU observer mission took up its work on 1 October 2008.

Overall, the war has had a devastating effect, with several hundred people killed, many more injured, and the creation of over 200,000 refugees, not to mention numerous atrocities. The questions of whether the ceasefire

agreement will last and what opportunities remain to find a sustainable, long-term solution to the conflict remain no closer to being answered.

In spite of everything, this situation contains an opportunity for the OSCE, in particular, to prove its value and undergo a revival: Given the undeniable economic, political, and security interests of the EU and NATO – not only in the Caucasus region – and the resulting dissonance with Russia, voices are increasingly being raised in favour of strengthening the OSCE's role – including the voice of Gernot Erler, Minister of State at the German Federal Foreign Office. In November 2008, France's President Sarkozy even proposed that an OSCE Summit should be held in the summer of 2009, a call that was initially welcomed by Russia's President Medvedev, in particular.⁷ Even if it already appears clear that no such meeting will take place, the proposal remains worthy of consideration and represents a step in the right direction. With a body of participating States encompassing Russia, the USA and Canada, as well as the states of the South Caucasus and all the members of the EU and NATO, the OSCE is by far the most suitable institution for the continuation and reorientation of the dialogue on European security.

7 Cf. also Solveig Richter/Wolfgang Zellner, *Ein neues Helsinki für die OSZE? Chancen für eine Wiederbelebung des europäischen Sicherheitsdialogs* [A new Helsinki for the OSCE? Opportunities for a Revival of the European Security Dialogue], SWP-Aktuell 2008/A 81, November 2008.

I.

States of Affairs – Affairs of State

Focus on the Georgian-South Ossetian Conflict

Frozen Conflicts in the Former Soviet Union – The Case of Georgia/South Ossetia

The war in Georgia in August 2008 has once again highlighted the significance in international relations of “frozen” conflicts in the former Soviet Union. The Russian invasion and dismemberment of Georgia has had dramatic effects on the Caucasian sub-region. It has drawn into question key aspects of Europe’s energy-security strategy. It shed harsh light on the apparent incapacity of international institutions (including the OSCE) to prevent conflict or its resumption. And it caused the most serious deterioration in Russia’s relations with the West in general, and the United States in particular, since the end of the Cold War.

This article addresses several issues: Why have conflicts in this region not been resolved? What are the risks that a frozen conflict might “thaw”, as occurred in Georgia? What does the conflict in Georgia suggest about Russia’s evolving role in the European regional system? What are the implications of the conflict in Georgia for regional security in the Caucasus and, more broadly, in the European and international systems? Finally, what does this experience suggest about the prospects for effective conflict management and resolution in the former Soviet region?

“Frozen” Conflict¹ in the Former Soviet Union

During and immediately after the collapse of the USSR, several conflicts emerged in the successor states. In 1988-89, war broke out in and around the Nagorno-Karabakh region in Azerbaijan, lasting until 1994, when a Russian mediation effort brought hostilities to a conclusion. This was followed a year later by the outbreak of a short war in South Ossetia, Georgia, that lasted two years before a Russian-mediated ceasefire ended active hostilities for a time. The end of the South Ossetia conflict in 1992 was followed immediately by a second civil conflict in Georgia, this time in Abkhazia. That conflict ceased in 1993-94 as a result of Russian and UN mediation. Elsewhere in the region, simmering conflict between the Moldovan government and the authorities of the region of Transdniestria escalated into civil war in March 1992, lasting until July of that year. 1992 also brought a civil war in Tajikistan that endured until 1997, when it was resolved in a comprehensive peace agreement

1 I take the category of frozen conflict to cover situations of conflict where there are no active large-scale hostilities (although there may be smaller-scale violence), there is a durable mutually agreed ceasefire, but efforts to achieve a political settlement or peace are unsuccessful.

with Russian, Iranian, and UN assistance. The final major conflict in the former Soviet region was the war in Chechnya that began in 1994, was suspended in 1996, resumed in 1999, and endures at a low level to this day.

With the qualified exception of Tajikistan, none of these conflicts has been resolved through a durable peace settlement. Transdniestria, South Ossetia, Abkhazia, and Nagorno-Karabakh have until recently existed in a limbo characterized by an absence of active hostilities, but with no obvious progress towards peace. The Georgian cases, as already noted, underline the possibility that, in the absence of a durable peace, conflict may resume and escalate, with serious consequences for the country in question and for the international system.

Two questions arise here: Why did these conflicts become frozen? And under what conditions might they resume?

With regard to the first, several factors contribute to the immobility of frozen conflicts. Frequently, the military balance between the sides is reasonably stable, such that neither side has the capacity to prevail. In political terms, the nature of intra-societal grievance, often ethnically based, is intractable. The experience of violent conflict deepens alienation between the communities in question as a result of ethnic cleansing or abuses of civilian populations. A deep sense of grievance is complemented by substantial fear and uncertainty concerning the risks of negotiated settlement. The communities in question, having suffered disruptive conflict, are frequently unreceptive to compromises of their aims that might be necessary in order to make the peace. Consequently, political leaders are reluctant to take the risk of proposing such compromises, and when they appear to be doing so, their political position may be imperilled.²

In economic terms, settlement and normalization may be resisted by those interests that benefit from “frozenness”. In South Ossetia, for example, the authorities oversaw a large scale smuggling business across the Russian frontier, with petrol flowing south into Georgia, and cigarettes, alcohol, and, allegedly, drugs flowing north into the Russian Federation. Normalization and the reestablishment of Georgia’s control over its border in this region would either have stopped this revenue stream, or the benefits of the revenue would have been transferred to those controlling Georgian customs and profiting from that control.

At the international level, outside powers may see an interest in maintaining the frozen status quo. Many analysts take the view, for example, that the persistence of conflict situations in the Caucasus has served Russian interests by providing leverage in Russia’s relations with these sometimes

2 The Karabakh conflict provides useful examples here. In respect of the former point, Azerbaijan backed away from the compromise proposed in the Paris and Key West negotiations in 2001 as a result of an extremely hostile response to compromise in Azerbaijani public opinion. Four years before, Armenian President Levan Ter-Petrosian was removed from office for proposing a deal that was unacceptable to significant sections of elite and public opinion in Armenia.

difficult neighbours. Moving farther afield, one reason for the weakness of external efforts to achieve peace is the fact that the interests of other – more removed – players (e.g. the EU and the major Western European powers, and the United States) in the region and in conflict resolution there are weak. For this reason, they have been unwilling to invest sufficient diplomatic attention and resources in their resolution. In the meantime, international norms regarding the use of force have constrained the states involved from attempting a unilateral settlement by military means.

Turning to ways in which frozen conflicts might thaw, the concept of “frozen” conflict is somewhat misleading. Social processes are dynamic. Although the negotiating process may be stalled, the situation surrounding negotiations is seldom stable. Underlying political, economic, military, and social dynamics may erode what stability there is, dramatically enhancing the potential for conflict as was seen recently in South Ossetia.

First of all, in most cases of frozen conflict, violence continues at a lower level. In all three cases in the Caucasus, for example, the image of frozenness masks frequent small-scale exchanges of fire between government and secessionist military units as well as some degree of inter-communal violence. The continuation of low-level conflict raises the prospect of inadvertent escalation. The danger is evident in respect of the Karabakh conflict, where unannounced movements of troops on either side have on several occasions provoked reactions on the other side that risked the resumption of hostilities.

Second, the balance of power may shift. In the case of Azerbaijan, for example, the government has not foresworn the option of using force to settle the dispute over Karabakh, and the rapid rise in energy revenue over the past three years has been accompanied by substantial growth in military spending. If it is true that the military balance of the 1990s favoured stability, then shifts in that balance may alter policy-makers’ incentives and calculations of risk in considering a return to active conflict.

Third, political change in states affected by frozen conflict may destabilize the situation. In respect of political transition in established states, new leaders may attempt to build support for their new position by promising to restore government jurisdiction over territory outside government control, as occurred in Georgia (see below). As for new secessionist leaders, they may see advantage in promising to achieve full separation. In each case, leadership rhetoric may go down badly on the other side. And the making of a promise carries with it the expectation on the part of public opinion that the promise should be fulfilled.

Finally, the international situation may develop in ways that affect a conflict’s intractability. If relations with a neighbouring state deteriorate, the neighbour may change the nature or degree of its involvement in a frozen conflict. Political change within neighbouring states may also affect their propensity for engagement positively or negatively. Larger trends in the inter-

national distribution of power may favour deeper engagement or the facilitation of settlement.

Conflict in Georgia: South Ossetia and Abkhazia

All of these factors came into play in the case of Georgia's short war in South Ossetia. In 2004-2008, there was a gradual deterioration in the situation, reflecting the changing economic and military situation, the calculations of new leadership, and the international context, notably Russian capacity and policy.

Although both the Abkhaz and the South Ossetian conflicts ended in the early 1990s, in both cases smaller scale violence continued, as noted earlier. In the middle and late 1990s, many ethnic Georgians (mainly Mingrelians) returned to the south-eastern section of Abkhazia to reclaim their land. They were accompanied by partisans who threatened the security of local Abkhaz government and police personnel. The Abkhaz responded in 1998 with a massive re-expulsion of several tens of thousands of resident Georgians, destroying housing, schools, and other facilities financed by international humanitarian agencies along the way. Likewise, in South Ossetia, the years of frozen conflict were marked by repeated exchanges of fire and other acts of violence between interspersed Georgian and Ossetian communities, despite the presence of the peacekeeping force.

On the economic and military front, the period subsequent to the Rose Revolution was marked by significant economic expansion and rapid growth in public revenues. A substantial portion of the latter was immediately translated into increases in defence spending,³ much of which was invested in re-training and re-equipping the Georgian military. Georgian forces were increasingly engaged in coalition operations in both Kosovo and Iraq (where, by 2008, they made up the third-largest contingent of foreign forces), gaining considerable experience of complex military operations. The development of increasingly operational and effective military capability changed the Georgian leadership's calculus regarding forceful solutions to their suspended conflicts.

On the political side, Mikheil Saakashvili came to power promising to restore Georgia's control over all its territory. The easy one (Ajaria) was handled quickly and peacefully. Little progress was evident in Georgia's other two cases (Abkhazia and South Ossetia). To the extent that public opinion takes promises seriously, the risk for Saakashvili from unfulfilled promises was loss of credibility. Managing that risk may encourage a return to violence, as was evident in South Ossetia in 2004 and 2008. In 2004, Georgian

3 In 2003, Georgian defence spending was 350 million US dollars. In 2007, it was 583 million. Figures taken from IISS, *The Military Balance 2005-2006* and *2008*, London 2005 and 2008, pp. 120 and 176.

forces established a number of new police checkpoints in South Ossetia, ostensibly to curb illegal trading. The Ossetians responded violently and the result was over twenty Georgian service personnel fatalities. The subtext was an effort to bring South Ossetia back into the fold.

In 2007, Saakashvili was directly challenged by his opposition in the streets of Tbilisi, reflecting growing disillusionment with the president and his government, a product of the lack of progress in the effort to reunify the country, but also of the marginalization of opposition views and the growing concentration of power in an increasingly narrow group around the president. Having another crack at Georgia's unresolved conflicts may have seemed attractive to the leadership as a result.

Turning to the international situation, after a brief honeymoon in 2005 in which Russia contributed constructively to the resolution of the Ajaria crisis, Russian-Georgian relations deteriorated rapidly, not least over the worsening situation in South Ossetia, as Georgia gradually attempted to reassert its sovereignty over the secessionist region. Georgia's accelerating rapprochement with European and transatlantic institutions were construed as an effort to (re-)join the West, exiting the Russian sphere, and were so perceived in Moscow. By 2006, Russia had tightened visa restrictions on Georgian migrants and was boycotting key Georgian exports such as wine and mineral water. The personal relationship between the two presidents took a drastic turn for the worse. Georgia spared no effort in underlining its independence from Moscow and its resistance to Russia's claim to pride of place in the geopolitics of the former Soviet region.

One key element of Georgia's courting of the West was its approach to international security operations, notably its engagement in Kosovo, Iraq, and, potentially, Afghanistan. This reflected an effort to create an impression that it was a producer of security as a willing and effective partner of NATO and the United States.

The payoff was to be movement down the track towards membership of NATO. In this endeavour, they were encouraged by the Bush administration. The decision taken by the NATO Council in Bucharest in April 2008, which denied Georgia's application to join the Membership Action Plan – widely perceived to be a guarantee of eventual membership – but guaranteed Georgia's membership at some point, provided decidedly mixed messages to the protagonists. From a Georgian perspective, the promise of membership, coupled with strong support from the Bush administration for Georgia's case, may have reassured Georgia about Western support in the event of Russian action in support of the secessionist territories.

From a Russian perspective, Georgia's (and Ukraine's) courting of NATO was simply unacceptable both intrinsically and because of its potential implications for NATO intrusion elsewhere in the region. Russia had resisted NATO enlargement *per se* from the mid-1990s forward. Although there was little it could do about the first two rounds of enlargement, consid-

eration of enlargement deeper into the territory of the former USSR (Ukraine and Georgia) came at a time when Russia's foreign policy confidence was returning and its claim to primacy in the former Soviet space was becoming more strident. Russian spokespersons, from then President Vladimir Putin to Foreign Minister Sergey Lavrov, made the unacceptability of Georgian (and Ukrainian) NATO membership blindingly clear in the months subsequent to Bucharest.

On the other hand, NATO did not extend a security guarantee to the two aspirant states in the interim. So, Russian policy makers may have sensed a window that was still open, but that might close. And it was clear that Russia was increasingly aware of the growing weakness of the United States and the corresponding hollowness of the US rhetoric of security support for Georgia. The irony, therefore, is that Bucharest may have encouraged the Georgians to solve their problem unilaterally, while encouraging the Russians to act against Georgia, and quickly.

The Role of Russia

Underlying this shift in the conditions that had served to stabilize Georgia's frozen conflicts was a more fundamental change involving Russia's position in the international and regional distribution of power. Russia had never given up on its claim to a privileged role in the former USSR.

But in its first post-Soviet decade, while Russia had the ability to complicate the situation in neighbouring states significantly, it did not have a reliable capacity to impose outcomes. Its economy had shrunk by approximately 50 per cent, while what remained was largely criminalized by those taking advantage of the haphazard privatization of state assets. In the meantime, the prices of natural resource exports (notably energy) plummeted throughout the decade, depriving Russia of foreign exchange essential to its process of economic reform. While, at the beginning of the 1990s, China's GDP was 60 per cent of the USSR's, in 2004-05, Russia's GDP was 40-50 per cent of China's. Russia's official economy was the size of Mexico's.

Russia's political system verged on disintegration in the early 1990s. At the centre, the presidency and the legislature battled steadily through the early years of the decade, culminating in the assault by the Russian armed forces on their own parliament in October 1993. In the absence of coherent or credible instruction from the centre, the subject regions of the Federation sought to maximize their own sovereignty and control over resources. The first war in Chechnya (1994-1996) indicated that the Russian military had profoundly deteriorated. It had difficulty in containing or overpowering an insurgency in a territory whose population constituted around one per cent of Russia's total. In 1996, the Chechens effectively forced the Russian government into an agreement that granted de facto independence to the territory.

Putin arrived in power with one major objective – to set Russia back on its feet. Much of his first term was devoted exactly to that purpose. The political system was reconsolidated around the executive. Regional powers were curtailed to the benefit of the centre. The legislature was emasculated through changes in proportionality requirements and via the creation of a loyal and dominant electoral bloc. In the economy, the influence of oligarchs was curbed; they accepted domestication, or they went into exile or jail. The state reacquired major stakes in the “commanding heights” of the economy. The reconsolidation was fuelled by unprecedented increases in the prices of energy and other commodities. The military has received substantial additional resources and, although hardly what it was in the Soviet period, it is showing signs of increasing cohesion, discipline, and effectiveness, not least in its intervention in Georgia. Underpinning this recovery was a strong ideological component, and emphasis on Russian national identity and Russia’s status as a great power. This underpinned the Russian claim to predominance in the former Soviet region.

As the Russian Federation made progress in pulling itself together, it began to take on a more assertive role in foreign policy. This was evident across the board in the re-embrace of multipolarity as a concept for understanding international relations, in an increasingly active diplomacy at the United Nations on issues where the Russian perspective differed from that of the dominant power and its Western allies (e.g. sanctions on Iran), and on functional security issues such as missile defence and the Treaty on Conventional Armed Forces in Europe. Within the former Soviet region, Russia showed greater willingness in using the instruments at its disposal to limit Western influence and penetration and to curb the independence of its neighbours. The classic examples of the latter are the apparently political manipulation of energy export to the Baltic states, Ukraine, and Georgia, and also the trade embargo on Georgia mentioned above. More positively, Russia’s growing financial weight was employed in the effort to outbid Western interests on the matter of natural gas export from Central Asia.

In short, well before the 2008 campaign in Georgia, a trend towards a more active and exclusive policy in the region was evident. In acting against Georgia in 2008, Russia sent a clear message, notably to Ukraine, that further progress down the track towards NATO membership crossed a red line. Georgia was a convenient place to make the point, since the risks of military engagement there were several orders of magnitude lower than those implicated in any Russian action in Ukraine.

The Conflict and Its Aftermath

Turning to the chronology of events, Russia responded to the NATO Bucharest Summit Declaration by enhancing its already substantial ties to Georgia’s

two secessionist regions, permitting direct interagency contact between the Russian bureaucracy and their counterparts in South Ossetia and Abkhazia. The usual summertime low-level violence in and around South Ossetia resumed in June and July. However, it was by most reports more intense, and involved more frequent targeting of Georgian villages and security personnel, with the Georgians responding in kind. In July of 2008, the Russian armed forces held large military exercises across the frontier in the North Caucasus. The units involved (notably the 58th Army) remained in place after the exercises were completed and within easy reach of the major Russian route into South Ossetia. In the meantime, Georgia responded to the escalation of violence in and around South Ossetia by concentrating its own military in adjacent regions. Signs that the Georgians might initiate an escalation of the violence in an attempt to resolve the dispute unilaterally met with repeated remonstrances by foreign governments to the Georgian authorities not to give the Russians an excuse to invade by acting against Tskhinvali.

What happened on 7 August (e.g. the timing of Russian entry into South Ossetia and whether Georgia initiated the renewal of war or was reacting to Russian aggression) remains in dispute. But it appears that on the evening of that day, the Georgian armed forces launched a massive assault on Ossetian positions and on the city of Tskhinvali. Georgian artillery caused substantial damage to civilian residences and infrastructure and numerous civilian and military casualties, including, reportedly, a number of Russian peacekeepers. They succeeded in clearing much of the city of their opponents. The next day, claiming that an act of genocide and ethnic cleansing was occurring, and citing their duty to defend Russian citizens and their right to respond to attacks against their peacekeepers, Russia counterattacked, clearing Georgian forces out of the region in two to three days. They were followed by Ossetian militias who “cleansed” the Georgian villages of South Ossetia. Russian forces present in these areas did not interfere.

The Russians also advanced on the principal Georgian town south of the contested region, Gori, bombing it heavily and then entering it to destroy Georgian military bases and materiel. In so doing, they cut the major land transport links between central Georgia and the Black Sea. They then turned east in a slow advance towards Tbilisi itself. Russian air power inflicted substantial damage on civilian targets during this operation. Meanwhile, the Abkhaz took advantage of Georgia’s difficulty to take those small sections of their region (notably the Kodori Gorge) that had remained under Georgian control since the end of the war in Abkhazia. Russian forces pushed out of Abkhazia and into north-western Mingrelia, and moved further south to establish positions in Georgia’s major port, Poti, where they took the opportunity to destroy those elements of Georgia’s navy and coast guard that were in their moorings.

EU mediation under the leadership of President Nicolas Sarkozy of France produced a ceasefire four days after the beginning of the war. In Oc-

tober, Russian forces outside the secessionist enclaves withdrew into South Ossetia and Abkhazia. The EU deployed a monitoring mission to Georgia to attempt to ensure there was no resumption of hostilities.

In the meantime, Russia recognized the two secessionist enclaves in Georgia and established diplomatic and security relations with them. The latter included an agreement to establish bases and to garrison each region with over three thousand troops.⁴

National, Regional, and International Implications

It is of course too early to make confident statements about the implications of these events. However, it is reasonable to assume that, for Georgia, the issue of reunification is off the table for the foreseeable future, as is that of NATO membership. Russian occupation of parts of de jure Georgian territory is more or less permanent. In the short term, Georgia faces a significant humanitarian challenge in dealing with large numbers of newly displaced civilians. The Georgian military has been deeply damaged and will take a considerable amount of time to repair.

The Georgian economy has also suffered severely. Estimates of actual cost of war damage run to one billion US dollars. There is also a potential long-term cost arising from the deterrence of further investment in Georgia's transit corridor. Ironically, the economic balance of the war may be positive in the mid-term. Since European and international institutions and their members were incapable of producing an effective response to the war itself, they have compensated with aid packages that dwarf the levels of assistance provided to Georgia in its eighteen years of independence. On the other hand, the war may slow the further development of energy transport infrastructure in Georgia, as investors may be deterred by enhanced risk and as partner states in Central Asia seek to avoid alienating Russia.

While the immediate political effect of the defeat for Georgia was a rallying around the flag, there is growing evidence that the country's political class is questioning just how it got into this mess and, perhaps more importantly, who was responsible. One might expect in the medium term that this might translate into reinvigorated opposition to the government of President Saakashvili, not least from prominent former allies including former Speaker of Parliament, Nino Burjanadze, who has recently formed a new opposition party. That may, in turn, produce a degree of instability in Georgia's domestic politics.

Turning to Russia, the conflict produced a dramatic consolidation of elite and public support for the Medvedev-Putin leadership and has reduced even further the possibility of the emergence of an effective opposition to

4 For a recent account of civilian implications of the conflict, see Amnesty International, *Civilians in the Line of Fire: The Georgia-Russia Conflict*, London 2008.

their rule. On the other hand, the short-term economic consequences of the Russian attack on Georgia were considerable. The Russian stock market declined dramatically in the days following the invasion, while there was a substantial increase in capital flight. In this sense, the conflict in Georgia was an early precursor of the impact of the current global economic crisis on Russia. Russian actions have damaged the country's diplomatic position with respect to Europe and the United States and make it more difficult to pursue mutually beneficial projects with the West.

In the CIS, it is reasonable to assume that one impact of the war will have been to dampen the aspirations of some of the republics to exit the Russian orbit. Russia's actions signal a willingness to do what is necessary to maintain Russia's influence in its "near abroad".

This last point raises important questions about the European security space and also European security strategy. Russian actions and their consequences also call into question the existence of a common European security space; Russian policy-makers appear to be pursuing a separate and to some extent exclusive sphere of influence in the former Soviet space. The war in Georgia also raises disturbing questions about the principle of co-operative security, which rests on the proposition that states in the European space deal with security issues through confidence building, dialogue, and compromise. Finally, Russia's invasion of Georgia challenges the OSCE norm of territorial integrity, leaving aside UN Charter norms on the aggressive use of force. Taken together, and viewed in the context of Russian discourse on multipolarity, Russian behaviour suggests a return to a rather traditional balance of power/sphere of influence logic of international politics.

In a more general sense, the war in Georgia may tell us something about the potential for escalation from the rekindling of frozen conflicts. Although one should be careful about drawing general inferences from single cases, at least in this instance the potential for direct escalation would appear to be limited. However, the conflict has increased tension between Russia and its Western interlocutors. The latter have responded with limited retaliatory measures (e.g. the restriction of EU-Russia bilateral discussions, and the acceleration of an agreement on the stationing of missile defence systems in Poland). The question here is whether action and retaliatory action may generate a dynamic of deterioration, as was suggested by Russian threats to deploy missile systems in Kaliningrad. The next phase will be the NATO meetings in Brussels in December, where the United States, in response not only to the war, but also to subsequent Russian rhetoric and policy, is reportedly planning to attempt to convince its allies to admit both Georgia and Ukraine directly to NATO, bypassing the Membership Action Plan phase. There is no question that any such action would provoke a very hostile reaction in Moscow. In this respect, the post-conflict dynamic carries a serious degree of risk to European security.

Mention of NATO brings me finally to the role of international organizations in conflict resolution after the Georgian conflict. Certainly, the OSCE and the UN did not cover themselves with glory during and immediately after the war itself. That is not surprising, given the organizations' decision-making rules and the presence of Russia at both tables. The EU, because of internal divisions on appropriate strategy towards Russia, also reacted in a lacklustre fashion, but, on the other hand, demonstrated its considerable potential in mediation and post-conflict stabilization. In addition, the EU, in co-operation with the United States and multilateral financial institutions, has played a key role in softening the economic consequences of the conflict for Georgia. The UN, working together with the OSCE and the EU, is in the early stages of attempting to establish a dialogue in Geneva among the parties to Georgia's disputes. UN institutions and the EU do have the potential to facilitate this dialogue through conditional assistance. However, the key remains whether Georgia, the secessionist regions, and Russia can find common ground they all share. International institutions provide a forum where they can make that effort.

Turning to the future, and to other potential hotspots, one ironic aspect of the outcome in Georgia is that it may have enhanced prospects for complete settlement of other frozen conflicts in the region, and notably in Azerbaijan. Since the summer of 2008, Russia has played an increasingly active role as a chair of the Minsk Group in attempting to facilitate a settlement, while highlighting the importance of the OSCE mediation process. This may reflect a Russian desire to show it can play a constructive role in regional security in the Caucasus. In the meantime, the war in Georgia may have softened Azerbaijani views on a compromise settlement of the Karabakh dispute. The war made clear the risks of leaving such conflicts to fester and has thereby enhanced incentives to achieve a resolution. Moreover, dealing with the change in the regional balance occasioned by the assertion of Russian power may suggest the wisdom of a more co-operative attitude towards Russian diplomatic initiatives there. Armenia, too, has shown considerably greater flexibility in its diplomacy, notably towards Turkey. This may be a result of a concern that excessive reliance on Russia for its security poses larger risks for Armenia. Regarding the multilateral process, however, what is important here is the shift in the attitudes of states and their allies towards the conflict, rather than the proactivity of the international organization responsible for producing a settlement. In this sense, and analogous to the nascent dialogue on Georgia, the role of the OSCE is rather modest: the provision of a forum and a process whereby states (and non-state de facto authorities) can work towards an outcome that is mutually acceptable.

The OSCE Mission to Georgia and the Status of South Ossetia¹

The fighting in August 2008 over the restoration of Georgian state authority in South Ossetia, the territory's declaration of independence, and its recognition as a state by the Russian Federation mark the failure of multilateral efforts to resolve this conflict within the framework of the OSCE. Since 1992, the main means of pursuing these efforts has been the CSCE/OSCE Mission to Georgia. The Mission's mandate of 29 March 1994 considered dealing with the South Ossetia conflict to be its key task.² This involved supporting efforts to peacefully settle the conflict and monitoring the Joint Peacekeeping Forces (JPKF), whose personnel was supplied in equal numbers by Russia, Georgia, and North Ossetia (with South Ossetian troops serving in the North Ossetian contingent). Recent developments appear to have predecided the status question (the political and legal relationship between Georgia and South Ossetia) to the favour of one party, and there seems little likelihood that a joint "peacekeeping" operation could be feasible in the area in the foreseeable future. The OSCE Mission continues to exist, but it remains to be seen how much it will be able to continue to concern itself with South Ossetia.

A look at the Mission's early years raises the question of how much the seeds of recent developments lay in earlier decisions, actions, or failures to act. Of particular interest is the issue of how the status of South Ossetia was dealt with, as it is of decisive importance for any definitive resolution.

From the start, the Mission had to deal with a situation in which Georgia and South Ossetia were pursuing clearly defined and starkly contradictory goals: the reintegration into the Georgian state, on the one hand, and independence from Georgia and union with North Ossetia – i.e. ultimately with Russia – on the other. Russia itself had a variety of interests in the situation – in part

¹ The opinions expressed in this contribution are the author's alone.

² Cf. CSCE, Permanent Committee, Vienna 1993, Journal No. 14/Corrected reissue, 29 March 1994, Annex 1, *Modalities of the CSCE Mission to Georgia*. On the tasks and activities of the Mission, see: Hansjörg Eiff, Die OSZE-Mission für Georgien [The OSCE Mission to Georgia], in: Institut für Friedensforschung und Sicherheitspolitik an der Universität Hamburg/IFSH (ed.), *OSZE-Jahrbuch 1995*, Baden-Baden 1995, pp. 179-186; Volker Jakoby, The OSCE Mission to Georgia, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 163-170; Victor-Yves Ghebali, The OSCE Mission to Georgia (1992-2004): The failing art of half-hearted measures, in: *Helsinki Monitor* 4/2004, pp. 280-292; Marietta König, The Georgian-South Ossetian Conflict, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 237-249; and Roy Reeve, The OSCE Mission to Georgia and the Georgian-Ossetian Conflict: An overview of activities, in: *Helsinki Monitor* 1/2006, pp. 57-68.

mutually contradictory: its influence in Georgia; its role as the protector of South Ossetia; its wish to secure the North Caucasus (Chechnya conflict); its position in the international system; its interest in projecting power beyond its own boundaries. Russia was the power with the greatest influence on how the conflict would ultimately be resolved. But this power was not monolithic. Russian Caucasus policy was influenced by a range of different forces in government, parliament, and the public. In the period immediately after the dissolution of the Warsaw Pact and the withdrawal of the Soviet Army from Central Europe, Western Europeans in contact with Russian diplomats and military officers in Georgia could occasionally detect a loss of face and a hardening of attitudes – “this far and no further”. For the resolution of the South Ossetian conflict, the main problem was whether Russia would remain neutral.

For the OSCE and its Mission, the task at hand was to sound out opportunities for compromise and to promote areas of common interest between the parties. Within this, the Mission had a certain freedom to follow its own initiatives. However, the Mission and the OSCE’s central permanent institutions in Vienna, which largely focused on administrative issues, were not in a position to implement such initiatives on their own. The OSCE as an organization could neither offer material incentives nor threaten sanctions. Its comparative advantages, on the other hand, were neutrality, transparency, and a high international profile. To implement anything in the Caucasus, the OSCE relied upon Russian willingness to support the Organization, as well as the support of other heavyweights within the OSCE, or perhaps their support in opposing Moscow in the absence of Moscow’s support.

In early 1994, the Mission had two political areas of activity: One was to promote co-operation between the parties on practical matters where a potential existed for common interests (e.g. trade, transport, refugee return) – i.e. confidence-building; the other was to facilitate the solution of the South Ossetia status question. In all likelihood, more rapid progress would be made in dealing with the practical questions rather than the status issue. And at first, it appeared that it would be possible to make progress at a surprisingly rapid pace. Only a month after an initial meeting, instigated by the Mission, and attended by representatives of the Georgian leadership and the leaders of North and South Ossetia in Vladikavkaz on 12 May 1994, a “Joint Statement” was signed in the North Ossetian capital, which expressed agreement on the “need to carry out joint activities” in eleven areas.³ The satisfaction at this result proved to be premature, when, after only days, the South Ossetian side declared that it had not been empowered to sign the agreement and was re-

3 Report of the Mission of 15 June 1994, with the text of the Joint Statement of 14 June 1994 in Russian and English. The areas of joint activity are: stabilization of the situation in the zone of conflict; combating organized crime; restoring Tskhinvali’s transport links to other towns; economic co-operation; restoring residential buildings; public health; ensuring safe movement; the Joint Control Commission; supporting the CSCE/OSCE’s Mission in monitoring the peacekeeping forces; refugee return; seeking a political settlement.

voking its signature. This was apparently the result of a discussion in the South Ossetian “parliament”, the Nyhas, which thereby disavowed its deputy speaker, Znaur Gassiev, who had signed the agreement for South Ossetia. In this way, we learned that, while there was no unanimity in South Ossetia, the hard-liners were in the majority. For some Ossetians, things were perhaps going too fast. Tskhinvali was watching developments in Abkhazia closely. There was caution about reaching a settlement only to see the Abkhazians make a “better” deal. Nonetheless, it soon became apparent that in areas where South Ossetian and Georgian interests agreed or were parallel, a certain degree of co-operation could develop on a pragmatic basis even without formal regulation. Ossetians living in the disputed territory and those many more who lived in other parts of Georgia were dependent upon direct contacts with each other; likewise, Georgians living in South Ossetia needed their connection to the Georgian heartland. Agriculture and industry in South Ossetia and the bordering areas were mutually interlinked. Yet these positive developments remained largely unstructured. A formal agreement like that of June 1994 would have created the foundation for sustainable progress and made mediating between the parties easier. In the area of combating organized crime – one of the issues on which the joint statement had said that progress would depend on co-operation – it remained merely theoretical. Instead, this became an area where an ominous “co-operation” between criminal elements developed as it had in other former Soviet territories whose legal status was unclear and where unstable power relations prevailed.

While confidence-building measures were absolutely vital, they could not replace a resolution of the status question, which had to be clarified if a lasting settlement to the conflict was to be found. As this was the most difficult of the contested questions, and a protracted negotiation process was expected, it could not be put off for too long. The relative calm that still reigned in Georgia in 1994 owing to the exhaustion of the parties who had fought in Abkhazia and South Ossetia could not be expected to last forever. The *de facto* loss of two territories, and the need to deal with over 200,000 refugees was an enormous political burden for a small country such as Georgia to bear, and one that becomes harder to deal with the longer it lasts. Resolving the status question would remove the oppressive uncertainty. The two conflict parties also expressed their interest in getting to grips with the status question immediately, even if they did seek opposite outcomes. President Eduard Shevardnadze of Georgia called upon the Mission to produce its own proposal. The task of drawing it up was taken on by Rolf Welberts, an expert in international law who had already drafted a proposed settlement for the status of Transdnistria for the CSCE Mission to Moldova. Welberts and an Austrian expert in international law, Michael Geistlinger, who had been commissioned by the Secretariat in Vienna, drew up a proposal in the second half of 1994 that combined the principles of territorial integrity of recognized states and the right to self-determination of peoples by recommending that

South Ossetia should be granted the greatest possible degree of (political) autonomy within the Georgian state, i.e. a sort of “internal” self-determination.⁴ The proposal envisaged the division of responsibilities in detail. According to this plan, South Ossetia, while not becoming an independent state, would gain a significantly stronger legal and political position than it had ever enjoyed in the Soviet Union or previously. In addition, a special border regime was to make the borders between South and North Ossetia as porous as possible, thus facilitating the ability of Ossetians on both sides of the Russian-Georgian border to share a common existence. The text of the proposal was discussed intensively with the parties on several occasions, and their alternative suggestions were incorporated to the extent that they were compatible with the key aspects of the proposal. In the OSCE, the proposal was welcomed by the USA, the EU, and Russia, among others. As an initial step, before the proposal was presented to the parties, the Mission had presented it to Moscow for high-level discussion in the foreign ministry, where the response was positive. The only objection came from Turkey, which believed that the proposed resolution presented a danger to Georgia’s internal stability.

In Georgia, while the proposed resolution of the status question did not receive unanimous approval, it was welcomed by influential politicians, including, above all, President Shevardnadze, whose support was particularly critical. At a meeting between Georgian, South Ossetian, and North Ossetian politicians instigated by the Mission and held in Vladikavkaz on 1 March 1995, the spokespersons of three of the four Georgian parties represented supported the proposal. Only the representative of the Republican Party was opposed.⁵ Among the Georgian public, however, support for the proposal was muted. It was not easy for Georgians to accept the need to devolve state power to ethnic groups that were struggling fiercely for independence. Further difficulties were associated with defining South Ossetian territory, as the province contained both Ossetian and Georgian villages. Nonetheless, it was clear that, overall, conditions in Georgia were positive for further attempts to convince the population of the merits of the proposal.

As expected, the South Ossetians rejected the proposal, but were open to further discussion. This willingness found concrete expression when the South Ossetian parliament invited the head of the OSCE Mission to visit it and discuss relevant matters with parliamentarians. The meeting took place on 29 March 1995 in a packed house and in the presence of Russian civilian

4 Cf. CSCE Mission to Georgia, *Draft Proposal on a Future Political Status for South-Ossetia*, Tbilisi 1994.

5 The participants on the Georgian side were Zurab Zhvania, General Secretary of the Union of Citizens of Georgia (2004 Prime Minister); Irina Sarishvili-Chanturia, Chair of the National Democratic Party; Akaki Asatiani, President of the Union of Georgian Traditionalists; Vakhtang Khmaladze, Leader in Parliament of the Republican Party of Georgia; and representatives of South and North Ossetia at a similar level. The Mission also invited three representatives of the Russian government to take part. Cf. Report of the OSCE Mission of 6 March 1995.

and military observers. While a spirit of seriousness prevailed, the meeting resulted in no change in positions.

In procedural terms, the situation had, however, changed fundamentally months ago. Thanks to a four-party agreement signed on 31 October 1994, the status question had also become the responsibility of the Joint Control Commission (JCC) for South Ossetia, and, as would become more evident in the spring of 1995, Russia had begun to set the agenda, both inside and outside the JCC.⁶ The JCC had originally been established in the Sochi Agreement of 24 June 1992, which ended the fighting in South Ossetia, and charged specifically with monitoring the ceasefire. In the new agreement, signed in Moscow by representatives of Russia, Georgia, and the two Ossetias, the responsibilities of the JCC were expanded (following a Russian proposal) to encompass all aspects of conflict settlement, including the facilitation of a “full scale political settlement” of the conflict.⁷ The cooperation of the OSCE Mission in this act was based on its mandate, which instructed it to “be actively involved” in the JCC. The new agreement gave the Mission an opportunity to do precisely that, although it needed considerable effort to ensure that this provision was included. The Georgian leadership was helpful here, insisting that the Mission play a full role. Even the South Ossetians said that they would not join the JCC if the Mission were not included. The Russian foreign ministry had initially only envisaged cooperation between the JCC and the OSCE Mission as an institution external to the process. If that had been accepted, the Mission might have been marginalized. Within the JCC, however, albeit more or less under Russian direction, it was able to exert an influence. Nevertheless, at the same time, efforts to install the OSCE Mission as the chair of a working group within the JCC for political settlement failed. To bring that about this would have required more engagement from Western governments in Moscow.

That the path to a resolution of the South Ossetia status question would be anything but straight became abundantly clear in the spring of 1995 at the latest when the Russian side attempted to take matters into its own hands outside the JCC by holding direct talks with Georgia and South Ossetia. At the same time, Russia tried to take control of the Abkhazia negotiations. The OSCE and its Mission were neither involved nor officially informed of this. Russia had a particular interest in approaching Georgia at this moment, as, in order to fulfil its obligations under the Treaty on Conventional Armed Forces in Europe (CFE), it required Georgian force levels to be transferred (in part)

6 A member of the South Ossetian “government” claimed that a representative of the Russian foreign ministry had offered the South Ossetians the choice between “either the OSCE or Russia”.

7 *Agreement on the Further Development of the Process for the Peaceful Settlement of the Georgian-Ossetian Conflict and on the Joint Control Commission; Protocol on the Joint Control Commission for the Settlement of the Georgian-Ossetian Conflict*, both signed in Moscow on 31 October 1994. In both documents, the passage referring to the Mission states that: “The OSCE Mission in Georgia will take part in the work of the JCC”.

to itself to cover the troops it had stationed in Georgia. The Russian foreign ministry agreed federal status proposals for both territories with the Georgian leadership, modelled on the status of North Ossetia within the Russian Federation. In return, the Georgian concession, as agreed in a treaty initialled on 23 March 1995, was to have been to allow Russian troops to remain at four Georgian garrisons for 25 years. This treaty was to be signed and ratified following the resolution of the two conflicts.⁸ According to Georgia's wishes, the significance of the process was to have been underlined by the holding of an international conference under the aegis of the OSCE to mark its conclusion. In the case of South Ossetia, the preparations went as far as the drafting of an "Agreement on the Georgian-Ossetian Settlement",⁹ in which South Ossetia was promised complete state authority in its territory within a federal Georgian state. A three-way catalogue of competencies – South Ossetian competencies; joint competencies of the federal state and the territorial entity; federal competencies – described the division of powers in detail. This federal division of responsibilities differed only slightly from the breakdown of roles contained in the Mission's draft status proposal, and corresponded in essence to the federal constitutions of existing European states. This revealed that international law offered only a narrow number of options for resolving the South Ossetia status question. One peculiarity in Moscow's proposal was the mention of the Russian Federation acting as a "guarantor" of the agreement. The signing of the document was to be witnessed by the President of the Russian Federation and representatives of the UN Secretary-General (although the United Nations had not concerned itself with the conflict up until then) and the OSCE.

However, this Russian-led attempt to find a resolution was destined, like the one concerning Abkhazia, to fail. It was almost impossible to reconcile it with South Ossetian expectations, and the South Ossetians apparently saw no need to adjust their expectations to fit the Russian proposal.

Even in Georgia, this attempt at settling the situation, in which the presidential cabinet had nonetheless been involved, ultimately had no success. Georgia was at that time discussing the adoption of a new constitution, and there was considerable opposition to a federalization of the country, and particularly to the granting of a special status to South Ossetia. The constitution adopted on 24 August 1995 eventually brought about a compromise by avoiding federalization across the board but rather dividing Georgia into nine regions and two "Autonomous Republics" – Abkhazia and Ajaria. However, in the new constitution, South Ossetia remained a part of Shida Kartli, one of the nine regions. This demonstrated that Georgia considered the situation in

8 The treaty governing the stationing of Russian troops was to be signed before 16 August 1995, which marked the start of a three-month inspection period under the CFE Treaty regime, and ratified before 16 November 1995, the deadline for the partial transfer of Georgian maximum levels of holdings of equipment limited by the CFE Treaty (treated-limited equipment, TLE) to Russia. This did not come to pass.

9 *Soglashenie o Gruzino-Osetinskom Uregulirovanii*, Proekt, 4 May 1995.

South Ossetia to be less problematic than the other two regional conflicts, which, with hindsight, is particularly astonishing as regards Ajaria. But this was no more than a snapshot of the Georgian governments constitutional policy at that moment in time. There was no obstacle to further negotiations on the status of South Ossetia, as the constitution also postponed the final resolution of the “territorial state structure” until “after the complete restoration of the jurisdiction of Georgia over the whole territory of the country”.¹⁰

The problem thus remained unresolved after this effort to deal with it by means of direct contacts between Russia and Georgia.

Further negotiations took place starting in 1996 under Russian leadership in another new format: a group of political experts external to the JCC but retaining the JCC’s quadripartite format, with the OSCE as the fifth participant. Three meetings between President Shevardnadze and the highest representative of South Ossetia, Lyudvig Chibirov, in Vladikavkaz (North Ossetia, 27 August 1996), Java (South Ossetia, 14 November 1997), and Borjomi (Georgia, 20 June 1998), brought about improvements in the atmosphere and boosted the work of the political experts. The latter’s efforts led to the signing of the draft of an “Agreement (Declaration) on Basic Principles of Political and Legal Relations between the Sides in the Georgian-Ossetian Conflict”¹¹ in Baden (Austria), as an interim settlement. The document was signed by the representatives of both parties, Russia as mediator, and North Ossetia and the OSCE as additional participants. Of all the attempts at resolving the conflict, the “Baden Document” came closest to being successful. Sections whose wording had been agreed upon were printed in bold type. There was no controversy regarding the stipulations governing co-operation in areas of common interest, which were similar to but more detailed than the OSCE’s failed 1994 effort. With regard to the status question, the following principles were put beyond dispute: the territorial integrity of Georgia, the right to self-determination, South Ossetian autonomy, and security guarantees for the demilitarization of the conflict zone. Where agreement could not be reached was over the exact form that South Ossetian autonomy would take and the role of Russia as the guarantor of the agreement. It also became clear here that there was no way round the basic principle of the greatest possible autonomy for South Ossetia in a federal Georgia if a serious attempt was to be made to resolve the conflict. However, the Baden Document, turned out to be another false start. The main reason for the failure of this initiative was the Georgian demand for additional guarantors besides Russia – a demand that Russia categorically rejected. Tbilisi’s calculation here appeared to be that – with the Chechnya conflict at its height – Russia would increasingly become weaker.¹²

10 *The Constitution of Georgia*, Article 2, para. 3, available online at: http://mfa.gov.ge/files/37_57_318646_constitutiont.pdf

11 Draft dated 13 July 2000. For further details, see: *Georgia: avoiding war in South Ossetia*, ICG Europe Report No. 159, Tbilisi/Brussels, 26 November 2004.

12 Information provided by participants, October 2008.

Following the Baden meeting, there have been three further meetings of the political experts' group at the invitation of the respective OSCE Chairmanships, the most recent in The Hague in 2003, to discuss the Baden Document. The then Head of the OSCE Mission to Georgia, Roy Reeve, recalled later that "however, the overall context made it impossible to achieve substantial progress".¹³ Among other factors that he considered as barriers to achieving progress in the status question, Reeve singled out the economic interests of many actors in international smuggling via South Ossetia. Georgian-Russian relations deteriorated noticeably, while the replacement of Lyudvig Chibirov by Eduard Kokoity and the change of regime in Georgia had a negative impact on the relationship between Georgia and South Ossetia. Armed violence returned to the previously "frozen" South Ossetia conflict in 2004.¹⁴ With this, the prospects of a peaceful negotiated settlement dwindled rapidly, before being utterly destroyed by the catastrophe of August 2008.

In the light of the latest developments, the ten years during which the conflict was at least frozen appear to have been a waste of time. None of the parties involved worked hard enough to resolve it during this period.

The policy line taken by Russia was not clear enough to avoid arousing mistrust. Moscow's repeated assertions of its support for Georgia's territorial integrity were undermined by measures such as the mass handout of Russian passports to Ossetians. Russia's national interests in power in the region were too pronounced for it to play the role of sole mediator and sole guarantor as it would have liked.

By omitting to give a clear definition of the status and the borders of South Ossetia within Georgia, Georgia failed to convince that it was serious about its oft-repeated assurances that South Ossetia would receive the greatest possible degree of autonomy within Georgia.¹⁵ The treatment of South Ossetia in the constitution of 1995 was not conducive to persuading the Ossetians that Georgia's promise to offer the greatest degree of self-government was genuine.

On the South Ossetian side, there was a lack of willingness to compromise, which was something that only Russian influence could change.

The OSCE's approach was described by an expert as "systematic policy of half-hearted measures, viz. decisions appropriate in essence, but whose

13 Reeve, cited above (Note 2), p. 60.

14 For more information, see: Marietta S. König, Not Frozen but Red Hot: Conflict Resolution in Georgia Following the Change of Government, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 85-96; Lara Sigwart, Der südossetische Konflikt: Eskalation nach der Rosen Revolution [The South Ossetia Conflict. Escalation after the Rose Revolution], in: *Osteuropa* 7/2007, pp. 81-89.

15 Cf. ICG Europe Report, cited above (Note 11).

execution is not seriously supported”,¹⁶ and Western diplomatic efforts in this connection summed up as “complacent passivity”.¹⁷

The South Ossetian conflict, more than the Abkhazian conflict, was treated in Western capitals as a local problem and its potentially explosive nature underestimated.

It took too long to recognize that Georgia had become a locus of new tensions in relations between Russia and the West, and that the separatist territories were the ace up Moscow’s sleeve that it could use to hamper Georgia’s increasing pro-Western orientation in security policy.

The case of South Ossetia could be seen as a textbook example of how important it is in a conflict of this kind that an institutionally strong organization can implement a truly multilateral, neutral operation that is effectively supported by the states involved, without the interference of national interests. In its current form, the OSCE is a poor candidate for the job.

16 Ghebali, cited above (Note 2), p. 281.

17 Ibid., p. 284.

Russia's Response to Georgia's Military Operation in South Ossetia¹

Having declared a unilateral ceasefire on 7 August 2008, Georgia launched a large-scale military offensive on the night from 7 to 8 August on the sleeping city of Tskhinvali, the capital of the de facto independent territory of South Ossetia. Even though military provocations from both sides have been more or less constant – differing only in the level of escalation – they intensified throughout 2008. In order to “restore the constitutional order”,² the Georgian army launched a large-scale military operation, during which it bombarded targets with heavy artillery and Grad rocket launchers. Many non-military buildings were destroyed, and there were many victims among the civilian population. Russia sent troops in response to this crisis, and after several days the Georgian army was forced out of Tskhinvali as a result of Russia's “peacekeeping operation to force Georgia to peace”.³ According to official Russian explanations, in order to force the “regime” of Mikhail Saakashvili to peace and to prevent possible counterattacks, the Russian army had to strike key military objectives throughout Georgia, including airports and railways, thus sending its “peacekeepers” much further into Georgian territory. However, “peace enforcement” operations always produce civilian victims and human-rights abuses.

In this short description, I intentionally leave out the exact timelines of military actions, numbers of buildings destroyed, displaced persons, refugees, and killed and injured on all sides involved, as it would take much more time to objectively and precisely assess the situation than is possible at the time of writing.

After this crisis, the events developed as follows. On 12 August, a ceasefire plan was endorsed by President Dmitry Medvedev and the French President, Nicolas Sarkozy, which was signed by Georgia on 15 August and by Russia on 16 August.⁴ On 20 August, the US and Poland signed an agreement to place a US missile defence base in Poland. On 26 August, the Russian president signed decrees on the recognition by the Russian Federation of

1 The author thanks Emma Hauer for providing valuable research support.

2 President Mikhail Saakashvili, cited in: Uwe Klussman, The Story of Tskhinvali's Resistance, in: *Spiegel Online*, 26 August 2008, at: <http://www.spiegel.de/international/world/0,1518,574516,00.html>.

3 Cf. *Stenogramma vistupleniya i otvetov na voprosi SMI Ministra inostrannikh del Rossii S.V. Lavrova* [Shorthand Record of Statement and Answers to Questions from the Mass Media by the Minister of Foreign Affairs of the Russian Federation S. V. Lavrov], Moscow, 13 August 2008, at: <http://www.mid.ru>.

4 The text of the peace plan can be found at: General Affairs and External Relations Council, Brussels, 13 August 2008, pp. 6-7, at: http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/gena/102338.pdf.

South Ossetia's and Abkhazia's independence, after the leaders of these two republics and their parliaments once again appealed to their Russian counterparts to do this. On 17 September, Russia signed friendship treaties with both South Ossetia and Abkhazia, which was also involved in the conflict, and Russian representatives declared that a military base would be established in Abkhazia in response to the invitation of its de facto president. There is speculation that if NATO does not agree to give Georgia a concrete prospect of membership – the Membership Action Plan – in December 2008 at its summit, the US will establish a military base in Georgia on a bilateral basis. Thus, it is possible to assume that this spiral of provocation, in which Russia, Georgia, South Ossetia, the US, and the EU are involved, will continue to grow.

This article rejects from the outset conspiracy theories that claim that Russia prepared this war long ago and that its troops were already in or on the way to Tskhinvali before Georgia launched its attack on South Ossetia. It also rejects conspiracy theories that claim that the US encouraged President Saakashvili to take the decision to resolve the “frozen” conflict with South Ossetia by violent means in order to free its path into NATO. These two main conspiracy theories and other speculations of this kind were spread in the US, European, and Russian mass media. Such theories are currently finding much fertile soil, because a great deal remains to be clarified at the time of writing: Why Georgia took the decision to bombard Tskhinvali, especially given that in the evening on the 7 August it declared a unilateral ceasefire; what role NATO aspirations played; how well the President of Georgia – Mikhail Saakashvili – controlled his military forces; why Russia did not prevent Georgia's military operation and did not stop its own military operation after Georgian forces were pushed out from Tskhinvali; and what role Russian-US or even Russian-NATO disagreements (in particular on further NATO enlargement, which could include Georgia and Ukraine among others) played in predetermining the way that Russia responded to Georgia's military operation. Both main sides of the conflict – Georgia and Russia – have accused each other of genocide, of carrying out “*zachistki*” (“cleansings”) of civilians, and of military crimes. The rhetorical and “informational” war between Georgia and Russia clearly demonstrates what Bismarck meant when he said that people never lie so much as after a hunt, during a war, or before an election.

This article focuses on Russia's response as explained by its official representatives, the reaction of the Russian mass media and the public discussions that took place, and the opinion of the population, as demonstrated by recent opinion polls. Additionally, it provides an overview of Russia's interests in the region, its motives for action, and background factors that could have played their role in determining how Russia responded during this crisis. The historical determinants and development of the conflict between South Ossetia and Georgia and Abkhazia and Georgia will, however, not be

considered, as much has already been written on this subject.⁵ The main aim is to present the reader with the way this situation was seen in Russia. The final section draws some general conclusions regarding the Russian response to Georgia's military operation in South Ossetia and presents some general assessments of developments following the official ceasefire between Russia and Georgia.

Russia's Official Position

At first, Russia explained the need to conduct a "peacekeeping operation to enforce Georgia to peace" in terms of the latter's act of "genocide" in South Ossetia.⁶ In the words of Russian President Dmitry Medvedev: "Our main mission was to prevent a humanitarian disaster and save the lives of people for whom we are responsible, all the more so as many of them are Russian citizens."⁷ As the international community did not find the "genocide" argument convincing, Russian officials later referred to Chapter 51 of the UN Charter and argued that because Russian citizens suffered and Russian peacekeepers⁸ were attacked, Russia's operation was conducted with the purpose of self-defence. Russian forces not only moved into Tskhinvali to bring an end to the violence there, but they also entered Georgian territory "to suppress the Georgian military's aggressive designs".⁹ In spite of the large scale of the operation, however, Russia does not consider itself to be a party to the conflict.¹⁰

President Medvedev explained Russia's sequential recognition of independence of first South Ossetia and then Abkhazia, by saying that Russia was "obliged to recognize their independence after people were killed [...] this step was the only way we could prevent further bloodshed, prevent further escalation of the conflict, and to prevent the deaths of thousands of innocent civilians [...]" The second reason is that every people has a right to self-

5 See, for example, Bruno Coppieters et al. (eds), *Europeanization and Conflict Resolution – Case Studies from the European Periphery*, Ghent 2004.

6 See, for example, President Medvedev's interview with BBC Television, Sochi, 26 August 2008, at: http://www.ln.mid.ru/brp_4.nsf/e78a48070f128a7b4325699005bcbb3/3705d761711f0f26c32574b20022cf83?OpenDocument.

7 Ibid.

8 In 1991, a military conflict ignited between the Georgian army and South Ossetian forces. In 1992, a ceasefire was agreed, and the Joint Control Commission (JCC) was established to observe the implementation of the ceasefire agreement. The JCC consists of representatives of Georgia, Russia, South Ossetia, and North Ossetia. The JCC is in charge of a peacekeeping force, which also consists of representatives of these four parties (but in practice of just two of them – Georgia and Russia).

9 Interview with BBC Television, cited above (Note 6).

10 *Russian Minister of Foreign Affairs Sergey Lavrov Commentary on the Speech of British Foreign Secretary David Miliband in Kyiv on 27 August 2008*, Document 1254-27-08-2008, at: http://www.ln.mid.ru/brp_4.nsf/09EEF4DE1D8FDD4BC32574B4001E8521.

determination.”¹¹ After Georgia attacked South Ossetia, representatives of the Russian military claimed that they had found evidence that Georgia had had similar plans to attack Abkhazia. The State Duma and the Council of Federation voted to recognize the independence of the two republics without any objections nor reservations. Even politicians who are usually more critical of the Kremlin approved the policy of President Medvedev and Prime Minister Vladimir Putin.

In general, Russia’s explanations based on international law were neither consistent nor convincing. This is why one may assume that Russia’s response had deeper grounds. In fact, we have already heard similar explanations – in particular “genocide” – regarding the “peace enforcement” operation in relation to Kosovo in 1999. While, in the years since the NATO military operation in Yugoslavia, Russia rejected the use of force and the interference in the internal affairs of another state and insisted on prioritizing international law, the organs of the UN and its decision-making processes, and the principle of territorial integrity, it is conspicuous that Russia used the same rhetoric that applied in the case of Kosovo (“genocide,” “peace enforcement”) to justify its own actions the case of South Ossetia. The parallel to Kosovo became even more clear with Russia’s recognition of the independence of South Ossetia and Abkhazia. In an answer to a BBC journalist, who asked Medvedev, “But when the West recognized Kosovo you were opposed and said it went against international law, and now you are doing exactly the same thing. Is this not hypocritical behaviour?”, the Russian President said: “This is absolutely normal behaviour. My colleagues said to me on many occasions that Kosovo is a special case, *casus sui generis*, as lawyers say. OK, if Kosovo is a special case, this is also a special case.”¹² Therefore, while Russia had previously held a strong position of adherence to the existing principles of international law – of non-intervention and territorial integrity – it suddenly acted in a way that was no longer in accordance with the principles it has been defending.

This contradiction can be explained by the fact that even though Russia was proclaiming these principles, its opinion was nevertheless ignored on many important occasions. In particular, its position was neglected in 1999, when NATO intervened in Yugoslavia to end ethnic and political repression,¹³ but it was also neglected in early 2008, when many of the leading Western European states (including the UK, France, and Germany) and the

11 President Medvedev’s interview with CNN, Sochi, 26 August 2008, at: http://www.kremlin.ru/eng/speeches/2008/08/26/2040_type82915type82916_205785.shtml.

12 Interview with BBC Television, cited above (Note 6).

13 This was reflected in the new national security concept adopted by the Russian Federation in 2000: “[...] a number of states are stepping up efforts to weaken Russia politically, economically, militarily and in other ways. Attempts to ignore Russia’s interests when solving major issues of international relations, including conflict situations, are capable of undermining international security, stability, and the positive changes achieved in international relations.” *2000 National Security Concept of the Russian Federation*, at: <http://www.russiaeurope.mid.ru/russiastrat2000.html>.

US recognized the independence of Kosovo after Kosovo proclaimed itself independent in February, despite Russia's objections. Moreover, the hostilities launched by President Saakashvili in South Ossetia are indeed "a special case", as, following the first escalations in the 1990s, most of the "frozen" conflicts in the CIS space have remained "frozen", i.e. no leader of a CIS country has tried to unite a breakaway de facto independent republic by force, especially not applying the kind of force that was used by the Georgian army. Moreover, it is difficult to imagine that after this attack on Tskhinvali the population of South Ossetia – and that of Abkhazia – could ever trust Georgia again. In the words of Sergey Lavrov: "And Mr. Saakashvili, by using armed force against the people whom he, according to his statement, considered a part of his people, has just definitely and conclusively settled this issue."¹⁴ Thus, Russia has actually acknowledged reality by recognizing the independence of these two republics. This reality is that there are de facto states, which have been existing independently of their "mother" country and which do not want to unite with it.

Both Russia's decision to intervene in the conflict between South Ossetia and Georgia (especially the way it intervened) and its decision to recognize the independence of the two republics were strongly criticized by the leaders of the US and the EU. According to US President George W. Bush, "Georgia has become a courageous democracy [...] The people of Georgia have cast their lot with the free world, and we will not cast them aside [...] Unfortunately, Russia has tended to view the expansion of freedom and democracy as a threat to its interests."¹⁵ The US position is that "Russia has invaded a sovereign neighboring state and threatens a democratic government elected by its people [...] And these actions jeopardize Russians' relations – Russia's relations with the United States and Europe."¹⁶ NATO's position was that its members "remain concerned by Russia's actions during this crisis [...] especially in light of continuing reports of Russia's deliberate destruction of civilian infrastructure. Russian military action has been disproportionate and inconsistent with its peacekeeping role, as well as incompatible with the principles of peaceful conflict resolution set out in the Helsinki Final Act, the NATO-Russia Founding Act and the Rome Declaration [...] We have determined that we cannot continue with business as usual."¹⁷ Both NATO and EU states consider Russia's recognition of the independence of South Ossetia and Abkhazia to be in direct violation of Georgia's independence, sovereignty, and territorial integrity. The presidents of Estonia, Lithuania,

14 Russian Minister of Foreign Affairs Sergey Lavrov, cited above (Note 10).

15 The White House, *President Bush Discusses Situation in Georgia*, 15 August 2008, at: <http://www.whitehouse.gov/ews/releases/008/08/20080815.html>.

16 The White House, *President Bush Discusses Situation in Georgia*, 11 August 2008, at: <http://www.whitehouse.gov/news/releases/2008/08/20080811-1.html>.

17 NATO, Press Release (2008)104, 19 August 2008, *Meeting of the North Atlantic Council at the Level of Foreign Ministers held at NATO Headquarters, Brussels, on 19 August 2008*, at: <http://www.nato.int/docu/pr/2008/p08-104e.html>.

and Poland and the prime minister of Latvia visited Georgia to express their “full support to its democratically elected President” and underlined their full support for the “territorial integrity of Georgia” and “the need to withdraw of occupation military troops from Georgia”.¹⁸ But, in general, the EU and its representatives tried to adopt a more balanced approach than that of the US. French Foreign Minister Bernard Kouchner insisted that “the EU must take a balanced position on the crisis in Georgia, adopting a firm stance while keeping channels of communication open”.¹⁹ At the same time, the EU decided to intensify its support to Georgia.

In response to the Western critique of Russia’s decision to recognize the independence of the two breakaway republics, Russian Prime Minister Putin argued as follows: “When the Soviet Union was formed, these territories, by Stalin’s decision were definitively given to Georgia [...] Therefore, those who insist that those territories must continue to belong to Georgia are Stalinists: They defend the decision of Josef Vissarionovich Stalin.”²⁰ Furthermore, he explained, “we don’t like what’s been happening, but we did not provoke this situation [...] in recent years our U.S. partners have been cultivating the rule of force instead of the rule of international law. When we tried to stop the decision on Kosovo; no one listened to us. We said, don’t do it, wait; you are putting us in a terrible position in the Caucasus. What shall we say to the small nations of the Caucasus as to why independence can be gained in Kosovo but not here? [...] But who opened Pandora’s box? Did we do it? No, we didn’t do it. It was not our decision, and it was not our policy.”²¹

In many interviews, the official representatives of the Russian Federation explicitly or implicitly blamed the US for having supported Georgia, which, according to them, had encouraged Saakashvili to attack Tskhinvali on 8 August. For example, Putin recalled that, throughout the 1990s and afterwards, “the other side – I am referring to the Georgian side – with the support of the United States, violated all the agreements [concerning South Ossetia and Abkhazia] in the most brazen way”.²² Russian Minister of Foreign Affairs Sergey Lavrov stated: “Know how his [Saakashvili’s] western backers, London included, used to forgive him everything and not only in what he was doing to the South Ossetians and Abkhaz [...] but they also used to forgive him for the dispersals of demonstrations, the brutal restrictions on

18 *Statement by the Presidents of Estonia, Lithuania, Poland and the Prime Minister of Latvia on the further conflict resolution in Georgia*, Warsaw, 12 August 2008, at: <http://www.mfa.gov.lv/en/ireland/news/press-releases/template/?pg=10747>.

19 European Parliament, *MEPs Debate the situation in Georgia*, 1 September 2008, at: <http://www.europarl.europa.eu/sides/getDoc.do?language=EN&type=IM-PRESS&reference=20080829IPR35626>.

20 Transcript: CNN Interview with Vladimir Putin, 29 August 2008, at: <http://edition.cnn.com/2008/WORLD/europe/08/29/putin.transcript/index.html#cnnSTCText>.

21 Ibid.

22 Ibid.

opposition activities, and the shutdown of opposition media.”²³ The Russian Ministry of Foreign Affairs also issued the following comments: “[...] we, naturally, cannot fail to consider also the fact that, over recent years while pumping Georgia up with arms Washington kept assuring us that those steps were not directed against Russia. The real worth of such assurances becomes even more obvious now when thousands of people in South Ossetia, including Russian peacekeepers, have been killed or injured in South Ossetia”.²⁴ The US and NATO ships that appeared in the region after the hostilities stopped were suspected of delivering arms to Georgia.²⁵ US military aid to Georgia “had rather encouraged the irresponsible and unpredictable regime [Saakashvili’s] as it proceeded along the road of gambles”.²⁶

These mutual incriminations demonstrate that the crisis in South Ossetia has reflected and deepened the problems that have accumulated in relations between Russia and the West. These problems concern not only the different approaches of Russia and the West to the post-Soviet region, but also their bilateral problems – the Cold War legacies of mistrust, misunderstandings, and suspicions – but also the increasing competition for influence and power in international relations, gaps and areas lacking clarity in international law, and uncertainties regarding the status and long-term prospects of Russian-Western relations and the international security system. Russia’s relations with the West, particularly with the US, became especially tense after the Western states started consultations on punitive sanctions *vis-à-vis* Russia.

The whole situation may therefore be described as a spiral of confrontation. After the Georgian army, trained by NATO and the US military, in particular, and armed according to NATO standards, attacked one of the protégés of the Russian Federation – South Ossetia – and Russia responded by moving into Georgian territory, and just a few days after the six-point peace plan was signed, and despite the US threatening Russia with sanctions, Poland and the US signed the agreement to place a US missile-defence base in Poland. Russia had criticized these plans on many occasions. The Russian Ministry of Foreign Affairs noted that “the timing of the signing of the American-Polish agreement, affecting the security of many European states, was not accidental. We have taken notice of the remarks of Polish officials that the events in the Caucasus have hastened Poland’s decision to go ahead with the deal”.²⁷ Just a few days after this agreement was signed, the Russian Federation recognized the independence of both South Ossetia and Abkhazia.

23 Russian Minister of Foreign Affairs Sergey Lavrov, cited above (Note 10).

24 *Russian MFA Information and Press Department Commentary in Connection with Agreement to Deploy Elements of US Strategic Missile Defense System in Poland*, 20 August 2008, at: http://www.in.mid.ru/brp_4.nsf/f68cd37b84711611c3256f6d00541094/bcb38ee721895315c32574ac003fc65d?OpenDocument.

25 Cf. President Medvedev’s interview with BBC Television, cited above (Note 6).

26 Transcript of Speech by Russian Minister of Foreign Affairs Sergey Lavrov at the Foreign Ministry’s MGIMO University on the Occasion of the New Academic Year, 1 September 2008, at: http://www.norway.mid.ru/pr08-01_eng.html.

27 Russian MFA Information and Press Department, cited above (Note 24).

Moreover, after friendship treaties were signed with these two states on 17 September, Russia started to speak more openly about establishing a new military base or bases on the territories of the two republics, which it saw as independent. This step is directed more at the US – to counter its plans of establishing military bases in Romania and Bulgaria and a missile-defence system in Poland and the Czech Republic – than at the EU, which is seen as more neutral on this issue, as most of the EU states adhere to the position that dialogue with Russia has to be continued. The Russian leadership probably allowed Saakashvili's military operation to take place in order to demonstrate to the West that Georgia is not stable enough to be a member of NATO, but instead of criticizing Georgia, the Western governments criticized Russia. Only gradually did the Western leaders start to admit that Georgia was the aggressor in this situation. One may assume that if the West had taken a more balanced approach to assessing Russia's and Georgia's actions, Russia would not have gone as far as to recognize the independence of South Ossetia and Abkhazia.

Even though Russia acted unilaterally in the case of South Ossetia (and Abkhazia), ignoring the opinion of the Western states regarding its actions, the enormous volume of interviews given by Russian official representatives to various representatives of the Western mass media nonetheless demonstrates that Russia wants to maintain constructive co-operation with the West.

Internal Presentation of Events in the Russian Mass Media

The first reaction in the Russian mass media to Georgia's military operation was one of shock. All the mass media reported and showed the victims of the Georgian attack on Tskhinvali, refugees fleeing to Russia, the destruction of the city – especially of civic infrastructure such as hospitals, schools, and the university – and people describing horrible human-rights abuses committed by the Georgian army. The first reaction in both state-controlled media and the few independent mass-media outlets that exist in Russia was that the Russian leadership had no choice but to intervene in this situation. It was also a shock that Russia was at war, especially that it was at war with Georgia, a nation with whom Russia has had close ties. No one knew or predicted how long the war between Georgia and Russia could last.

Russia's intervention was presented as the right move – not from the point of view of international law – but primarily in terms of common sense, morality, and justice: A civil population close to Russia's territory was dying and desperate for help. In most discussions, it was stated that the majority of the South Ossetian population was Russian, but this barely even mattered; Russia had to interfere to save their lives in any case, especially since no other state or international power was willing to interfere with this situation. President Saakashvili was criticized by most pro-Kremlin and oppositional

journalists and politicians. Russian critical analysts compared his instigation of large-scale military aggression against South Ossetia to the way Putin tried to bring “order” to Chechnya in 1999.

While in the following days the state-controlled mass media continued to present the events in South Ossetia in these terms, the more critical media started to question the reliability and accuracy of the information presented by pro-Kremlin TV channels, whose correspondents received first-hand information from the conflict zone. Gradually, the critical media started to report on the victims among the civil population in the Georgian towns of Poti and Gori, who were suffering from the actions of the Russian military, and some representatives of the opposition, such as a former economic advisor to President Putin, appearing on the radio station *Echo Moskvi*, took a pro-Georgian position, arguing that it was Russia who was the aggressor, and that Georgia merely responded to Russian military action.

Russian critical journalists and political analysts in general argued that while Russia was right to intervene, it undermined the “legitimacy” of its actions by continuing into Georgian territory. They also asked questions such as the following: Did Russia really care for its citizens in South Ossetia, or was it more a move designed to show President Saakashvili his place, and, moreover, to show his supporters (in particular the US) their place and Russia’s power? Was Russia really unable to prevent the Georgian operation? Did Russian secret services not know about the preparations for this Georgian intervention? Furthermore, critical journalists and analysts noticed that through its military actions in Chechnya, Russia had undermined its “legitimacy” to speak of human rights. Lavrov accused the West of having tolerated Saakashvili’s “escapades”, including “authoritarian tendencies within the country – the suppression of the opposition, of opposition media, the dispersal of demonstrators, election manipulations”,²⁸ but all these “escapades” have also been present in Russian political life during Putin’s presidency and since.

One more point of criticism was the problems and instability in the Russian North Caucasus. While they have remained unsolved, Russia decided to invest resources and finances in South Ossetia and Abkhazia. It is also unclear how loyal the presidents of the two republics are to Russia.

One more subject, frequently discussed in both state-controlled and critical mass media, was the – anti-Russian – way the events were presented in the Western mass media. While Russia won the military campaign by attacking military targets throughout Georgia, Georgia was winning the “informational” war. Several programmes on pro-Kremlin Channel 1 and Russia TV went even further, explaining that Western hatred towards Russia had

28 *Transcript of Remarks and Response to Media Questions by Minister of Foreign Affairs of the Russian Federation Sergey Lavrov*, Sochi, 26 August 2008, available at: http://www.ln.mid.ru/BRP_4.NSF/f68cd37b84711611c3256f6d00541094/1ea7f31a718b3783c32574b30042c162?OpenDocument.

existed for centuries, and the way the events were assessed by Western leaders and mass media was just one manifestation of this hatred. This view of the West as anti-Russian was strengthened by the fact that even after Georgia bombed Tskhinvali, and after Saakashvili blocked all Russian broadcasts in Georgia to prevent the Georgian population from receiving critical assessments of his actions, many of the EU and NATO states continued to reiterate that Georgia was a “courageous democracy”.

As far as the recognition of independence is concerned, critical journalists and representatives of the opposition regretted the timing of this decision, seeing it as one more ring in a spiral of confrontation with the US, and warned of the political and economic consequences it might have for Russia – potentially even leading to isolation. As an analyst on *Echo Moskvi* commented, the country of Pushkin, Tolstoy, and Dostoevsky had found new friends for itself in Hamas, Cuba, and Nicaragua, who also recognized the independence of South Ossetia. Not one of Russia’s allies in the CIS has followed Russia’s example. At the same time, however, even critical journalists and analysts admitted that South Ossetia and Abkhazia had been de facto independent since the 1990s, and Russia was just being honest about the situation.

While the state-controlled mass media explained that the West was unable to impose any effective punitive sanctions on Russia because the Western states would suffer from these sanctions themselves given the interdependence of the West and Russia in many areas, the critical mass media recognized that the only effective tool the West could use would be the kind of measures applied in the case of Belarus: to refuse to give visas to Russian policy makers and to freeze their assets and bank accounts abroad. But the critical media also saw that the West would not take such measures, because Russia is not Belarus, and the West, especially the EU, depends on Russia in many areas, particularly energy.

In sum, even though the official point of view dominated the presentation of events in the Russian mass media, nevertheless, it was possible to hear and read critical opinions and debates.

The Opinions of the Russian Population on the Situation in Georgia

The previous section has demonstrated that different positions (including the Georgian stance) were presented in the Russian mass media and – very emotional – debates between the representatives of contrary opinions took place, nevertheless, it should be noticed that the majority of the Russian population receives information only via the state-controlled TV channels. While critical and objective journalists and analysts also have their public, it remains in the minority. Bearing this in mind, there is an overall consensus in Russian society regarding the assessment of the events in Georgia in August 2008.

Fifty per cent of those polled by the Levada-Center think that they understand very well what has happened in South Ossetia.²⁹ According to another opinion poll foundation, VTSIOM, 76 per cent are very well aware of the tragic events there, and 83 per cent described the escalation of conflict as “a large-scale military conflict or even a war.”³⁰ As the following tables³¹ demonstrate, the majority of the population sees the actions and policies of the US and NATO and of Georgia as the main sources of destabilization of the situation.

<i>What do you think was the main reason for the conflict in South Ossetia?</i>	
The Georgian government’s policy has been discriminatory towards the South Ossetian and Abkhaz populations.	32
The leaderships of the unrecognized republics of South Ossetia and Abkhazia are trying to hold on to power by constantly provoking tension.	5
The government of the Russian Federation uses the policy of “divide and rule” to maintain its influence in the Caucasus.	5
The US government aims to spread its influence to the countries neighbouring Russia.	49
No answer	10

<i>Why do you think Georgia has tried to use force in relation to South Ossetia?</i>	
This was an attempt to restore the territorial integrity of the country.	15
Georgia was tired of attacks and provocations from South Ossetia.	4
In order to become a member of NATO, Georgia has to resolve its territorial problems.	43
Saakashvili initiated this action in order to strengthen his authority in Georgia and hold on to the position of President.	38
No answer/Other reasons	13

Both VTSIOM and Levada polls found that two-thirds of the Russian population agree that the Russian government had to intervene in the situation and that it had done everything to prevent the escalation of conflict and bloodshed. The majority of the population also approved of Russia’s recognition of

29 Cf. *Mnenie Rossiyan o konflikte v Gruzii: opros 15-18 avgusta* [The opinion of the Russians on the conflict in Georgia: Opinion Poll on 15-18 August], Levada-Centre, 21 August 2008, at: <http://www.levada.ru/press/2008082100.html>.

30 Cf. *Tragediya v Yuzhnoy Osetii: kto vinovat?* [The Tragedy in South Ossetia: Whose Fault Is This?], VTSIOM, Press Release No. 1021, 14 August 2008, at: http://wciom.ru/arkhiv/tematicheskii-arkhiv/item/single/10500.html?no_cache=1&c Hash=abf66aef62.

31 *Mnenie Rossiyan o konflikte v Gruzii*, cited above (Note 29).

South Ossetia and Abkhazia as independent states. Moreover, 40 per cent are convinced that Russia will benefit from it.³²

Seventy-three per cent of the population in general approves of Medvedev's actions as the President of Russia, and 83 per cent approves of the activities of Prime Minister Putin.³³ Putin's popularity rating has remained higher than Medvedev's. If the mass media devoted more coverage to President Medvedev and less to Prime Minister Putin before the conflict (i.e. in June and July), Putin "returned" to Russian TV screens after the escalation of conflict in Georgia. Forty-nine per cent of the population think that Medvedev and Putin share power equally, while 26 per cent think that state power is in the hands of Putin, and 14 per cent that it is Medvedev who is the real leader of Russia.³⁴ But even if there are different opinions among the Russian population regarding the question of who has the real power in the country, 86 per cent of those polled describe Medvedev's policy as one of continuity.³⁵

Finally, according to the Levada poll, 66 per cent of the Russian population thinks that the Western states have decided to support Georgia in the Georgian-South Ossetian conflict because the West aims to weaken Russia and to push it out of this region.³⁶

The Background to Russia's Response

In order to understand Russia's reaction to the escalation of Georgia's conflict with South Ossetia, it is necessary to look beyond the events of August. Even though Russia explained its intervention in terms of the need to stop the bloodshed and to save Russian citizens, its interests in South Ossetia and Abkhazia did not emerge overnight from the 7th to the 8th of August. The fact that the majority of the population of both republics has acquired Russian passports during their period of de facto independence was not accidental. In a way Russia became a hostage of its own policy: Because its citizens were endangered, and because Saakashvili was attacking the protégé of Russian policy, Russia had to respond.

South Ossetia is not strategically important for Russia, and Russia has more interests in Abkhazia, which is located on the Black Sea. These regions have been important tourist destinations for Russian citizens. Abkhazia could become important for the transportation of energy from the Caspian Sea to

32 Cf. *Rossiyanе о situazii v Abkhazii i Yuzhnoy Osetii* [Russian citizens on the situation in Abkhazia and South Ossetia], Levada Centre, 22 September 2008, at: <http://www.levada.ru/press/2008092201.html>.

33 Cf. *Vliyaniye konflikta v Gruzii na rejtingi prezidenta i premiera* [The influence of the Conflict in Georgia on the ratings of the president and of the prime minister], Levada Centre, 21 August 2008, at: <http://www.levada.ru/press/2008082102.print.html>.

34 Cf. *ibid.*

35 Cf. *ibid.*

36 Cf. *Mnenie Rossiyan о konflikte v Gruzii*, cited above (Note 29).

Russia and on to Europe, as Russia is trying to diversify the transit routes of the energy it delivers to the EU, and is trying to prevent the EU from implementing plans that aim to reduce dependence on Russia by diversifying energy sources and transportation routes.³⁷ In Abkhazia, Russia already had a military base at Gudauta, which it was to close down as a result of the commitments it undertook during the OSCE Istanbul Summit in 1999, but these were never completely fulfilled. Because Russia considers Abkhazia to be a sovereign state, and because Abkhazia welcomes Russia's military presence on its territory, Gudauta may again be used as a Russian military base. A Russian military base in Abkhazia would have strategic significance, if the US or NATO were to establish military bases in Georgia. Moreover, Abkhazia and Russia have discussed whether the Russian Black Sea Fleet could be stationed there. This is especially important, given that Russia leases the main base for its Black Sea Fleet in Sevastopol, Ukraine, and the current Ukrainian government is not willing to prolong the relevant agreement after it expires in 2017.

Russia supported these two republics in the 1990s, because, while it was gradually losing its power over Georgia, it could use its influence on these two republics to achieve leverage over Western-oriented Georgia. While in 1993, Georgia agreed to participate in the Russian-led Collective Security Treaty, which was designed to become a military union of the CIS states, in 1999, it did not renew its membership, while aspiring to join NATO. In 2003, Mikhail Saakashvili, a pro-Western politician, came to power as a result of the Rose Revolution.³⁸ Reuniting Georgia became one of his main policy priorities. Becoming a member of NATO was another. While Russian-NATO and especially Russian-US relations have been fraught in many areas, the transatlantic actors have been increasing their co-operation with Georgia. While the EU, seen as the "good" West in Russia,³⁹ has been rather passive in the region, Georgia has been intensifying its military co-operation with both

37 One of the most important of the EU's diversification projects, which is also supported by the US – the construction of the Nabucco pipeline, which would transport gas from the Caspian Sea and Central Asian regions, including Iran, Azerbaijan, Turkmenistan, and Kazakhstan, to the countries of Central and Eastern Europe, avoiding Russian territory – could be endangered, as the EU might not be able to secure the contracts to buy the Central Asian gas. In May 2007, the presidents of Russia, Kazakhstan, and Turkmenistan agreed to build a new trans-Caspian gas pipeline to transport natural gas from Turkmenistan to Europe along the Caspian Sea coast via Kazakhstan and Russia. More details on the Nabucco project can be found at the official Nabucco pipeline webpage: <http://www.nabucco-pipeline.com>. Georgia plays an important role in the EU's diversification attempts. The Baku-Tbilisi-Ceyhan pipeline with a capacity of one million barrels a day started to operate in 2005, transporting Kazakh oil to Europe while avoiding Russian territory.

38 Cf. Valerie J. Bunce/Sharon L. Wolchik, International Diffusion and Postcommunist Electoral Revolutions, in: *Communist and Post-Communist Studies* 3/2006: pp. 283-304; Jonathan Wheatley, *Georgia from National Awakening to Rose Revolution: Delayed Transition in the Former Soviet Union*, Aldershot 2005.

39 Dmitry Danilov, Russia and European Security, in: Dov Lynch (ed.), *What Russia Sees*, Paris 2005, pp. 79-99, here: p. 87.

NATO and the US. Moreover, Nadezhda Arbatova notes that in supporting Georgia in its NATO aspirations, NATO has also accepted and even approved of the anti-Russian character of Georgia's Western tendencies. This had not strained relations with Russia.⁴⁰ To explain why Russia sees NATO and the US as the "bad" West, one may cite Andrei Tsygankov, who writes, "While lecturing Russia about importance of abandoning '19th-century geopolitical thinking,' the United States waged the war in the Balkans, initiated two rounds of NATO expansion, withdrew from the ABM Treaty, established a military presence in Central Asia [as well as military bases in Romania and Bulgaria], invaded Iraq, and announced plans to deploy elements of ballistic-missile defense in Eastern Europe."⁴¹ In addition, the US became very active throughout the CIS region.

In April 2008, at the Bucharest NATO summit, Georgia finally received a promise that it would be accepted into NATO one day, even though it did not gain the prize of entry into the Membership Action Plan (MAP): "NATO welcomes Ukraine's and Georgia's Euro-Atlantic aspirations for membership in NATO. We agreed today that these countries will become members of NATO [...] MAP is the next step for Ukraine and Georgia on their direct way to membership. Today we make clear that we support these countries' applications for MAP."⁴² One of the critiques directed at Georgia was that "countries that are themselves embroiled in regional or domestic conflicts cannot be members of NATO."⁴³ The issue of the MAP is to be addressed during the NATO summit in December 2008.

Russia has been reiterating that NATO's enlargement to include CIS states was unacceptable, and has criticized other steps taken by the US and NATO that it considered to be anti-Russian. According to the Russian Ministry of Foreign Affairs, "on the whole, our cooperation with NATO is developing in a favorable political atmosphere. But it's a fragile thing. It may all turn out to be destroyed as a result of rash, ill-thought-out actions, linked, for example, to inviting certain CIS countries to join NATO. As before, we are convinced that the geographical expansion of NATO has no serious well-argued foundation."⁴⁴ Dmitry Medvedev has said that "no state can be

40 Interview by the author with Nadezhda Arbatova, Head of the Center of European Integration, Institute of World Economy and International Relations at the Russian Academy of Science, Moscow, October 2008.

41 Andrei Tsygankov, *The West Needs to Make up for Past Mistakes on Russia*, Radio Free Europe/Radio Liberty, 27 August 2008.

42 NATO, Press Release (2008)049, 3 April 2008, *Bucharest Summit Declaration. Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Bucharest on 3 April 2008*, at: <http://www.nato.int/docu/pr/2008/p08-049e.html>.

43 German Chancellor Dr. Angela Merkel's speech at the 41st Commanders' Conference of the *Bundeswehr* in Berlin on 10 March 2008, at: http://www.bundesregierung.de/nn_1514/Content/DE/Bulletin/2008/03/23-2-bk-kommandeur.html (author's translation).

44 Alexander Yakovenko, *the Spokesman of Russia's Ministry of Foreign Affairs, Answers Russian Media Questions Regarding Upcoming Meeting of Russia-NATO Council in Vilnius*, unofficial translation from the Russian, at: http://www.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/2726d16b65b7aa99c3256fe900374fa5?OpenDocument.

pleased about having representatives of a military bloc to which it does not belong coming closer to its borders”.⁴⁵ Russian official representatives have warned that its policy in the CIS will become more assertive. As a consequence, Russia strengthened its ties with both Georgian separatist regions after April 2008.

In sum, Russia’s response to Georgia’s military operation in South Ossetia was also a response to the expansion of NATO and US influence in the area, which Russia perceives as its “traditional” zone of interests. As the Russian foreign minister said, “Saakashvili and those who stand behind him [...] had decided on testing Russian power for strength”.⁴⁶ As Tsygankov concludes: “Against its best intentions, the United States is pushing the Kremlin to take the harshest possible steps in defense of its perceived interests. The recent crisis in the Caucasus may be a prelude to a series of other crises in the former Soviet region.”⁴⁷

Conclusion

Even though different opinions exist in Russia on the situation around South Ossetia, it is possible to speak about a general consensus in Russian society and among Russian political elites that reflects the official position of the Russian Federation. The majority of the population approves of the decisions and actions of its official representatives in relation to South Ossetia and Abkhazia.

The general consensus and approval of the foreign policy of the government has been formed and consolidated in Russia throughout the whole of Putin’s presidency, and it has especially strengthened in the last few years. The policy of the US and NATO has contributed to this consolidation, as Russia’s concerns about NATO enlargement plans and military bases in Eastern Europe, about the US missile defence system and future security architecture in Europe – in which Russia wants to be an active participant – have simply been dismissed. Russia’s relations with NATO and the US are simply not at a level that would allow Russia to believe that all these plans are not designed against it. Even if Russia tolerated developments it saw as negative in the past, it has been warning that it is no longer going to accept policies and actions that it perceives as anti-Russian, but these warnings and concerns have been and are again being neglected.

Even though Russia and the Western actors continue to co-operate on many issues and are interdependent in many ways, problems in Russian-Western relations are becoming more apparent and are being utilized in do-

45 Dmitry Medvedev, cited in: Salome Asatiani/Brian Whitmore, *Russia: Moscow Eases Sanctions on Georgia, but Rattles Sabers over NATO*, Radio Free Europe/Radio Liberty, 25 March 2008, available at: <http://www.rferl.org/content/article/1051045.html>.

46 Speech by Sergey Lavrov, cited above (Note 26).

47 Tsygankov, cited above (Note 41).

mestic politics in both Russia and the West. The image of the inimical West has helped to consolidate the political situation in Russia during parliamentary and presidential elections, and, by the same token, the need to punish an evil and imperialistic Russia was an important theme in discussions during the 2008 US presidential election campaign. All these reasons explain why the support of the Russian population for the actions of its government in respect to South Ossetia is predetermined not only by concern for the suffering people, who are Russian citizens and were attacked by Saakashvili's regime, but also by the desire to show the US and NATO that Russia is no longer going to tolerate developments with which it disagrees. One must recall that a large proportion of those polled think that US (or even NATO) policy has directly or indirectly encouraged Saakashvili to try to resolve the longstanding conflict quickly by means of force.

The analysts, politicians, and journalists will continue to speculate on questions such as how the situation in South Ossetia came about, whether this scenario could be repeated in other regions, and who is at fault for what has happened.

Russia supported the two breakaway regions throughout the 1990s and after 2000, allowing and contributing, even if indirectly, to the provocations and tensions in the region. Even though it received some leverage over Georgia through its policy of supporting the separatist republics, it also became a hostage of its own policy and of the actions of the two presidents of the republics it has recently recognized. The leaders of South Ossetia and Abkhazia have utilized Russian support to pursue their own objectives and profits. Their actions contributed to the overall tension in the region. Not only do doubts remain about the loyalty of these two leaders to Russia, but Russia found no real supporters of its policy even among its CIS partners. None of them has hurried to recognize South Ossetia's and Abkhazia's independence. Russia therefore needs to learn important lessons about the effectiveness of its policy in the CIS and the loyalty of its closest CIS partners. Moreover, it remains to be seen how Russia's policy in relation to the two separatist republics will affect its own unstable North Caucasus and other regions with ethnic tensions.

The government of Georgia, headed by Saakashvili, a young, energetic and pro-Western president, has interpreted Western support (especially the support of the NATO and of the US) as meaning that the West would condone and even support its craziest military actions. The Georgian government decided to play poker with the well-being of its own country. But the US and many NATO and EU states also have to think about why the Georgian government interpreted their support the way it did. It should also be noted that, while the US and NATO supported Georgia too strongly in the past, the EU has been rather passive in the region and was especially so in relation to this conflict.

Even though the escalation of the situation in South Ossetia has highlighted the problems in relations between Russia and the West, at the same time, Russia has not overthrown Saakashvili's regime, although it could have done so, again arguing that this was a situation analogous to the case of Yugoslavia. This might mean that Russia still values Western opinion and wants to avoid open confrontation with the NATO and EU states. While the Western states discussed the possibility of sanctions against Russia, they understood that there was not much they could do, and the EU opted for "open communication channels" with Russia. Russia needs the West, but, by the same token, the West needs Russia. The major international challenges and problems that both Russia and the West face can be solved only if the dialogue between them remains, and if, instead of further unrolling the spiral of provocations and confrontation, they take a more pragmatic approach, concentrating on areas of co-operation and working on building trust.

State-Building and Democratization in Georgia: Have the Limits Been Reached?

Introduction

The Russian-Georgian war in August 2008 changed the situation in and around Georgia dramatically. The issue of frozen conflicts took on existential importance for the Georgian state: The central government now controls less territory than it did before the conflict escalation, while the Russian regular army is just a few dozen kilometers away from the capital city, Tbilisi, and the only security guarantee existing on the ground is the EU mission of some 200 unarmed civilian observers. The events of August will certainly have implications for domestic politics in Georgia.¹ The political crisis that started in November 2007 and appeared to end following the May 2008 parliamentary elections may flare up once again with new players and new agendas. Mikheil Saakashvili's government is trying to respond to new challenges on the domestic front by proclaiming a new wave of democratization and economic reforms. The future development of the country depends on how effectively Georgia's political elite can switch the agenda from conflict resolution towards economic development and democratization. This contribution deals with political developments in Georgia from the autumn of 2007 until the parliamentary elections of May 2008. Understanding these developments can shine significant light on the current political situation in Georgia following the August war.

Georgians are proud that their country has been recognized as one of the most advanced of the reform countries.² At the same time, however, they ask themselves why these reforms have not yet had a tangible effect on their private lives. When will the measures that the government describes as successful have social consequences? Construction sites for ambitious new skyscrapers and brand new cars in the capital, Tbilisi, and the port city of Batumi; the restoration of the historical town of Signagi; and the construction of the Black Sea motorway link are the calling cards of the new Georgia. At the

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- 1 On the August war and its implications, see: Caucasus Institute for Peace, Democracy and Development/CIPDD (ed.), *After August 2008. Consequences of the Russian-Georgian War*, Tbilisi 2008. This document can be downloaded from: http://www.cipdd.org/index.php?lang_id=ENG&sec_id=7&info_id=316.
 - 2 Georgia in Top 20 Business-Friendly States – WB Report, in: *Civil Georgia*, 26. September 2007, at: <http://www.civil.ge/eng/article.php?id=15868>; see also: *Doing Business Ranking*, at: <http://www.doingbusiness.org/economyrankings>, 20 April 2008. In the *Bertelsmann Transformation Index*, Georgia is categorized as “advanced” (38th place) in the Status Index (state of democracy and market economy) and as “successful” (23rd place) in the Management Index (political management of transformation), cf. <http://www.bertelsmann-transformation-index.de>.

same time, unemployment and poverty can be seen on streets and squares in both cities and villages; beautiful facades hide tatty interiors; and although the electricity supply is stable, many cannot afford to pay for power.

What has become of the Rose Revolution of 2003? Has Georgia's state-building process achieved stability? How do citizens judge the way their country is developing? Is there a conflict between state-building and democratization? Have the limits already been reached? This contribution will briefly outline key developments since the Rose Revolution in order to analyse the reasons for the political crisis of autumn 2007 and thereafter. It will then take a more detailed look at the early presidential elections held in January 2008 and the parliamentary polls held in May of the same year. The conclusion asks about the limits of state-building and democratization in Georgia with the aim of showing that the transformation process, while difficult, is not hopeless and needs additional support, above all in the form of security guarantees from the democratic world.

*After Four Years of the Rose Revolution: "déjà vu"?*³

In October and November 2007, tens of thousands of people gathered in front of the parliament building in Tbilisi. As in 2003, the demonstrations had been organized by a coalition of opposition parties, they were broadcast live on television, and the demonstrators accused the government of being authoritarian and corrupt. However, any similarity to the Rose Revolution⁴ was superficial and revealed little of the real reasons for the political crisis.

The biggest difference compared to 2003 was the absence of election fraud – in autumn 2007 no election was even held. While the opposition did protest against the postponement of the parliamentary elections from the spring until the autumn of 2008, and while the call for elections to be held ultimately became one of the key demands made of the government, the issue of the election date can certainly not be considered to have been the cause of the protests. The decision to postpone the parliamentary elections was made in December 2006 and adopted by means of a constitutional amendment without triggering a wave of protests.⁵

Two individuals can be identified as the key initiators of the protests – Irakli Okruashvili, a former defence minister, and Badri Patarkatsishvili, a friend of Boris Berezovsky's who rose to the Russian oligarchy in the 1990s.

3 Cf. Ketil Tsikhelashvili, Georgia Four Years after Rose Revolution, in: *Turkish Policy Quarterly* Fall 2007, pp. 118-136.

4 On the Rose Revolution, cf. Jonathan Wheatley, *Georgia from National Awakening to Rose Revolution: Delayed Transition in the Former Soviet Union*, Aldershot 2005.

5 According to the constitutional amendment, both parliamentary and presidential elections are to be held in the autumn of the appropriate year. In 2008, both were due to be held on the same day. In government circles, the decision was justified in terms of the need for consolidation in the face of challenges, particularly in the area of foreign policy, while the opposition spoke of an attempt to usurp power on the part of the majority.

Okruashvili, who had once been Mikheil Saakashvili's closest ally, left the government in November 2006, probably as a result of internal conflict in Saakashvili's camp. While he initially avoided the limelight, his return to public life was explosive: In an interview on the *Imedi* ("Hope") television channel, which belonged to Patarkatsishvili, Okruashvili accused President Saakashvili of serious crimes and even with an attempt on Patarkatsishvili's life.⁶ The government responded by jailing him on charges of corruption and the misuse of power. After several days in jail, Okruashvili dropped his accusations and admitted that he had been involved in a conspiracy with Patarkatsishvili. Okruashvili was released from prison on bail and left Georgia – according to some sources, with a helping hand from the Georgian security services.⁷

Okruashvili's arrest triggered a series of mass demonstrations, the largest of which was held on 2 November.⁸ Patarkatsishvili travelled to Tbilisi from his second home in London especially to address the demonstrators. He admitted that he had long planned these events. While he did not explain what he meant by "preparation", the role of *Imedi* became clear in the following days: By means of selective reporting, the broadcaster was to perform a mobilizing and co-ordinating function, thereby preparing the way for a change of government. Patarkatsishvili's interests had probably been on a collision course with those of the government since 2006 – when it first became clear that the oligarch would not be given a free hand in all areas. However, he was used to precisely that, first in Russia, where he made his illegal billions side-by-side with Berezovsky, and then in Shevardnadze's Georgia, to which he returned in 2001 after Putin had started to take an interest in Berezovsky and his friends. Saakashvili's government appears to have made its last attempt to do business with Patarkatsishvili in the summer of 2007, when control of Georgian Railway LLC was to be handed to "Parkfield Investment Ltd.", in all likelihood a front company, which, according to several reports, was owned by Patarkatsishvili. It is uncertain what Patarkatsishvili was to do in return – to promise loyalty or even sell off *Imedi*.⁹

In the autumn of 2007, various opposition parties, who had so far failed to mobilize the masses and had lost to the governing party in every election since 2004, united behind these two figures. Okruashvili's role was that of the new charismatic leader who would challenge Saakashvili, while Patarkatsishvili

6 Cf. Okruashvili Breaks Silence by Lashing Out at Saakashvili, in: *Civil Georgia*, 25 September 2007, at: <http://www.civil.ge/eng/article.php?id=15861>.

7 Okruashvili continued to oppose Saakashvili, but lost popularity on account of his "remorse" and the publication of material from his interrogation. He is now living in France, where he was granted political asylum. At the same time, the court in Tbilisi has sentenced him to eleven years in prison. This sentence was passed in Okruashvili's absence, apparently to stop him from participating in the parliamentary elections in May 2008.

8 Various sources estimate the number of participants as between 50,000 and 100,000.

9 Cf. Patarkatsishvili Denies Swapping *Imedi* TV for Railway, in: *Civil Georgia*, 10 September 2007.

katsishvili's task was to provide the opposition with financial support and political consulting services, particularly in the area of media management.

At the same time (and in contrast to 2003), the opposition could not agree on the goals of the mass demonstrations. Their various demands ranged from parliamentary elections to be held in spring 2008, to Saakashvili's resignation. The leaders were unsure whether they should pursue the *déjà vu* of the Rose Revolution to its end. These doubts were strengthened by the fact that the government of Saakashvili, unlike that of Shevardnadze, was neither discredited nor tired out after a long defensive struggle. Saakashvili was still a popular president, and the security forces were highly motivated to defend the constitutional order.

The attempt to replay the Rose Revolution appeared to fail. While the demonstrations became a permanent fixture, after reaching their greatest extent on 2 November, the number of participants declined sharply from day to day. On the morning of 7 November, the police cleared the remaining demonstrators from the square in front of the parliament, and, when a new wave of protestors threatened to assemble there, special forces armed with tear gas, rubber bullets, and water canons were deployed. Incidents where the police used inappropriate levels of violence escalated the situation; demonstrators gathered in another district of the city, and their dispersal resembled a battle more than a police operation.¹⁰ On the same evening, *Imedi* – which had continued to broadcast live pictures of the demonstrations and to co-ordinate events – was stormed by special forces and shut down. The local Tbilisi station *Kavkasia* was also taken off the air. A state of emergency was declared.

Shock Therapy Applied with Arrogance and No Pain Relief

The actions of the government on 7 November are hard to understand – why did it contribute to the escalation of the crisis even while the demonstrations were winding down and no visible danger was present? The political crisis of autumn 2007, and the events of 7 November in particular, reveal failings on the part of Saakashvili's government: Painful reforms were forced through arrogantly and with no attempt to make sure a social safety net was in place.

When Saakashvili was elected president with 96 per cent of the vote in 2004, it was expected in both Georgia and the West that rapid solutions would be found to complex problems: strengthening the state, consolidating democracy, generating economic growth, and improving social conditions. On top of that came the so-called frozen conflicts in Abkhazia and South Ossetia, and the *de facto* independence of the Autonomous Republic of Ajaria. The restoration of centralized power in Ajaria in May 2004 was seen as the

10 On 7 November, a total of 508 people, including police officers, were injured. Cf. Tsikhelashvili, cited above (Note 3), p. 126.

government's first success; however, it was followed by the debacle in South Ossetia in the summer of the same year.¹¹

From the above complex of issues, the government chose *state-building* and *economic liberalization* as its key goals. Drastic cuts in the state administration made it possible to place the apparatus of government on a stable financial footing. This enabled systematic increases in public sector wages and other benefits, thus attracting qualified young people to the civil service, which led to the strengthening of state institutions.¹² Although the bureaucracy requires additional stabilization, state institutions are today in far better shape than before 2003, as indicated by the renovation and re-equipment of ministries and some regional and local administrations. However, these measures led to many redundancies and cutbacks – 54,000 jobs were lost among the police alone. Some of the individuals laid off were left with no source of income and no social security for themselves and their families. They simply associate reform with a change in the ruling elite. The state possessed no financial resources with which it could ameliorate the social conditions of those worst hit by the reforms, but nor did it attempt to popularize them or even to explain their goals to ordinary citizens.

A further and still more painful case was the reform of higher education. Although this sector was no less corrupt and paralysed than law enforcement, the universities were not as discredited as the police in the public eye. On the contrary, many professors possessed considerable authority. As a first step, the state nationalized higher education entry exams and limited the number of institutions by introducing a licensing system. The new law on higher education also limited the terms of professorships and specified that new professorships were to be filled by means of public competition. The reforms led to a struggle between the generations at Georgia's universities. The ministry of education did not disguise the fact that one of the aims of the reforms was to replace older academics, whom they saw as corrupt remnants of the Soviet era, incapable of facing modern challenges. A group that became known as the "protesting professors" united with opposition politicians and organized a series of protests in the spring and summer of 2007. They in turn accused the

11 Cf. Marietta König, The Georgian-South Ossetian Conflict, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 237-249; David Aphrasidze, Georgia's New Nationalism: A Better Opportunity for State Building? in: *ibid.*, pp. 179-190. Several other contributions to the *OSCE Yearbook 2004* also deal with conflicts in the Caucasus, and Georgia in particular. Cf. also Marietta S. König, Not Frozen but Red Hot: Conflict Resolution in Georgia Following the Change of Government, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 85-96; Marietta S. König, The Effects of the Kosovo Status Negotiations on the Relationship Between Russia and the EU and on the De Facto States in the Post-Soviet Space, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2007*, pp. 37-50.

12 Many were attracted from non-governmental organizations, which led to a relative weakening of civil society. Cf. Ghia Nodia, *Civil Society Development in Georgia: Achievements and Challenges*, Tbilisi 2005, pp. 16-17.

government of seeking to ruin Georgia's universities and education system and of following "Western instructions".

In order to kick-start the economy and encourage investment, the state withdrew from its regulatory role, and abolished a number of licences and taxes. Also important in this respect was the adoption of a new labour law, which liberalized relations between employers and employees and shifted the tax burden onto the latter. However, this reform became a new focus for social unrest. While the government did give up its regulatory function, it also wanted to end the chaos in the areas of building and town planning that it had inherited from the previous regime. The attempt to do this clashed very hard with property rights; in 2006 in Tbilisi alone, dozens of cafés and restaurants, hundreds of garages, and even a block of flats were confiscated and demolished.¹³

These and other conflicts demonstrated the arrogance of those in power: Only they knew the aims of their policies; only they were properly informed; so only they could decide correctly what methods to use to put their policies into action; all criticism was either "unprofessional" or "hostile".¹⁴ This goes hand-in-hand with a total lack of trust in relations among political actors. The absence of trust – which is the basis of co-operation – is nothing new in the post-Soviet world. In Georgia, as elsewhere, research has shown that political parties and groupings mutually mistrust each other and think in terms of a zero-sum game.¹⁵

Conflicts between state and society of this kind can destabilize a democratic system. In consolidated democratic systems, *law courts* serve as channels for the regulation of conflict. It was thus a major lapse on the part of the government that came to power following the events of 2003 to delay the reform of the justice system, which was the last sector of the state to be overhauled.¹⁶ While courts today have been technically and financially strengthened, they still do not enjoy adequate authority among either the population or the executive branch. They do not effectively fulfil their function of limiting the latter's power.

13 On the violation of property rights, cf. *Human Rights in Georgia. Report of Public Defender of Georgia: Second Half of 2006*, Tbilisi 2007, pp. 97-117.

14 "Georgia needs to make a breakthrough. In this case, there is not much time for 'discussions for discussion's sake'; we have 100 metres to run; we can do that in a single burst; then we can lie back and relax" was how a Georgian politician belonging to the parliamentary majority put it in a private conversation with the author.

15 Pondi gia sazogadoeba sakartvelo, *sakartvelos politikuri elita: khedvebi da girebulebebi* [Open Society Georgia Foundation, Political elite of Georgia: visions and values], Tbilisi 2007, pp. 17-20.

16 The lack of an effective court system is an oft-mentioned flaw defect of the new Georgian state. However, what is often forgotten is that Georgia's judiciary has never been independent, and that the superficial independence of the Georgian courts in the post-Soviet era has always been accompanied by corruption.

The events of 7 November showed that the government was relatively effective at creating state institutions, and security structures in particular, but ineffective at explaining the goals of reform to the population and unwilling to play a boring political game with the opposition.

On 8 November, President Saakashvili announced that an early presidential election and a referendum on the date for new parliamentary elections would be held on 5 January. The state of emergency was suspended on 16 November, and campaigning began. The opposition was unable to agree on a single candidate, however, Levan Gachechiladze, a parliamentarian and former businessman, emerged as Saakashvili's leading challenger. All the parties that had organized the protests of October and November united behind him, with the exception of the Georgian Labour Party, who put their own chairman, Shalva Natelashvili, up for election. Badri Patarkatsishvili, the driving force behind the united opposition, also stood as a candidate.¹⁷

The campaign was characterized by polarization and mutual accusations. The struggle to discredit one's opponents, which had already started on 7 November, continued. The interior ministry released an audio recording of telephone conversations, in which Badri Patarkatsishvili and the head of his pre-election campaign spoke with a top official from the interior ministry. In the conversations, Patarkatsishvili attempts to organize the peaceful overthrow of the government. This was a hard blow for the opposition, and they needed to distance themselves from Patarkatsishvili. Furthermore, journalists at *Imedi*, which had been on air again since 12 December, suspended their broadcasts until the situation was clarified.¹⁸ This gave the government a huge media advantage in the election campaign.

Despite this political polarization, both the campaign and the ballot itself passed without violent incident. The poll was observed by several international organizations. The Central Election Commission declared that Mikheil Saakashvili had won in the first round of voting with 53.47 per cent of votes. The opposition refused to recognize the results and threatened to hold mass demonstrations. The OSCE observation mission did recognize the results, but pointed out a number of serious flaws – above all with the counting of votes.¹⁹

After the international recognition of the election results, the opposition changed tactics and declared that the coming parliamentary elections (held on 21 May, in accordance with the results of the referendum) should be con-

17 Others who stood for election included David Gamkrelidze, the leader of the New Right; Giorgi Maisashvili; and Irina Sarishvili-Chanturia.

18 Cf. *Imedi TV Suspends Broadcasts*, in: Civil Georgia, 26 December 2007, at: <http://www.civil.ge/eng/article.php?id=16679>.

19 Cf. OSCE Office for Democratic Institutions and Human Rights, *Georgia. Extraordinary Presidential Elections, 5 January 2008, OSCE/ODIHR Election Observation Mission, Final Report*, Warsaw, 4 March 2008, at: http://www.osce.org/documents/odihr/2008/03/29982_en.pdf.

sidered as “the second round of the presidential election”. Negotiations began between the speaker of the Georgian parliament, Nino Burjanadze, and representatives of the united opposition over the composition of the election commission, the type of electoral system to be used, and an inquiry into the November events. Initially, these discussions awoke hopes that all Georgia’s political forces parties would be able to agree on fundamental ground rules, overcome mistrust, and solve the crisis. After some early successes, however, the talks failed. A section of the opposition left the negotiations and started a hunger strike to protest at what they saw as the government’s unwillingness to compromise.²⁰ This decision can also be seen as an attempt by the opposition to remobilize their supporters. However, this proved to be an error: In contrast to the November protests and the mass demonstrations that followed the January presidential elections, only a small number of protestors gathered outside the parliament building. After the unsuccessful hunger strike, the opposition ended mass demonstrations to concentrate on the election campaign. Just as during the presidential election, the opposition did not succeed in building a broad cross-party coalition. The nine-party electoral coalition “United Opposition”, the Georgian Labour Party, the Republican Party, the newly formed Christian Democratic Movement, and other, less significant parties put up candidates to compete with each other, thus giving the ruling United National Movement an advantage.

As expected, the ruling National Movement secured an absolute majority in the new parliament. The parliamentary elections also ended the unity of the “united opposition”, as some opposition leaders refused to enter the new parliament and accused the government of electoral fraud, while others decided to take their seats and started criticizing their former allies. The parliamentary elections brought the political crisis that had continued since October 2007 to an end. The next phase of political struggle will probably start on the basis of August 2008.

Have the Limits Been Reached? The Search for Security

President George W. Bush praised Georgia during his visit to Tbilisi in May 2005 as a “beacon of democracy”. The events of November 2007 were therefore even more unexpected and inexplicable for many, including Americans. Did the Rose have thorns after all? The case of Georgia confirms that transformation is a long and difficult process that does not conform to theoretical models: State-building, economic liberalization, and democratization often conflict with one another, and great subtlety is required to ensure a reason-

20 In February 2008, Badri Patarkatsishvili died in London. Although there are many conspiracy theories, British police determined that he died of a heart attack. Following his death, the government considered that the opposition’s negotiating position was weakened, meaning that they need no longer bend to their demands, and this led to another breakdown in the talks.

able balance between them. The Georgian state, which remains too weak, and its democracy, which is still too fragile, find themselves in a difficult phase of development: Two election contests were run in a bitterly fought struggle for power against the background of the danger of new escalation in the country's conflict zones as well as Russia's determined attempt to put a halt to Tbilisi's Euro-Atlantic ambitions.

In Bucharest in April 2008, the NATO members denied Georgia and Ukraine participation in the Membership Action Plan. While the concluding document of the Bucharest summit states that Ukraine and Georgia will certainly become NATO members, this is merely an attempt to placate the two countries' supporters within the Alliance, i.e. the USA and the states of Eastern Europe. The promise really amounts to little more than "not today, and not under these conditions".²¹ For sceptics, including Germany, the state of democracy in both countries, and the conflict situations in Georgia were the key arguments, and it was an open secret that the "Russian factor" played a major role. In fact, political developments after the summit contradict the logic of both arguments: Following the decision in Bucharest, the situation in the conflict zones escalated, first in Abkhazia, then in South Ossetia, and ultimately led to the military conflict with Russia.²² A strengthening of the positions of NATO sceptics and anti-Westerners can also be expected domestically, above all in Ukraine, but also in Georgia. These forces now have further evidence that helps them to stigmatize liberal democracy and the West as "alien" and "unreliable".

The decision made in Bucharest will benefit neither conflict resolution nor democratization, and will certainly not improve Georgia's relations with Russia. Further democratization and liberalization as well as a peaceful end to Georgia's conflicts are unthinkable without credible security conditions that would create a new framework for stable domestic development. Democracy cannot survive if it does not prove that it is effective and efficient.

21 NATO, *Bucharest Summit Declaration*, Issued by the Heads of State and Government participating in the meeting of the North Atlantic Council in Bucharest on 3 April 2008, Point 23, NATO Press Release (2008)049, 3 April 2008, at: www.nato.int/docu/pr/2008/p08-049e.html.

22 High-ranking Russian officers and diplomats warned Georgia – with reference to the conflict zones – that it needed to abandon its NATO ambitions. Cf. Russian Chief of Staff Warns Against NATO Expansion, in: *Civil Georgia*, 11 April 2008, at: <http://www.civil.ge/eng/article.php?id=17561>.

The OSCE and European Security

The Future Impact of the OSCE: Business as Usual or Revitalization?

Of all of the regional international institutions in the northern hemisphere, none can equal the breadth of mandate or the number of participating States of the Organization for Security and Co-operation in Europe (OSCE). Furthermore, no institution made a smoother transition from the Cold War into the post-Cold War era. Unlike NATO, the EU, or the Council of Europe, the OSCE accepted universal participation by all states located within its geographic region, and its enlargement did not require any encroachment into contested regions, as is the case with both NATO and the EU. This universality of participation contributes to its significance in contemporary global politics, but it also constitutes a weakness, as smaller, more homogeneous institutions often take priority in the minds of policymakers, especially where consensus is required to take action. Finally, the OSCE is unique in its comprehensive definition of security, which includes politico-military, economic and environmental, and human security.

In spite of its potential to be a major force in European security after the Cold War and its strong start in the 1990s, over the first decade of the 21st century, the OSCE has gradually been losing its prominence as a major actor within the overall “architecture” of European security. As of 2008, this constitutes a crisis for the institution as the OSCE faces a critical juncture: Over the next few years, it will likely either recede further to become an institution that focuses solely on “business as usual” in several “niches” for which it has already established a comparative advantage, or in the face of current challenges, especially in the security and human dimensions of its activities, it will revitalize its role as a central actor in European security. The next few years are likely to be critical for determining the direction in which the OSCE will turn.

The Challenges

There are many indicators of the declining role of the OSCE over the past decade. The last OSCE Summit attended by the heads of state or government from all participating States was held in Istanbul in 1999; throughout the previous decade, summits were usually held on a biennial basis, and virtually every summit produced important documents adding to the OSCE’s *acquis*. The OSCE budget has decreased from 212 million euros in 2000 to 164 million euros in 2008, a reduction of 23 per cent in nominal terms and an even greater decline in real terms. The last of the annual Ministerial Council Meet-

ings to adopt a consensus declaration was held in Portugal in 2002; beginning with the Netherlands Ministerial in 2003, these have been replaced by the Chairperson's statement of his or her "perception" of the results of the meeting rather than the usual consensus document reflecting the collective views of all participating States. Although the number of field missions has decreased only slightly since 2001 (due in part to the opening of a number of small missions in the Caucasus and Central Asia), the budgets and international staff for these activities have been cut roughly in half over seven years. Several states where missions are currently stationed have either asked to have them downgraded or closed altogether, as their presence is increasingly perceived within their own countries as a stigma. In short, political visibility, resources, consensus, and on-the-ground activities have declined or disappeared altogether during the first decade of the 21st century.

These facts lead to the question of why an organization that seemed to offer so much promise in the first decade after the Cold War has apparently lost so much steam since the turn of the century. Perhaps most importantly, the normative foundations upon which the CSCE was constructed at Helsinki in 1975 and reinforced and expanded at Paris and Copenhagen in 1990 and in Moscow in 1991, seem to have lost their force. As Gareth Evans, head of the International Crisis Group and former Australian foreign minister, observed at the 2008 Fall Meetings of the OSCE Parliamentary Assembly in Toronto, the OSCE currently seems to be "punching below its weight".

Prior to the summer of 2008, there was a widespread perception that the greatest threats to security within the region, emanating primarily from inter-ethnic violence, were largely behind us. The conflicts that broke out in the Caucasus, Central Asia, and especially South-eastern Europe were generally shocking and threatening to peace and security. The wars in Bosnia, Croatia, and Kosovo, in particular, presented a fundamental threat to regional security, and these threats are now largely viewed as history. The OSCE's contribution to calming tensions and promoting post-conflict peacebuilding in these regions is broadly recognized, even if often undervalued by political elites. Newer challenges of terrorism and transborder trafficking that have taken centre stage since 9/11 are often perceived as better managed by other institutions. And the confidence-building measures at the core of Helsinki Basket I and the subsequent Vienna Documents were viewed by many as largely outdated in a world of enhanced transparency, with few overt signs of preparations for military aggression by one state against another anywhere in the region.

In the Caucasus and Central Asia, there was also a fairly widespread, if reluctant acceptance of the role of Russia as a stabilizing force throughout the former Soviet space, leading to the perception that Western Europe and the US no longer needed to be preoccupied with these regions, especially at a time when other global regions, most notably south-western Asia and the Middle East, were begging for attention. For better or worse, by early 2008,

the direct violence had largely ended in Chechnya, and the conflicts on the Russian periphery in Nagorno-Karabakh, Moldova, and Georgia remained frozen, neither capable of resolution in spite of extensive OSCE efforts nor believed likely to break out again into large-scale, open violence. The declaration of independence by Kosovo in early 2008, feared by many as a possible spark for renewed violence in the Balkans, created diplomatic controversy but no overt fighting. In many quarters, this contributed to the illusion that the OSCE's success in conflict prevention might, indeed, make its role as a promoter of security largely obsolete in the near-term future. While some work in post conflict reconstruction still seemed desirable, many political elites believed that other institutions, especially the EU, could assume these functions more effectively than the OSCE. The OSCE therefore appeared to be losing its core operational mandate in the conflict prevention, management, and resolution field.

This complacency was dramatically shaken with the war in Georgia that broke out in August 2008, demonstrating persuasively that "frozen" conflicts may become "unfrozen", not only by their resolution, which has so far remained illusive, but also by becoming once again "hot", leading to substantial loss of life among innocent civilians as well as combatants. After growing weary of seemingly fruitless negotiations, the government of Georgian President Mikheil Saakashvili moved to assert its control over the region of South Ossetia, recognized at that time by all states as sovereign Georgian territory, though autonomous *de facto* since 1992. Georgian military action plunged the region into escalating violence for the second time since the break-up of the Soviet Union. It also proved to be a major challenge to the OSCE's normative *acquis*, not least to two core provisions of the "Decalogue" that served as the foundation for the 1975 Helsinki Final Act – namely "refraining from the threat or use of force" and the commitment to the "peaceful settlement of disputes." Furthermore, it occurred in spite of the presence of an OSCE mission in Georgia that had been mediating the dispute over the status of South Ossetia since its arrival in 1992, in the aftermath of fighting that had led to the *de facto* autonomy of South Ossetia and Abkhazia. Georgia chose not to take its concerns about sporadic outbreaks of violence and the possible infiltration of Russian military units into South Ossetia through the Raki Tunnel from Russia (North Ossetia) to the OSCE's Conflict Prevention Centre or Permanent Council, or to the UN Security Council as called for by the UN Charter; instead, the government of Georgia resorted to military force within the separatist region in apparent disregard for its commitments to the OSCE and to the UN.

Although the OSCE Mission to Georgia, ably headed by Ambassador Terhi Hakala of Finland, played a valuable role in post-conflict efforts to reduce tensions and restore order, in the run-up to the fighting, it was largely bypassed by the parties to the conflict. The OSCE role therefore changed quickly from its emphasis on proactive conflict prevention to reactive crisis

management. Staffed by only 36 international personnel, the OSCE Mission was incapable of doing anything meaningful to stop the escalation of violence once it was underway. Overlooking Georgia's failure to fulfil its commitments under OSCE norms and principles, many OSCE participating States, including many NATO states, not only failed to condemn these violations but in fact actively rewarded the Republic of Georgia with pledges of military and economic aid in response to the violence.

The Russian response also disregarded that country's commitment to the principles of the 1975 CSCE Helsinki Final Act, the 1990 Charter of Paris, and the Code of Conduct on Politico-Military Aspects of Security, adopted in Budapest in 1994. The movement of Russian armed forces, not only into South Ossetia, but into the other breakaway region of Abkhazia, as well as the decision to send Russian troops into previously uncontested regions of Georgia, clearly violated Russia's most fundamental commitments to OSCE principles. Principle 2 of the Helsinki Final Act calls on all participating States to "refrain from any manifestation of force for the purpose of inducing another participating State to renounce the full exercise of its sovereign rights. Likewise they will also refrain in their mutual relations from any act of reprisal by force." Therefore, even in response to provocations initiated on the Georgian side, the much wider set of reprisals undertaken by Russia disregarded these fundamental norms of peaceful conflict management. The subsequent unilateral recognition by the Russian Federation of the regions of South Ossetia and Abkhazia as sovereign states also flies in the face of the third Helsinki principle, which states that participating States "will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State".

In the immediate aftermath of violence, the role of the OSCE was minimized once again. Acting on behalf of the EU, President Nicolas Sarkozy of France took the lead in mediating a ceasefire, albeit an agreement filled with numerous ambiguities that led to considerable differences of interpretation afterwards. After the ceasefire was put into effect, the OSCE contributed 100 unarmed monitors to work alongside another 200 monitors supplied by the EU. However, again showing a disregard for its OSCE commitments, the Russian Federation prohibited those monitors from entering and undertaking observations on the territories of either South Ossetia or Abkhazia, even though this was necessary in order to clear up ambiguities about the events that sparked the violence, allegations by both sides of deliberate attacks upon civilians, as well as concerns about the treatment of ethnic minorities that remained in these two enclaves.

In addition to this decline in respect for OSCE norms in the security field, the normative consensus that developed within the OSCE in 1990-91 in the human dimension has also eroded since 2000. First, the emphasis on democratization that was universally embraced as communism collapsed throughout Eastern Europe has been widely questioned, and authoritarian

tendencies have remained or reappeared in many participating States. In Russia, early attempts at democratization became equated in the popular mind with anarchy – poverty, inequality, insecurity, and instability; and the trend towards decentralization within the Russian Federation seemed to pose new challenges to the Russian state's capacity to govern effectively. These developments led to a retrenchment of democratic institutions, often welcomed by popular majorities, and movement towards greater political centralization. In other post-Soviet states where democratization and liberalization had not advanced as far as in Russia, the retreat to greater centralization and authoritarianism has been less dramatic, but no less evident.

The great normative consensus that inspired the Copenhagen and Moscow documents of 1990-91 on the human dimension has thus largely evaporated, and, along with that consensus, support has also dwindled for the OSCE institutional structures that were created to implement those norms. Most clearly, the Office for Democratic Institutions and Human Rights (ODIHR) has been the subject of controversy in recent years, especially concerning election monitoring. Instead of viewing ODIHR as helpful in establishing their democratic credentials, an increasing number of countries have come to view ODIHR observation of their elections as an unwarranted interference in their internal affairs. This was most pronounced in the failure of ODIHR and the Russian Federation to agree upon a formula for OSCE monitoring of the March 2008 presidential elections in Russia. Therefore, while some countries – most notably the United States – view ODIHR as the most important and successful of OSCE institutions, others – most notably Russia – would like to see its mandate substantially curtailed. Indeed, they would like to revert to the 1975 principle of non-intervention in the internal affairs of states, rejecting the updated principles of the 1991 Moscow Declaration regarding the right of OSCE States to monitor and facilitate compliance with human-dimension commitments by all participating States.

Similarly, though less dramatically, the prominent role of the High Commission on National Minorities has also been reduced. This is partly due to an issue of personality, as neither of the successors to the initial HCNM, Ambassador Max van der Stoep of the Netherlands, has exercised the same kind of prominent role that the original incumbent brought to this position with his active engagement throughout the region. Instead of focusing primarily on issues such as the rights of national minorities in newly emerging states, an issue that has receded though it has not disappeared, much of the focus has shifted to issues reflecting the historic legacy of ethnic discrimination in Europe, such as the rights of Roma and Sinti peoples.

In short, since 2000 the OSCE has been forced to retreat from its enthusiastic endorsement of liberal democracy, individual human rights, and the rights of persons belonging to minorities. The normative position that these were universal principles associated with good governance everywhere has been replaced in some quarters by a reversion to the principle of absolute

state sovereignty and the right of each state to manage its own internal affairs free of any external oversight. This collides with the normative commitment of those who believe that the human-rights principles constitute the distinctive normative cornerstone of the OSCE's concept of comprehensive security. The result has been a move away from the unquestioning embrace of liberal democracy and human rights. The OSCE has not reverted completely to the debate that was the focus of divisions during the last decade of the Cold War, especially during the CSCE Madrid Review Conference of 1980-83, when a disagreement about the relative emphasis on security versus human rights between East and West largely stalemated progress within the CSCE. There has, however, been a significant erosion of the post-Cold War consensus that has made agreement about basic principles and some concrete activities all but impossible to achieve. Without greater commitment to the OSCE's fundamental norms, the Organization may find itself facing great difficulties in assuming its proper role as a major actor in European security in the years ahead.

Explanations for the Current Crisis

The interest and commitment of the major parties that sustained the OSCE throughout its history have declined significantly during the first decade of the new century. This is due to a combination of factors. One is the pronounced tendency towards unilateralism in the foreign policies of both of the former superpowers. In the United States, the administration of President George W. Bush has consistently been critical of multilateral organizations, less of the OSCE than of the UN, but it has nonetheless been unwilling to devote budgetary resources or political attention to any multilateral organization that it cannot dominate. Furthermore, since 9/11, US attention has focused almost exclusively on the "war on terror" and its proclaimed battle grounds in Afghanistan and Iraq. Similarly, since taking power in Russia in 2000, President Vladimir Putin has also pursued a largely unilateralist policy, while taking umbrage at the fact that OSCE missions and ODIHR election monitoring have focused more extensively on regions "East of Vienna", which he believes fall in Russia's traditional "sphere of influence", rather than on the West. This has led the Russian government to favour substantial downsizing of OSCE field activities, reductions of their budgets, and a major revision of ODIHR's overall mandate to curtail what Putin perceives as its intrusive intervention in the internal affairs of Russia and other states in its "near abroad", most notably Ukraine, Georgia, and Kyrgyzstan. Russia also resisted attempts by the OSCE to insist upon its compliance with commitments to withdraw its troops from bases in the Moldovan region of Transdnistria and the Georgian region of Abkhazia. In short, the OSCE has largely ceased to serve any immediate, concrete Russian interests, and it has thus ceased to

be a centre of attention for Russian political elites. On matters where the security interests of the US and Russia intersect, such as on terrorist activities near Russia's borders, both have preferred to manage these issues bilaterally and in relative privacy, largely compartmentalizing them from the broader issues of regional security.

Finally, the European Union has become increasingly assertive on issues of European security, especially in response to the declining commitment by the two former superpowers in European security affairs. The effort to establish the credibility of its Common Foreign and Security Policy (CFSP) has often led it to take up activities previously undertaken, or that might better be performed, by the OSCE. For many years, EU and OSCE missions have operated side-by-side in countries such as the Former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, and Georgia, as well as in Kosovo, where both operate under UN authority. As the EU increased its institutional capacity in conflict prevention, post-conflict reconstruction, and election monitoring, it has begun to assume functions that have so far been at the core of OSCE activities. Often EU aid missions are able to offer more lucrative assistance to countries such as those in Central Asia and the Balkans than the OSCE is. Some EU officials therefore seem to believe that Brussels could readily supplant most of the central activities of the OSCE with greater political coherence and budgetary resources, and concern at this tendency has been noted by the OSCE Secretariat in Vienna. In spite of difficulties that the EU confronts in achieving consensus around important issues of foreign and security policy, the relative homogeneity of its membership in comparison with the OSCE seems to many Europeans to make it a satisfactory alternative to the latter, especially at a time when American and Russian unilateralism have made consensus within the larger transatlantic body even more difficult to realize.

In addition to the changing commitment of key participating States and regional institutions, the international context within which the OSCE operates has become increasingly difficult, due to several factors. First, the major post-Cold War European arms-control agreements have been severely weakened. Although their formal connection to the OSCE is only indirect, there remains a close relationship in both substance and operational aspects. Of particular significance is the fate of the Treaty on Conventional Armed Forces in Europe (CFE Treaty), signed by 30 of the 56 OSCE participating States at the Paris CSCE Summit in November 1990; this treaty equalized levels of heavy combat equipment between NATO and the Warsaw Treaty Organization (WTO). However, with the collapse of the WTO within a year of its signature, the CFE Treaty needed to adjust to the new military realities in the region. An Adapted CFE Treaty was therefore signed at the OSCE's Istanbul Summit in November 1999, which most importantly redefined the basis of force limitations in terms of national rather than alliance-wide ceilings. Only Russia and a few other countries have ratified this treaty, however,

as Western states have made ratification contingent on the removal of Russian military forces from Moldova (Transdnistria) and Georgia (Abkhazia). In response, the Russian Federation suspended its participation in the original CFE Treaty in December 2007, in effect undermining the conventional forces regime altogether.

This decision is likely to have few immediate consequences, as all parties are so strapped for resources or have so many other high priority concerns that they are unlikely to expand their conventional forces in Europe significantly beyond treaty limits in the near future, even in the absence of formal constraints. Over the longer term, however, this failure to reaffirm constraints on armaments now, at a time when few states perceive an immediate need to increase, could lead to far more difficult negotiations in the future when and if one or more signatory states have greater resources to spend on military hardware and perceive the need to build up their conventional forces further. While this is unlikely to lead to a resumption of the Cold War in the foreseeable future, a conventional arms race could make the present peace within Europe far more unstable than it has been since the mid-1980s. The collapse of conventional arms control also impacts the OSCE's Forum for Security Co-operation, where efforts to strengthen and expand existing confidence- and security-building measures have largely come to a halt and the existing regime under the Vienna Document 1999 might also lose its import. In short, the future of the OSCE cannot be separated from the future of continent-wide arms control, and the collapse of the latter is a poor omen for the future of the former.

Other conflicts in the sphere of military security have spilled over to affect the OSCE. These include Russian objections to the eastward enlargement of NATO, especially its incorporation of former Soviet republics – such as the Baltic states, which have already joined NATO – and, even more significantly, the prospect of entry by Ukraine and Georgia, which many Russian officials perceive as creating a potential security threat in Russia's "near abroad". Similarly, the US decision to establish bases in new NATO member states Bulgaria and Romania has created security concerns in Russia, as NATO "encirclement" moves closer and closer to the Russian heartland and well into former Soviet satellite states. Finally, the US plan to build radar stations in Poland and the Czech Republic has created tensions with Russia. Although these bases are ostensibly intended to track long-range Iranian missiles fired towards Western Europe or North America, Russian leaders tend to perceive these new installations as the first step towards an eventual deployment of a "thick" ballistic missile defence shield directed against Russian ICBMs. Although there was some likelihood that a new US president might scale back those activities perceived to be most provocative by Russia after taking office in January 2009, it is likely that the Russian actions in Georgia in August 2008 will make that politically very difficult. While none of these issues directly affects the OSCE mandate, they provide an overall political

climate that creates tensions among OSCE participating States, undermines the existing Basket I commitments in the field of politico-military security, and makes consensus on new measures that might strengthen and close the existing gaps in the European conventional arms-control and confidence-building regime virtually impossible to achieve.

The Current OSCE Agenda: "Business as Usual"

Given these obstacles to consensus and co-operation, the OSCE has proceeded by engaging in "business as usual", pursuing an agenda of important, but generally low profile activities that create minimal controversy, while holding the institution together until a new consensus can be found. Most of these take place within the various units of the Vienna-based Secretariat and in the field missions, below the political "radar screen" of high-level policy makers in the participating States. A review of these activities indicates engagement by the OSCE in a number of significant but largely unknown tasks in spite of its inability to come to grips with many of the fundamental issues of regional security that provided its *raison d'être* during its first 25 years.

One recent effort to bring more attention to the OSCE has been advocated by the United States, which has proposed making use of the Organization's functional expertise to enhance border controls on the northern frontier of Afghanistan. Since Afghanistan is a high priority issue for the US, the US Mission to the OSCE believes that getting the OSCE involved in an important activity there will raise its profile, especially in the US Congress and the White House. This in turn might spill over into greater attention to the OSCE's contributions in other areas. One aspect of this proposal is largely uncontroversial and consistent with past OSCE practice, namely to assist the three Central Asian states (Turkmenistan, Uzbekistan, and Tajikistan) with borders on Afghanistan to enhance controls on their own side of the border. This would make good use of past OSCE experience in training border guards to reduce illegal transit across these long and rugged borders by teaching them skills such as identifying forged documents, discriminating between legitimate travel versus trafficking, and denying known terrorists entry to the region.

The more controversial aspect of the US proposal, however, involves training Afghan border guards within Afghanistan, preferred by authorities in Kabul. This would set a precedent by involving the OSCE directly in an activity "out of area", on the territory of a non-participating state. Moreover, concern has been expressed by some delegations that this could further drag the OSCE into the Afghan morass, possibly tarnishing rather than refurbishing its image if it becomes identified with another project in the increasingly chaotic conditions in Afghanistan, and also conceivably involving high risks for OSCE personnel. Finally, with so many actors involved in Afghanistan, it

is not clear that this relatively minor role for the OSCE in the overall complex of operations on the ground would receive sufficient attention to generate enhanced political support for the Organization in Washington or other capitals. Furthermore, many states and OSCE officials complain that the US is pushing the OSCE into this new task while simultaneously cutting its financial support, making demands on the Organization without providing the resources necessary to carry them out. Overall, this effort constitutes a potential diversion of the OSCE's energy from meeting the needs within the region it has traditionally served, thereby further diluting the Organization's efforts.

At the same time, the OSCE continues to perform several primary responsibilities that it undertook in the Balkans in the previous decade. Foremost among these is the OSCE Mission in Kosovo. Despite Kosovo's recent declaration of statehood, it is still not recognized by the vast majority of the world's states, including many OSCE participating States. As Kosovo's international status remains precarious, so does the situation for many enclaves within the region inhabited predominantly by members of the Serbian minority, who fear for their security as the international presence in Kosovo recedes. This is one location where the OSCE's extensive experience in conflict prevention is desperately needed, and no other institution is likely to be able to step in to replace it. Particularly as the role of the UN declines, the OSCE's presence and expertise is likely to be more needed than ever. The same largely holds true for Bosnia and Herzegovina. Although substantial progress has been made in many areas, this country remains fragile and still depends heavily on an international presence. As the function of the High Representative is in the process of being revised and downgraded, so the role of the large OSCE Mission on the ground becomes more central to Bosnia's continued stability. Although Republika Srpska did not try to secede from Bosnia and Herzegovina following Kosovo's declaration of independence, as many feared it might, it remains a largely Bosnian Serb-dominated region that is not fully integrated with the Bosniak-Croat Federation.

Furthermore, the outbreak of violence in Georgia should serve as a reminder that other conflicts within the region could flair up as well. There is a possibility of violence arising anew in Crimea, the source of a movement on the part of ethnic Russians to secede from Ukraine in the early 1990s. This conflict was settled in the mid-1990s in large part thanks to the good offices of the then OSCE Mission to Ukraine and the HCNM, supported by Russian President Boris Yeltsin's efforts to overrule supporters of Crimean secessionism in the Russian State Duma. Presently, however, as Ukraine moves closer to entry into NATO, there is no guarantee that the current Russian government will act with such caution. Crimea is just one of several regions within the OSCE domain where conflict prevention remains an important objective, especially since conflict between the two largest post-Soviet states, Russia and Ukraine, could have even greater global consequences than the

other conflicts that sprang up on post-Soviet space in the early 1990s or than the Russian-Georgian conflict of 2008.

Finally, the so-called “frozen conflicts” remain far from settled, though unlike the Georgian regions of Abkhazia and South Ossetia, the unsatisfactory status quo appears to have become more or less routinized in Transdnistria and Nagorno-Karabakh. These conflicts have frustrated the OSCE for more than 15 years as all efforts to find mediated solutions have failed. However, there is little doubt that a success by even one of the OSCE missions in brokering a solution to one of these conflicts would considerably reduce tensions in the region and would go a long way towards re-establishing the reputation of the OSCE as a valuable instrument of conflict management. The resolution of these conflicts requires considerable patience, but in all cases the underlying issues are resolvable with sufficient political will by the parties to the conflict and their external supporters, especially with the aid of OSCE mediation.

The OSCE is particularly well suited to play this role of mediator for several reasons. First, it is not an “outsider” intervening in the affairs of states, but it represents an institution in which all of the participating States involved in these conflicts are represented. Second, these are not conflicts that can readily be settled by other institutions such as the EU. The central involvement of both Russia and the United States in these conflicts means that any resolution requires their participation, and the OSCE provides an institutional context in which they could, if they so agreed, work together quietly to find workable solutions.

In addition to its important responsibilities in the field of regional conflict resolution, the OSCE continues to play a role on a number of important, if less glamorous “niche” issues. These include:

- The Action against Terrorism Unit within the OSCE Secretariat has attempted to raise awareness of terrorist threats within the region, to build the capacity of participating States to respond to terrorism, to identify and fill gaps in both the legal and operational efforts to reduce terrorist threats, to enhance cross-border co-operation (e.g. by restricting terrorist movements across international borders and strengthening the capacity of national police forces to identify and combat terrorist threats), and, crucially, to assist states in assuring that human rights do not become unduly trampled as a consequence of anti-terrorist activities.
- The Special Representative and Co-ordinator for Combating Trafficking in Human Beings has engaged in extensive efforts to enhance capacity and create greater co-ordination across international borders to reduce trafficking of human beings, especially women and children, to serve as “sex slaves”, in forced labour, and other servile roles.
- The Forum for Security Co-operation has taken the lead in the development of tools for enhancing transparency and assisting in the limitation

of small arms and light weapons (SALW) within the OSCE region. While most global attention has been focused on weapons of mass destruction (WMD) and heavy conventional armaments, in today's world, most violent deaths occur as a consequence of the use of small arms and light weapons. Here the OSCE has produced a "best practices" guide, as well as concrete training and assistance on the ground, to strengthen national controls for the manufacture and distribution of SALW, to enhance transparency concerning the export and import of SALW, to manage and safeguard stockpiles of these weapons to prevent them from falling into the wrong hands, to identify and safely dispose of surplus or deteriorating SALW and components that may provide environmental as well as security hazards to the public.

These examples illustrate several valuable OSCE initiatives in recent years in response to increased threats to security from non-traditional sources. Although these "niche" activities seldom achieve the publicity or political salience of activities such as conflict management in the Balkans, they do illustrate a range of security issues where the OSCE continues to make a unique contribution. It would be significantly detrimental to European regional security if these functions were no longer provided by an institution with such a broad geographic scope. Therefore, even if it is constrained to conducting "business as usual" in these "niche" areas, the OSCE should continue to have a valuable role to play in the near-term future.

Challenges for the Future: Can the OSCE be Revitalized?

Given the changes in the international security environment, domestic politics in several major OSCE participating States (especially Russia and the US) and institutions (i.e. the EU), and given the growing ability of other institutions to assume some of these tasks, some commentators have suggested that the OSCE has outlived its usefulness and should be cut back to focus just on these "niche" issues; a few have even suggested that it should perhaps be disbanded altogether. Thus, perhaps the most difficult challenge that the OSCE faces involves a diminishing sense of its relevance at the political level. The major contribution of the OSCE to regional security has been its role in conflict prevention and management through its comprehensive definition of security, involving security for states, groups, and individuals. Furthermore, security for the OSCE includes good governance, economic well-being, the avoidance of environmental degradation, and respect for human rights, as well as traditional security against armed violence.

Even when it contributes towards these goals, however, it is difficult for the OSCE to claim credit and to receive the recognition that it rightly deserves. These goals are so broad and so many actors are involved, that it is

impossible to separate out the contribution of any one institution, even one as large as the OSCE. In addition, when conflict prevention and management institutions are successful, “nothing happens”. And “nothing” goes unreported in the media, unnoticed in national capitals and among the general public, and even in academic research. By its very definition, therefore, the more successful the OSCE is, the less attention it draws. And when it fails to attract the attention of key policy-makers, it loses the political and material support so necessary for its continued success. In spite of extensive and well-intended efforts to change this reality, the OSCE has so far been unable to escape from this central dilemma. No matter what it does, it is not likely to achieve visibility comparable to that of the UN, NATO, or the EU. This is not always harmful, however, as it allows the OSCE to go about its work quietly and therefore often more flexibly and effectively than other institutions, whose work is often debated in the media and in policy circles. At the same time, it complicates its ability to achieve the political salience and level of material support that it requires to be revitalized as a major actor in European security.

It does not follow, however, that the OSCE has therefore lost its entire *raison d'être*, even though its normative and political consensus has certainly eroded. There are several key factors that should be kept in mind when considering the potential role of the OSCE in the near-term future:

Many of the regions of conflict with which the OSCE has worked since the early 1990s have not been fully stabilized, and there is still extensive work to do on the ground to try to promote stable peace, rather than just maintaining an unstable peace, with an absence of overt violence, as prevails today. This includes the “frozen conflicts” in Nagorno-Karabakh and Moldova; resolving the issues that produced the recent outbreak of violent conflict in Georgia; managing conflicts that appear to have been resolved but could reappear, including Chechnya and Crimea; preventing renewed outbreaks of violence in regions that have experienced the legacy of war but have subsequently returned to relative peace, including Bosnia and Herzegovina, Kosovo, Croatia, and Tajikistan; building stable peace in regions where conflict prevention has thus far been relatively successful but where continued attention is necessary to prevent existing tensions from exploding into violence, including the Former Yugoslav Republic of Macedonia, Uzbekistan, and Kyrgyzstan. No other institution has the same level of on-the-ground experience in all of these regions as the OSCE, whose missions and other field activities provide a continuous international presence, and no other institution has the same legitimacy to become involved in conflicts within these countries, since all are OSCE participating States. None of these states presently belongs to NATO or the EU, though several are candidates for membership, and any involvement by either of these institutions is likely to be viewed by local political elites and publics as “outside” intervention in their internal affairs. Therefore, even though the period of seemingly conta-

gious violence that characterized the 1990s appears to have receded, it is still too early to assume that the entire OSCE region has become a zone of “democratic peace”, and it is clear that further efforts by an institution such as the OSCE dedicated to supporting the growth of a regional zone of peace are still very much needed.

In addition to these past conflicts that continue to require attention, the OSCE has identified some of the new security issues that plague the region and has begun to play a key role in responding to them. Examples of these issues were identified in the fourth section of this contribution. They include tracking terrorist activity transnationally and strengthening border security against movement throughout the region of terrorists, traffickers, and other criminals; enhancing the ethnic, national, and gender diversity of police and border guards and improving their capacity to pursue their tasks more effectively while also respecting human rights and the rights of persons belonging to minorities; expanding arms control by enhancing transparency and confidence-building, including small arms and light weapons; combating trafficking in human beings, especially of women and children for prostitution or forced labour; combating racism, xenophobia, anti-Semitism, anti-Muslim attitudes and behaviours and other forms of religious discrimination. These and many similar “soft” security issues remain as threats to peace and security throughout the region, and a multilateral effort to deal with these problems is essential if they are to be managed effectively.

The OSCE is uniquely qualified to respond to many of these issues in part because of its diverse participation across so many states and such a large portion of the northern hemisphere. The fact that the United States, the Russian Federation, and the European Union all participate within the OSCE gives it a framework in which issues affecting or affected by all three major actors may be discussed, debated, and even at times reconciled, without all of the complexities of achieving consensus in a global organization like the UN. Russia will be excluded for the foreseeable future from the other European regional institutions, and the US has no interest in or prospect of joining the EU. Yet almost all of the issues noted above involve one or both of these major powers; both are affected by virtually everything that occurs in the region, and both share responsibility for at least some of the problems it faces. In short, because they are part of the problem, they need to be part of the solution. With all of its limitations, the OSCE provides a unique forum for these major regional and global powers to deliberate, negotiate, and resolve their differences within a multilateral context, in an environment that is sufficiently removed from the limelight of public attention that issues can readily be dealt with before parties dig in their heels, causing the issues to become politically charged and thus far more difficult to resolve in mutually beneficial ways.

The OSCE can and should be more than a “talking shop”, but even that function should not be underrated when it comes to evaluating its utility as a

forum for dialogue among the United States, Russia, and Europe. This role can only be revitalized by determined leadership from the EU, Russia, and especially the United States. When Barack Obama is inaugurated as US President in January 2009, he should make it a priority to meet with Russian and EU leaders to revitalize the OSCE at the highest political level, including a commitment to holding an OSCE Summit in Athens in 2009, ten years after the last summit meeting. Structural reform of the OSCE is far less important at this point in time than a renewed commitment by the major participating States to reaffirm and enlarge the Organization's normative foundations and to enhance broad compliance with the existing, extensive normative *acquis*.

The OSCE needs to enhance its arms-control agenda. Russia and many other participating States have criticized the Organization for its focus almost exclusively on the human dimension, while neglecting the security dimension, and indeed they are correct to the extent that human rights has been virtually the sole focus of the United States within the OSCE for many years, especially since 2001. Conversely, Russia under Putin has tried to subordinate the human dimension of the OSCE and to narrow the institution's focus primarily to politico-military rather than comprehensive security. The strength of the OSCE's normative foundation, however, is its explicit linkage of human rights and other human-dimension activities with concrete measures to enhance security at all levels. This linkage has been broken largely by recent disputes between the US and Russia, each of which has emphasized its preferred "basket" at the expense of all the other dimensions of the OSCE's comprehensive approach to security. The centrepiece of this arms-control regime is the CFE Treaty. It is essential that the parties move rapidly towards either the ratification of the already-signed Adapted CFE Treaty or, alternatively, open negotiations to produce an updated treaty that responds more effectively to the present situation rather than the conditions of 1999, when the Adapted CFE Treaty was signed in Istanbul. It is, of course, important that Russia live up to its Istanbul commitments to remove its troops from all participating States that request their departure, but this cannot be the sole issue of concern. It is essential to stabilize not only region-wide conventional armaments, but also local rivalries that could lead to violence, and thus to extend the area of application beyond the present 30 signatories to include as many of the 56 participating OSCE states as possible. Revising and ratifying the Adapted CFE Treaty should thus be a major priority to be completed at an OSCE Summit in December 2009.

Conclusion

In summary, while continuing to pursue "business as usual" on "niche" issues around which a substantial consensus exists, if the OSCE is to fulfil its mandate provided by the 1990 Charter of Paris to promote "a new era of democ-

racy, peace and unity in Europe”, it must reaffirm and revitalize its normative core and its unique set of activities that link security, good governance, and human rights within a single comprehensive framework. Unless it can reaffirm its commitment to that vision, the OSCE may continue with “business as usual”, but that business is likely to decline in importance, and the highest priority issues are likely to be taken over by other institutions. However, the OSCE vision – its normative core – is deeper and more far-reaching than that of any other comparable institution, and only by rediscovering that vision and revitalizing the functions of the OSCE can it take its appropriate place as a major actor capable of making a unique and significant contribution to peace and security in the broad region from “Vancouver to Vladivostok”.

The Current State of European Security

Introduction

The purpose of this contribution is to map the current security configuration in Europe, trace changes, predict likely scenarios, and discuss what the OSCE can do to affect which scenario will be realized. To this end, we loosely draw on regional security complex theory (RSCT). Our principal argument is that the basic structure of the European security order is gradually being transformed into a bipolar, conflictual order. This process is reversible, and the OSCE may play a small part in bringing about such a change.

A regional security complex (RSC) comprises a set of actors whose security problems are so interconnected that they cannot be considered or resolved apart from one another.¹ RSCT rests on three basic ideas. One is borrowed from geopolitics, the second from the new security agenda, and the third from the linguistic turn in the social sciences. To begin with geopolitics, the argument is that security interdependencies often exist in regional clusters. This is so “because many threats travel more easily over short distances than over long ones”.² Global powers often penetrate RSCs, either reinforcing or dampening regional security dynamics. Second, RSCT reflects the new security agenda that emerged at the end of the 1980s. Diplomats and academics stretched the concept of security to include non-military issues (environmental, economic, etc.) and non-state referent objects (e.g. human beings, collective identity). The CSCE/OSCE was a key policy entrepreneur in these efforts to deepen and widen the traditional state-centric and military security agenda. Finally, RSCT is informed by the linguistic turn in security studies. Unlike the two previous borrowings, this is not about the substance of international security but about epistemology. Policy analysts cannot treat threats as objective conditions. Threats are intersubjective social facts rather than brute material facts. Unlike brute facts (such as mountains), social facts (such as money) are facts by (discursive) agreement only.³ Through discourses of danger or securitizations, an intersubjective understanding is constructed within a political community to treat something as a security problem.⁴

RSCT argues that security dynamics are primarily shaped by domestic vulnerabilities (economic, political, societal, etc.) and the material and social

1 Cf. Barry Buzan/Ole Waever, *Regions and Powers: The Structure of International Security*, Cambridge 2003, p. 44.

2 Ibid., p. 45.

3 Cf. John Searle, *The Construction of Social Reality*, New York 1995.

4 Cf. Buzan/Waever, cited above (Note 1) p. 491.

structure of the RSC. Material structure refers to the distribution of power among the regional actors and social structure to the roles – enemy, rival, friend – that prevail in the complex. Depending on the relative strength of each of these roles and the patterns of amity-enmity they form, three basic security orders can be identified: conflict formations (competitive security orders), security regimes (co-operative security orders) and security communities (post-security orders).⁵

RSCT is a useful tool for assessing the structural patterns of RSCs. It can also be used for generating predictive scenarios and for clarifying which policy options are “realistic” in a given RSC. We will make use of both functions of the theory.

The Gradual Emergence of a Bipolar, Conflictual RSC

With the end of the Cold War, regional security dynamics reasserted themselves in Europe. Global security concerns, which had dominated the continent, receded into the background. The 1990s saw the revival in post-Soviet space and the Balkans of hitherto frozen intra- and interstate tensions and conflicts. Security dynamics at the time were primarily unfolding in two distinct RSCs, one centred on the EU, the other centred on Russia. Compared with the limited security interdependence between the two complexes, the security dynamics *within* them, say, between the EU and the Western Balkans or between Russia and post-Soviet space, were intense.⁶ The decade also witnessed the emergence of a weak pan-European security regime, whose foundations had been laid by the Cold War Helsinki process. Its central pillars were the OSCE, the Partnership and Co-operation Agreement between the EU and Russia (in force since 1997) and the NATO-Russia Founding Act (signed in 1997). All three arrangements include a dense network of institutionalized and informal contacts that, it was initially hoped in the West, would gradually lead to the *de facto* integration of Russia into the Euro-Atlantic community of values and interests.

With hindsight, the last decade of the 20th century appears as an interregnum. In the new millennium, changes in the absolute and relative power of the EU and Russia and in the pattern of their securitizations have led to the gradual fusion of the two European RSCs. The emerging super-complex hollows out the pan-European security regime and strengthens competitive security dynamics. The brief war between Russia and Georgia in the summer of 2008 and the subsequent chill in East-West relations is a stark reminder of the risks engendered by this development.

The USA penetrates the RSC, bilaterally and via NATO and the OSCE. After 9/11, its policies in Europe have become more strongly influenced by

5 Cf. *ibid.*, pp. 50 and 54.

6 Cf. *ibid.*, p. 343.

global security concerns, notably by the global war on terror and the search for secure alternatives to the Middle East oil spigot. In the section that follows, we describe the recent (uneven) improvements in the diplomatic, economic, and military assets of the EU and Russia. Among all the regional actors, only these two have been evolving the power-projection capabilities, strategies, and political will to shape the RSC.

Towards a Bipolar Europe

The current restructuring of the RSC into a bipolar order is, among other things, fuelled by the growth of power of the EU and Russia as well as by geopolitical and geoeconomic developments. With EU security concerns in the Western Balkans and Russian security concerns in Chechnya receding, it is the neighbourhood shared by these two major players that has emerged as the new geopolitical hot spot in Europe in the last few years – notably the Southern Caucasus, Ukraine, and Moldova.

Four closely related factors account for the EU's increasing readiness and capacity to project its vision of order into post-Soviet space.⁷ First, its eastward enlargement brought the EU into closer proximity to Russia. The new geopolitical borders create both opportunities and vulnerabilities. The EU expects that by shaping its new neighbourhood – Europeanizing it – it can limit the soft security threats emanating from it.⁸ Second, while the EU never formally accepted Moscow's predominance in post-Soviet space, it did little to contest it belonging *de facto* to Russia's sphere of influence. The new Eastern European member states, notably Poland and Lithuania, have done much to modify the EU position. Their geographical closeness to Russian power, coupled with historical memories of Soviet repression, translates into an acute sense of vulnerability (political, military, and economic) *vis-à-vis* Moscow. For both geopolitical and ideological reasons they are thus outspoken proponents of anchoring the borderland between themselves and Russia to the EU and NATO. Their advocacy is strengthened by their extensive contacts with local political forces, language skills (Russian still travels far in post-Soviet space) and expertise in post-communist transition.

Third, the voices of those in the EU who want to see a firmer common policy on Russian actions in the shared neighbourhood have been strengthened by the re-emergence of energy security as a top concern among European governments. Against the background of the Union's dependence on Russian oil and gas, recent supply disruptions to Belarus and Ukraine were interpreted by proponents of the get-tough-on-Russia line as proof of Mos-

7 In addition to the factors rooted in EU choices, the pro-Western "colour revolutions" in Georgia and Ukraine played an important role in prompting Brussels to upgrade its involvement in the region.

8 Cf. Roberto Aliboni, The Geopolitical Implications of the European Neighbourhood Policy, in: *European Foreign Affairs Review* 1/2005, pp. 1-16.

cow's willingness to use energy as "a currency of power in the international system".⁹ These concerns, in turn, have increased the geoeconomic salience of the Southern Caucasus, Moldova, and Ukraine as energy corridors linking the EU to Caspian oil and gas.¹⁰

Fourth, in the new millennium, the EU has added new policy instruments to its foreign policy arsenal and given itself a security strategy to guide their employment. This foreign and security policy upgrade has ensured that Brussels' growing contestation of Russian influence in post-Soviet space goes beyond rhetoric. The strategic objective of the widening and deepening of the EU's engagement in the Eastern neighbourhood is the promotion of "a ring of well governed countries".¹¹ It is based on the European Neighbourhood Policy (ENP), and the associated Eastern Partnership currently under consideration, as well as the Common Foreign and Security Policy (CFSP), which includes the European Security and Defence Policy (ESDP). The ENP, which is modelled on the successful enlargement policy, represents a significantly expanded EU engagement in its Eastern neighbourhood. The policy is funded by some twelve billion euros and ranges from the promotion of elements of the *acquis communautaire* in the context of ENP Action Plans to new diplomatic initiatives and activities aimed at addressing the territorial conflicts in Nagorno-Karabakh, Georgia, and Moldova.¹² In what amounts to a spillover from the first to the second pillar of EU foreign policy, the use of the ENP instrument in the Eastern neighbourhood resulted in the parallel deployment of CFSP and ESDP instruments. The Union appointed EU Special Representatives for Moldova (from 2005), the Southern Caucasus (from 2003), and the crisis in Georgia (from September 2008); sent the ESDP Rule of Law Mission EUJUST THEMIS to Georgia (2004-2005); put in place the follow-up EU Border Support Team (from 2005); deployed the EU Border Assistance Mission EU BAM at the Moldovan-Ukrainian border (from 2005); implemented confidence building measures in Georgia (from 2007); and deployed the Monitoring Mission EUMM (from October 2008) to the country to observe the pull-back of Russian troops from occupied Georgian territory to their positions prior to the conflict in line with the Sarkozy-Medvedev agreement of 12 August.¹³

9 Enno Harks, cited in Dimitrios Triantaphyllou, Energy Security and Common Foreign and Security Policy (CFSP): The Wider Black Sea Area Context, in: *Southeast European and Black Sea Studies* 2/2007, p. 290.

10 Cf. Uwe Halbach, Oil and the Great Game in the Caucasus, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 275-285.

11 *A Secure Europe in a Better World. European Security Strategy*, Brussels, 2003, p. 8.

12 At the time of going to press, the European Commission is talking with the authorities of Georgia and the two breakaway republics of Abkhazia and South Ossetia to re-launch its conflict-related assistance to the secessionist territories, which was disrupted after the events in the summer of 2008.

13 By 10 October, Russian forces had withdrawn from the areas adjacent to the breakaway republics, which they had occupied in the aftermath of Georgia's attempt to retake South Ossetia by force. At the time of writing, remaining flashpoints are Akhagori, Khodori,

This said, while the EU engagement in the region has been growing significantly in recent years, it has a number of important limitations. Brussels has shied away from using its new operational capacity for peacemaking and peacebuilding, which has been developed under the ESDP, to address the frozen conflicts. While the speedy deployment of the EUMM to Georgia was an impressive display of the new EU capabilities, the civilian mission has no executive powers to enforce the EU-Russian peace plan. As to the ENP, when compared to the previous ex-communist accession countries, the EU neighbours in the East start out at a much lower level of development (democracy, economy, rule of law, etc.). Hence, the challenges for the Union in Europeanizing these countries are much greater.¹⁴ What is more, the tools to accomplish the job (ENP Action Plans and the European Neighbourhood and Partnership Instrument – ENPI) are significantly less powerful than those available for shaping relations with countries that have been granted a prospect of EU membership. Furthermore, legitimate political competition within countries, a key factor in explaining the success of the big-bang enlargement,¹⁵ is only weakly present in the ENP countries, and only among a few of them. Finally, though the EU is playing the leading role in the Geneva peace talks convened to address the fallout over the war between Russia and Georgia, it is only an observer of the five-plus-two talks in Transdniestria and has no formal role in the negotiations between Armenia and Azerbaijan.¹⁶

Turning to Russia, its institutional trajectory since the beginning of the 1990s has been very different from that of the EU. Whereas the end of the Cold War opened a window of opportunity for the EU to gradually develop its own autonomous security and defence capabilities, for Russia the collapse of the Soviet Union meant a dramatic loss of power from which it has only recently been recovering. Throughout most of the 1990s, the country experienced a steep economic decline and loss of global influence. The governance capacity of the state weakened precipitously as political power seeped away from the central state.¹⁷ Economic policy became largely captured by oligarchs and Western advisors. The state's internal sovereignty was under-

and Perevi, where, EU protests notwithstanding, militias of the breakaway republic and/or Russian troops remain. Also, the reinforcement of Russian forces in Abkhazia and South Ossetia remains controversial, with the EU insisting that it contravenes the Sarkozy-Medvedev peace plan.

14 Cf. Judith Kelley, 'New Wine in Old Wineskins: Promoting Political Reforms Through the New European Neighbourhood Policy', in: *Journal of Common Market Studies* 1/2006, pp. 29-55.

15 Cf. Milada Anna Vachudova, *Europe Undivided: Democracy, Leverage and Integration after Communism*, Oxford 2005.

16 The Geneva talks are co-chaired by the EU, the OSCE, and the United Nations. Relations among them are not frictionless, as each has an important mission on the ground in Georgia and does not want to see the others step on its turf. In particular, the OSCE feels threatened by the newcomer EUMM, whose mandate in the no-man's land between Georgia and South Ossetia overlaps with its own. This has led to the absurd situation in which Georgian and South Ossetian checkpoints in the concerned areas are monitored by both organizations.

17 Cf. Richard Sakwa, *Putin: Russia's Choice*, London 2004.

mined by the power grab of regional bosses, which led to the creation of a de facto federation of mini-states making sovereign claims.

Even as the material foundations of its international influence deteriorated in the 1990s, Russia insisted that it remained a great power that had a right to “occupy a worthy place [...] in the community of civilized peoples in Eurasia and America”.¹⁸ And indeed, it retained sufficient power-projection capabilities to establish its hegemony over post-Soviet space, excluding the Baltic states. Moscow claimed what then president Boris Yeltsin called a “special responsibility” in this territory. In the same speech in 1993, he called on the United Nations (UN) and other international actors “to grant Russia special powers as guarantor of peace and stability in this region”.¹⁹ This was Russia’s version of the Monroe Doctrine, which declared the “near abroad” to be Moscow’s exclusive sphere of interest in which it had a *droit de regard* over local developments that might affect its national interest. Moscow’s robust military response in August 2008 to Tbilisi’s effort to re-integrate South Ossetia by force can be seen as a manifestation of the doctrine. The institutional vehicle through which Russia sought to pursue its doctrine was the Commonwealth of Independent States (CIS).²⁰ However, both Russia’s weakness and the divergent interests of the member states limited Moscow’s ability to make the organization a powerful institutional platform through which it could exercise legitimate regional leadership. In particular, the creation of the Collective Security Treaty (CST) in 1992 failed to evolve into an Eastern alternative to the North Atlantic Alliance. Also, in 1997, the CIS members Georgia, Ukraine, Azerbaijan, and Moldova formed the multilateral GUAM to co-ordinate their positions and policies and balance Russian influence in post-Soviet space.²¹ This said, the CIS has been facilitating and licensing the projection of Russian power abroad by providing an umbrella for the military presence of Russian troops in post-Soviet space. Even at the height of its economic crisis in 1996, Moscow had about 30,000 troops deployed in the region.

There remains a huge gap between the global influence once exercised by the Soviet Union and Russia’s ability to shape international events. Russia

18 Statement by the then foreign minister Andrei Kozyrev, cited in: Richard Sakwa, *Russian Politics and Society*, London 2002, p. 350.

19 Boris Yeltsin, quoted in Suzanne Crow, *Russia Seeks Leadership in Regional Peacekeeping*, in: *RFL/RL Research Report 15/1993*, p. 28.

20 After the first step to set up the CIS was taken by Russia, Ukraine, and Belarus in early December 1991, the organization was formed by 11 of the 15 successor states of the Soviet Union later in the same month, with Georgia joining as the twelfth member in 1993. The three Baltic states did not join. Turkmenistan downgraded its membership to associate member in 2005. Following its war with Russia, Georgia decided to withdraw from the organization.

21 In 1999, Uzbekistan joined the grouping, which was subsequently known under the acronym GUUAM. When Tashkent withdrew from it in 2005, it went back to GUAM. One year later, the grouping was re-launched as the Organization for Democracy and Economic Development – GUAM. Since its inception in the 1990s, GUAM has been supported by the EU and the USA.

remains too weak to act as an alternate pole of attraction for most countries in its near abroad. It possesses no significant “soft power”, which leaves the magnetism of the rich and democratic Western clubs – the EU and NATO – unrivalled. This said, there has undoubtedly been a resurgence of Russia on the international scene, notably in its backyard, not only in the Southern Caucasus but also in Central Asia.²² Its onset can roughly be dated to the beginning of the second Putin administration. Russia’s new assertiveness cannot be reduced to psychological factors. Its foreign policy has regained confidence, but this is underpinned by an increase in real power. There are two key background conditions that contributed to this development: Until the onset of the global financial crisis in 2008, the petro-economy boomed, fuelled by record high prices for hydrocarbons, and improvements in the capacity of the state to govern. Under President Vladimir Putin, the political power of the oligarchs was curbed. A similarly robust policy rebalanced federal-regional relations. The prerogatives of the central state were restored by curbing the fiscal and legal competencies of the regions.

Beyond these factors, a number of specific policies account for Russia’s resurgent capacity to defend its interests abroad. First, Moscow began the difficult process of reversing the decline of its military might.²³ Besides increasing the defence budget, President Putin moved forward on the issue of gradually transforming the Russian military into a professional force. Steps were also taken to rebuild and consolidate the military-industrial complex and emphasis was put on increasing military exports to finance the process. Much remains to be done to streamline and modernize the armed forces. But energy prices are predicted to soar again once the world economy recovers and the ensuing windfall profits will go a long way towards ensuring that the reforms continue. Second, Moscow reinvigorated and launched new integration schemes (military and economic) that bind it closer to its near abroad.²⁴ For instance, the Kremlin took the leadership in upgrading the CST into the Collective Security Treaty Organization (CSTO). At the heart of the new institution, whose foundation was agreed in 2002, is a rapid reaction force of 4,000 troops designed to combat shared security threats such as terrorism.²⁵ Third and most importantly, Moscow has developed its energy weapon, thus giving

22 On the return of Russia’s influence in Central Asia, see Tim Epkenhans, *The OSCE’s Dilemma in Central Asia*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 211-222.

23 “Fifteen years after the end of the Cold War [...] Russia’s armed forces are becoming more capable in a number of key areas.” Russia, in: IISS, *The Military Balance 2008*, London 2008, pp. 205-224, here: p. 205.

24 Cf. Katlijn Malfliet/Lien Verpoest/Evgeny Vinokurov (eds), *The CIS, the EU and Russia: The Challenges of Integration*, Houndmills 2007.

25 The founding members of the organization are Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan. In March 2008, Uzbekistan formally joined the organization. In 2007, agreement was reached to set up a 5,000-strong peacekeeping force. For an analysis of the CSTO, see Alyson J.K. Bailes/Vladimir Baranovsky/Pál Dunay, *Regional Security Co-operation in the Former Soviet Area*, in: *SIPRI Yearbook 2007*, Stockholm International Peace Research Institute, Oxford, 2007, pp. 174-178.

itself a powerful tool to engage in economic statecraft *vis-à-vis* both its near abroad and the EU. It has reasserted domestic political control over the strategically important oil and gas industry and entered into a gas alliance with Central Asia, which, for the time being, gives the state-controlled Russian gas monopolist *Gazprom* exclusive control over Central Asian gas exports to Europe. Russian oil and gas companies have expanded into the EU energy market by buying up assets such as refineries and ports, and they have acquired part-ownership of distribution networks in the EU by forming strategic alliances with local partners. Finally, Russian energy companies have struck deals with importers to build new pipelines through which Russian-owned oil and gas will be pumped to EU countries.²⁶

Taken together, these measures have increased Moscow's international power to disrupt and blackmail, not least in its near abroad. In recent years, Russia has raised the price it charges for energy deliveries to pro-Western Ukraine, Moldova, and Georgia while at the same time providing free energy to Abkhazia and South Ossetia.²⁷ More ominously, in the last few years it repeatedly cut oil and gas deliveries to "difficult" Belarus and pro-Western Ukraine. The knock-on effects were also felt in the EU, reminding countries such as Germany and Poland of their vulnerability to Russian supply disruptions. Moscow has also not shied away from using more traditional means of disruption and punishment, notably in Georgia, to defend its interests.²⁸ Whether the rate at which Russia grows its international power will be sufficient to achieve its aim of containing or even reversing the growing penetration of post-Soviet space by the EU and other Western actors remains to be seen.

The polarization of the RSC just described tells us something about its form. Its content, however, can only be deduced from the security narratives of the main players and the patterns of amity-enmity to which they give rise. It is to them that we turn now.

Changing Patterns of Amity and Enmity

When Russia, Ukraine and Belarus announced the creation of the CIS in early December 1991, not only did they ring the death knell for the Soviet Union

26 On the limitations of the energy weapon, see Andrew Monaghan, *Russia's Energy Diplomacy: A Political Idea Lacking a Strategy?* in: *Southeast European and Black Sea Studies* 2/2007, pp. 275-288.

27 Filippou Proedrou, *The EU-Russia Energy Approach Under the Prism of Interdependence*, in: *European Security* 3-4/2007, pp. 329-355.

28 This was true even prior to the events in the summer of 2008. According to the United Nations Observer Mission in Georgia (UNOMIG), Russia shot down at least one Georgian unmanned reconnaissance drone over the breakaway territory of Abkhazia in the first half of 2008. Moscow previously exercised its power of disruption by, among other things, imposing a ban on the import of Georgian wine, cutting postal communications between the two countries, and expelling Georgians from Russia.

but also for traditional Western securitizations of the “Russian bear”. As Russia’s economy contracted throughout most of the decade and its international influence declined, characterizations of the official successor state to the Soviet Union as a politico-military enemy fell out of favour in Western European academia and diplomacy. In pre-2004 Europe, governments who played the Russian card to expedite their transition from accession country to EU member were politely but firmly told that such Cold War rhetoric was unhelpful. The declining importance of traditional images of Russia as enemy and a source of security concerns went hand in hand with the emergence of new issues and actor categorizations. Western discourse construed Russia as a friendly junior partner struggling with the challenges of democratic transition. There remained risks. The transition process might stall or, even worse, the country might disintegrate into chaos. Both scenarios, it was feared, would lead to a number of negative externalities such as uncontrolled migration towards Western Europe, flourishing organized crime, or ethnic warfare. Of particular concern to the EU and the USA was declining nuclear safety in Russia and the correlative risk of trafficking of radioactive materials and expertise.

While the West was clearly concerned about these soft security threats, it considered them to be “better problems”,²⁹ i.e., problems that were in principle easier to tackle than those associated with the traditional security agenda that obtained between enemies. They could be solved by, on the one hand, increased trade with Russia and the provision of technical assistance and aid and, on the other, the reinforcement of co-operative security structures binding East and West together. The EU put in place a new programme – Technical Aid to the Commonwealth of Independent States, TACIS – to assist Russia’s transition to democracy and a market economy and to finance, together with other EU and bilateral facilities, nuclear safety and clean-up projects. In 1994, Brussels signed a Partnership and Cooperation Agreement (PCA) with Moscow.³⁰ It provided, among other things, an institutional framework for political dialogue and closer economic relations. In 2003, agreement was reached to upgrade the PCA by creating the Four Common Spaces. The EU hoped that the Road Maps connected with these would provide a means through which it could Europeanize Russia. NATO, too, offered Russia a special contractual relationship. In 1997, the NATO-Russia founding act was agreed. The allies saw it as a means to associate Moscow with the organization and to avoid the creation of new dividing lines as the alliance

29 Beverly Crawford, *Toward a Theory of Progress in International Relations*, in: Emanuel Adler/Beverly Crawford (eds), *Progress in Post-war International Relations*, New York 1991 pp. 438-468.

30 The entry into force of the agreement was postponed until 1997 because of EU concerns over Russia’s conduct in its war in Chechnya. After many delays, negotiations on a follow-up EU-Russia agreement started in June 2008. They were frozen in September in the wake of Russia’s “unacceptable” recognition of South Ossetian and Abkhazian independence and resumed in November in light of progress towards the implementation of the Sarkozy-Medvedev peace plan.

expanded eastwards. Finally, arguably the most ambitious co-operative security project in the 1990s was the transformation of the CSCE into the OSCE. This process involved an impressive build-up of institutional capacities and a significant expansion of tasks. The OSCE was widely considered to be the institutional linchpin of pan-European security through which Russia (and the other post-Soviet states) were anchored to the West.

The 1990s and the early years of the new millennium was the heyday of Francis Fukuyama's Last Man, not only in the USA but also on this side of the Atlantic.³¹ In Western Europe, the conviction was widespread that the continent was in the process of emerging from history. The armed conflicts in the Balkans, though a rude reminder of the challenges facing the EU's foreign-policy aspirations as laid down by the 1991 Maastricht Treaty, were widely considered an anachronism that had its roots in the general backwardness of the region. While, in the short-term, old-fashioned force was needed to quell the violence, the long-term solution consisted of the modernization of the countries concerned. The same recipe, it was argued, was applicable to the intra- and interstate conflicts Eastern Europe and Russia experienced. There was a sense that history had run its course. There was no viable alternative to liberal democracy and the market economy and the principles of good governance that applied to both domains. Politics complying with these precepts, in turn, would form a zone of peace and law. The future of European security was bright.

By Putin's second term as President, both the concern with Russia's weakness and the conviction that technical and institutional fixes could make Europe safe for democracy and prosperity were being widely reassessed by EU governments. This has led to a growing chorus of voices that securitizes Russia's insistence on a *sui generis* model of sovereign democracy, which is perceived to be a cover for a new authoritarianism, and its assertive foreign policy that does not shy away from challenging Western visions of order and justice in Eastern and South-Eastern Europe.³²

Russia's security discourse has also gone through some dramatic twists and turns in the last decade and a half. Initially the idea of the end of history was a powerful influence on its foreign policy. However, disillusion set in earlier than in the West.

When Russia became a sovereign state again, it had to formulate a new foreign and security policy. This was based on two basic assumptions. First, the country was and would remain a great power due to its history, size, military might, notably nuclear capabilities, permanent seat on the Security Council, and so forth. Second, its transformation into a "normal" country would make Russia an equal partner of the EU and the USA in the joint management of international affairs. Both of these assumptions were partly re-

31 Francis Fukuyama, *The End of History and the Last Man*, London 1993.

32 Cf. Derek Averre, "Sovereign Democracy" and Russia's Relations with the European Union, in: *Demokratizatsiya* 2/2007, pp. 173-190.

lated to Russia's securitization of its own communist past: the repressive domestic order and the "internationalist" foreign policy that prioritized ideology over pragmatism.

The assumption that Russia is a great power has never been questioned. This self-ascribed identity survived the steep economic decline of the 1990s. The second assumption soon fell into disrepute as the perception grew that the country was not getting much from the West in return for "bandwagoning" with it. Critics complained that Russia was neither recognized by the West as an equal partner in international leadership nor received the quantity of aid it had hoped for. The influence that was granted to Western advisors and international financial institutions seemed only to lead to a worsening of Russia's domestic and international situation. In addition, supported by the West, the former members of the Warsaw Pact and some newly independent former Soviet republics began to align themselves with Western policies and institutions. Last but not least, NATO, perceived in Russia as a Cold War institution, decided to expand into the East. These developments did not chime with Russia's view of its own foreign policy role. One reaction, which expressed the country's desire for international recognition as a great power, was the popularity of Eurasionist discourses in the 1990s. They emphasized the uniqueness of Russia's civilization and its historical mission as a bridge between Western and Asian cultures. In the new millennium, and in particular since the second Putin administration, a more mundane security discourse has been growing in strength. It presents certain Western policies as an effort to contain Russian influence in the RSC and to marginalize it politically and militarily. This is framed as a threat to Russia's ontological security, i.e., its identity as a great European power and the interests that go with it.

To conclude, since the beginning of the 1990s, the patterns of amity-enmity in the RSC have changed twice. In the wake of the end of the Cold War, the social structure of the complex was radically transformed as former enemies began to regard each other as friends engaged in constructing a pan-European peace order. The honeymoon did not last long. In the new millennium, the newly built co-operative security relations have become strained and (unfriendly) rivalry has gained at the expense of joint problem solving in a growing number of areas. In the sections that follow, we map this shift in the social structure of the RSC towards a conflict formation by analysing the key discourses of danger through which the EU and Russia securitize their relationship.

In the wake of the break-up of the Soviet Union, a number of ethnic conflicts flared up in the newly independent states and the former Yugoslavia.³³ With the termination of the bloody war in Bosnia in 1995 and the end of hostilities in Chechnya in 1996, the topic of ethnic warfare receded into the background.³⁴ The secessionist conflicts in the wider Black Sea region – between Armenia and Azerbaijan over Nagorno-Karabakh, between Georgia and its breakaway regions of Abkhazia and South Ossetia, and between Moldova and the secessionist territory of Transnistria – became “frozen”. Prior to the summer of 2008, small-scale incidents and skirmishes flared up periodically, but overall a precarious peace prevailed, maintained in all but one case (Nagorno-Karabakh) by Russian peacekeeping forces operating alongside local troops (Transnistria, South Ossetia) or alone under a CIS mandate (Abkhazia). Russia remains the main backer of the breakaway regions in Georgia and Moldova. It supports them militarily, diplomatically (say, by seconding the political demands of secessionist leaders), economically (say, by providing free energy) and politically (say, by granting Russian citizenship to the concerned populations).

In recent years, the rivalry between the EU and Russia in the wider Black Sea region has deepened. A growing number of voices in the EU (and the USA) have begun to frame Russian support for the separatist regimes in the region as a major security problem. The new Central and Eastern European member states of the European club have successfully acted as policy entrepreneurs, pushing the EU towards a more assertive stance on Russian actions in the region. Differences notwithstanding, there is firm agreement among the members that Moscow has instrumentalized the frozen conflicts in Georgia and Moldova to maintain its strategic influence in the region, which, in turn, holds back its Europeanization. The hot war between Russia and Georgia over Abkhazia and South Ossetia is taken by the EU to confirm its worst fears. More concretely, EU securitization centres on a number of arguments. To begin with, the unresolved conflicts serve as a pretext for the forward deployment of Russian troops. Russia’s forces in Georgia and its peacekeepers in Moldova are a means of military statecraft through which Moscow seeks to keep Tbilisi and Chişinău in its sphere of influence. Moreover, they are used by Moscow as a bargaining chip in its relations with the West. Finally, EU discourse emphasizes that by standing in the way of a peaceful resolution of the secessionist conflicts, and by recognizing, in violation of internal law, the self-proclaimed sovereignty of South Ossetia and Abkhazia

33 There were five major military conflicts in the former Soviet Union: Nagorno-Karabakh, Tajikistan, South Ossetia, Transnistria, and Chechnya. In addition, there were around 20 smaller military clashes. See Sakwa, cited above (Note 18), pp. 387-388.

34 In the late 1990s, with the irruption of the second Chechen war and ferocious clashes between Serbs and Kosovo Albanians in the then Serbian province, the issue moved to the top of the security agendas of the main actors in the RSC again, albeit temporarily.

– “the de factos” in EU jargon – Russia limits the spread of democracy, human rights, and prosperity.

The governments of Transnistria, Abkhazia, and South Ossetia, all of which rely on Russian armed forces to stay in power, are described in EU, and, more broadly, in Western discourse as criminalized and corrupt political elites at the helm of quasi-state structures. They oversee widespread poverty and human rights abuses while being organically linked to organized crime networks that engage in trafficking in human beings, drugs, and weapons and other illegal activities. The frozen conflicts are thus regarded as constituting a twofold danger to the Union. First, they generate negative externalities for it as either sources of or transit territories for the illicit movement of people, including terrorists, and the smuggling of goods into the EU. And, in a way that is closely related to this, they negatively affect European energy security by introducing an additional and significant element of instability into a region that is an important, and provided conditions are right, could become an even more important energy corridor linking Caspian oil and gas to the EU. Second, the mere existence of “civilizational black holes” in its proximity is a threat to Brussels’ self-image. The EU has successfully branded itself as a new kind of international actor – a normative power that eschews interest-based power politics in favour of cross-border solidarity with less fortunate people and the promotion of universal values. Hence, the EU fears that failure to translate its vision into reality in its immediate neighbourhood may lead to a loss of credibility on the international stage – if not here, where else can it be expected to succeed?

Russia’s security perceptions of the territorial disputes in the wider Black Sea region, which have in essence stayed the same since the early 1990s, are very different. First, Moscow argues that it has played a constructive role in containing the conflicts. Second, it sees its role in Abkhazia, South Ossetia, and Transnistria as that of a protector of those Russians who, in the wake of the collapse of the Soviet Union, found themselves living abroad. Its involvement in these and other hot conflicts in its near abroad in the early 1990s was, among other things, justified by the fear that inaction would result in “millions of refugees and chaos along the perimeter of the southern borders”.³⁵ Moscow’s heavy-handed military intervention in Georgia in the summer of 2008 was framed in very similar terms. Third, in line with its self-image as a great power, Moscow believes that it has a historical right to intervene in its near abroad to prevent it from “losing geopolitical positions that took centuries to achieve”.³⁶ Fourth and closely related, Russia argues that it is pursuing a fully legitimate strategy in the region when it seeks to limit the further expansion of Western influence, notably that of NATO, into a sphere in which it has important political and security interests. Moscow has so far

35 Statement by the then Russian foreign minister Kozyrev, cited in Sakwa, cited above (Note 18), p. 388.

36 Kozyrev, cited *ibid.* p. 354.

not opposed the further eastward enlargement of the EU, not least because none of the potential candidates in post-Soviet space has (yet) been granted candidate status. However, there is growing suspicion in the Kremlin that the EU is increasingly acting in support of an American neo-containment policy.³⁷ In support of this view, Russians point, among other things, to the pressure both the EU and the US have exerted on the government in Moldova to reject the Russian-sponsored Kozak memorandum, which would have solved the frozen conflict in return for what would have amounted to the Finlandization of the country.³⁸ They also highlight the recent intensification of EU involvement in strongly pro-NATO Georgia, an involvement which no longer shies away from confronting Russia over South Ossetia and Abkhazia. The EU's support of the "aggressor" and its condemnation of Russia in the wake of the events of the summer of 2008 have reinforced Moscow's perception of a Western roll-back strategy aimed at containing its influence in its own backyard.

Fifth, Russians have begun to securitize EU policy on the frozen conflict in Moldova and the de factos not only because it is seen as undermining the country's international influence and status but also because of its potential to endanger domestic sovereignty. Since the velvet revolutions in Georgia and Ukraine, Moscow has taken "anti-colour" preparations in order to reduce its vulnerability to transnational civil-society actors. It restricted the role of foreign-backed NGOs in the country and created state-sponsored quasi-NGOs to counteract pro-Western societal actors in case of a legitimacy crisis such as the one in Ukraine in 2004/2005. The Kremlin sees its engagement in Transnistria and the Georgian breakaway territories as an external supplement to this domestic defensive posture; it guards against the further entrenchment of the influence of Western society on Russia's borders. Finally, in Moscow's view, the territorial conflicts in the wider Black Sea region do not constitute a serious security challenge to the EU, in particular when compared to the security risks posed by the Middle East and Northern Africa.³⁹ Brussels' intensifying engagement in the region is thus interpreted as a political strategy aimed at undermining Russia's historical status as a major European power that has legitimate "possessions" in its immediate backyard and a right to shape its milieu.

37 Cf. Averre, cited above (Note 32), p. 182.

38 Cf. Dov Lynch, Misperceptions and Divergences, in: Dov Lynch (ed.), *What Russia Sees*, Chaillot Paper, no. 74, Paris: EUISS, p. 15. The 2003 memorandum would have federalized Moldova by placing the two state entities – Moldova and Transnistria – on an equal constitutional footing. The federation would have remained neutral and demilitarized. Transnistria would have had the right, under certain conditions, to leave the federation.

39 Cf. Dmitry Polikanov, Russia-EU Relations: Opportunities for a Security Dialogue, in: David Brown/Alistair J.K. Shepherd (eds), *The Security Dimensions of EU Enlargement: Wider Europe, Weaker Europe?* Manchester 2007, pp. 115-128.

Since 2000, the EU and Russia have conducted an Energy Dialogue in recognition of the importance of their trade in oil and gas. Yet the institutionalization of co-operation at the level of experts and senior political officials proved unable to prevent the securitization of energy relations. In recent years, energy security has significantly aggravated the tensions between the EU and Russia. The stakes are economic as well as political in nature. The former have to do with supply and demand. There has been a marked increase in global demand for hydrocarbons, driven in part by rapid economic growth in emerging economies such as China. At the same time, supply has been tightening due to a number of factors including geopolitical constraints and accelerated depletion of oil and gas reserves in the North Sea and elsewhere. The result has been a steady increase in oil and gas prices. While the global economic crisis triggered by the melt-down of the American subprime mortgage market led to a sharp fall in energy prices in 2008, they are expected to rise again significantly once the world economy recovers. In Russia, high oil and gas prices are welcomed. They mean windfall profits for producers and a budget bonanza for the federal government. The country is the largest gas producer and exporter in the world and the second-largest oil producer after Saudi Arabia; since 2000, its oil exports have surged.

In the EU, the hike in energy prices has been viewed as a threat to economic well-being. Member states are highly dependent on oil and gas imports and will become even more so in the foreseeable future. On current trends, “in the next 20 to 30 years around 70 per cent of the Union’s energy requirements, compared to 50 per cent today, will be met by imported products”.⁴⁰ At the same time, global competition for access to energy is set to increase further. Against this background, the new EU energy-security narrative raises serious concerns about supply security and the impact of high prices on economic growth, inflation, competitiveness, and so forth. In addition, EU discourse highlights a number of political threats posed by the Union’s import dependency.

Russia accounts for about 50 per cent of the total gas imports of the EU and for over 30 per cent of its oil imports.⁴¹ This asymmetric interdependence has recently been reframed in EU discourse as a threat because it makes the Union vulnerable to supply disruptions and political blackmail. In the wake of the cuts to energy supplies to Belarus and Ukraine, Moscow stands accused of the reckless use of oil and gas as a weapon to achieve commercial and political ends without regard for contractual obligations. Its refusal to sign the 1994 Energy Charter Treaty and its Transit Protocol, which commit

40 European Commission, *Green Paper: A European Strategy for Sustainable, Competitive and Secure Energy*, COM(2006) 105 final, Brussels, 2006, p. 3.

41 On current trends, the numbers will rise to 70 per cent and 50 per cent, respectively, by 2020. Cf. Proedrou, cited above (Note 27), p. 334.

signatories to comply with, among other things, transparent investment, competition, and transit rules, is taken by Brussels to be further proof of Russia's dangerous politicization of its energy industry.⁴² This cavalier attitude towards best practices and free markets is seen as entailing a risk. One day, the argument goes, the EU may well find itself the target of the Kremlin's economic statecraft when it tries to challenge it over, say, democracy or human rights. The previously mentioned penetration of the EU energy market by Russian companies and Moscow's perceived obstructionism concerning the resolution of the frozen conflict in Moldova and its support for the de factos in Georgia, which injects instability into an important energy corridor, figure prominently in this threat scenario.

Last but not least, Brussels frames Russian conduct as a threat to its collective identity. Moscow's policy of playing EU members off against each other by exploiting their varying dependence on its energy to cut separate supply and pipeline construction deals threatens the international reputation of the CFSP, which has in recent years become one of Brussels' most trumpeted integration success stories. The inability to develop a common external energy policy casts doubt on the Union's "actorness" in a key international field. Another ontological danger articulated by the EU is connected to the fact that the Kremlin sees energy as a strategic commodity. The major energy firms *Gazprom* and *Rosneft* are partly state-owned, Moscow controls foreign investment in its energy industry and opposes the ownership unbundling of production and transport assets both at home and in the EU. As seen from Brussels, Russia's energy policy is opposed to the normative principles that are at the heart of both the European integration project and EU foreign policy: the promotion of free markets and competition.

Moscow vehemently denies any political motives behind the rows with Belarus and Ukraine.⁴³ More importantly, turning the EU argument about competitive and secure energy on its head, the Russian security narrative intimates that Brussels seeks to undermine the country's new status as an energy superpower by imposing its anti-statist vision of economic order on it. Similarly, EU efforts to force Russia to further open up its energy riches to European investment by threatening to limit Russia's investment in its own energy market are regarded as a danger to the country's resurgent economic strength.⁴⁴ Finally, the Russians frame EU energy-diversification policy as an unfriendly move that poses a potential risk to the country's need for security of demand and as an unjustified attempt to recalibrate the balanced overall

42 Also, the EU believes that the politicization of the Russian energy industry is partly responsible for insufficient investments in new large-scale exploration projects. This shortfall, in turn, is expected to further undermine supply security in the future.

43 Cf. Alexander Medvedev, *Is Gazprom's Strategy Political?*, in: *Europe's World* 9/2008, pp. 63-67.

44 As Alexander Medvedev points out, Europe's threat risks shifting the balance of economic power further in favour of the EU: "European investment in Russia is [already] 7-8 times higher than Russian investment in EU", *ibid.*, p. 67.

economic relationship between the two sides in favour of Brussels.⁴⁵ It regards the backing given by the EU to deals that aim to circumvent Russian pipelines by expanding existing energy corridors and creating new ones connecting Europe to Caspian oil and gas as a risk to the security of its energy revenues and its political power. Pursuing its own diversification strategy in response to EU moves, Moscow signed an agreement with Beijing at the end of October 2008 to build an oil pipeline to connect the two countries.

Clashing Securitizations: NATO Enlargement

NATO plays a twofold role in the RSC. On the one hand, it is a conduit through which extra-regional security considerations enter the complex. The Atlantic Alliance is a vehicle through which the USA projects limited power into Europe to underpin its grand strategy of offshore balancing that consists of ensuring that no single European or Eurasian actor achieves regional hegemony on the continent.⁴⁶ On the other hand, NATO is an arena in which intra-regional security dynamics are played out. For instance, at the 2008 Bucharest NATO summit, EU members were split on the question of whether to admit Georgia and Ukraine to the Membership Action Plan (MAP) in preparation of full alliance membership. While a number of the more established EU members saw the proposal as premature because it would aggravate tensions between Russia and the West, opposing it for this and other reasons, the newer members, together with some of the older ones, regarded it as strengthening the pan-European security regime, and thus supported it. The “postponers” won the day in Bucharest, but the further extension of NATO into post-Soviet space is surely only a question of time, not least because the new American president, Barack Obama, supports it. Once a positive decision has been taken, it will not be possible to isolate EU-Russian relations from the negative consequences this will have for East-West relations.

Ever since NATO took the decision in 1996 to expand eastwards, official security discourse has justified the policy as a means to incorporate new states into the zone of democratic peace. Enlargement is described as a security policy that helps to prevent regional instability and conflict and to promote democratic civilian control of the armed forces of new democracies. It also reduces the likelihood of a re-nationalization of defence policies, which would have negative implications for European security. In principle, all EU governments subscribe to this view.

Russia frames NATO enlargement in very different terms. It has pursued a consistent policy of opposing the expansion of the alliance ever since

45 Russia currently exports 60 per cent of its oil and gas to the EU. The EU represents about 54 per cent of overall Russian trade, while Russia accounts for only 6.2 per cent of EU exports and 10.4 per cent of EU imports. Cf. Tatiana Mitrova, *Russia, Europe and Energy: A Vicious Circle*, in: *International Herald Tribune*, 3 October 2008.

46 Cf. John Mearsheimer, *The Tragedy of Great Power Politics*, New York 2001.

the issue was first placed on NATO's agenda. What has frequently changed, however, is the virulence with which Moscow makes its views known. In the early 1990s, the belief was widespread in Russia that NATO would either wither away or be turned into a new pan-European security organization in which Russia would have its rightful place.⁴⁷ Neither scenario unfolded. Instead, the alliance expanded geographically and functionally, for instance adding peacemaking and peacebuilding to its task portfolio. The majority of Russia's political elite, irrespective of party affiliations and ideologies, felt a sense of betrayal. The resulting tensions notwithstanding, in 1997 Russia and NATO signed the NATO-Russia Founding Act. It established a Permanent Joint Council.⁴⁸ Moscow hoped that the agreement would give it a measure of influence over alliance policy. Yet this did not happen. Quite the contrary, in 1999, without a UN resolution or consultations with Russia, NATO began an air campaign against Serbian targets in Kosovo and Serbia proper to stop the ethnic warfare in the province. Relations hit a low. The military intervention came only a few weeks after Poland, Hungary, and the Czech Republic had joined the alliance.

While as opposed to NATO's eastward enlargement as his predecessor, Vladimir Putin tried to develop a more pragmatic relationship with the organization. When, in the wake of 9/11, he aligned Russian foreign policy with that of the USA in the war on terrorism, the diplomatic quarrel surrounding NATO enlargement receded into the background. In April 2004, seven new post-communist states, including the Baltic republics, joined the alliance without any serious repercussions for East-West relations. But four years later, NATO's eastern enlargement again tops Russia's security agenda. Moscow vehemently opposes the efforts by Georgia and Ukraine to join the alliance. Russian foreign minister Sergei Lavrov stated that Russia would consider it "a substantial negative geopolitical shift" if these countries were to become members of NATO.⁴⁹

Two threats are emphasized in this context: First, the Kremlin characterises NATO policy as being aimed at its strategic encirclement. The incorporation of Georgia and Ukraine into NATO is seen as an attempt to extend Western military influence, and potentially American bases and installations, right up to Russia's border and, in doing so, to wrest territories from its sphere of influence that have been regarded as Russia's geopolitical *domaine reservée* since Czarist times.⁵⁰ This would not only harm the country's security but also its political and economic interests. As argued earlier, Russian

47 Cf. Vladimir Baranovsky, Russian Views on NATO and the EU, in: Anatol Lieven/Dmitri Trenin, (eds), *Ambivalent Neighbors: The EU, NATO and the Price of Membership*, Washington, DC, 2003, pp. 269-294.

48 In 2002, it was replaced by the NATO-Russia Council.

49 Sergei Lavrov: "We are Trying De-ideologize our Politics", in: *Russia Beyond the Headlines*, 7 April 2008, at: http://rbth.ru/articles/2008/04/07/2008_04_DT_01_lavrov.html.

50 The USA, in addition to being one of the outspoken supporters of the further enlargement of NATO into post-Soviet space, has signed bilateral military accords with a number of Eastern and South-Eastern European alliance members.

security discourse has started to construe EU policy in the shared neighbourhood as supplementing NATO efforts to roll-back Russian regional influence. Hence, once the alliance agrees to admit Ukraine and Georgia, this is likely to have a major adverse effect on EU-Russian relations. Second, Moscow does not want NATO to be Europe's prime security provider as it has little influence over its policies. As enlargement strengthens the North Atlantic Alliance's influence at the expense of alternative arrangements, Moscow considers the process to pose a threat to its conception of its own role as a principal regional player that has a legitimate right to shape the governance of European security. Here it is worth noting that Russia warmly welcomed the creation of the ESDP, expecting it would act as a counterweight to NATO. It put great hope in the development of a bilateral strategic dialogue and cooperative crisis management with the EU, to which both sides committed themselves in October 2000. Yet Moscow's expectation of closer military and intelligence co-operation with Brussels, including shared responsibility for the operational planning of joint security operations in Europe and beyond, has remained largely unfulfilled. This prompted then foreign minister Igor Ivanov to declare in 2003 that "some of our European partners are not yet psychologically ready for equal collaboration with Russia".⁵¹ Incidentally, one of the reasons why the EU refuses to affiliate Russia more closely with the ESDP is the fear that Washington might interpret it as an attempt to marginalize the US role in European security.

Recently, Russia has launched a new attempt to break what it considers NATO's pre-eminence in matters of "hard" security in Europe. At a Franco-Russian conference at Evian in October 2008, President Dmitry Medvedev specified proposals he had made a few months earlier in Berlin regarding the construction of a new pan-European security architecture. The new treaty-based order should be based on the principle that "no state or international organization has exclusive rights to guarantee peace and stability in Europe".⁵² Incidentally, the Russian *démarche* may turn out to be a fillip for the OSCE, because the EU insists on convening talks about the proposal under the aegis of the Vienna-based organization.

Clashing Securitizations: Missile Defence

The proliferation of ballistic missiles and nuclear weapons is one of the security topics on which the USA, EU, and Russia have had similar views for some time. However, the intention of the USA to site components of its mis-

51 *Remarks by the Minister of Foreign Affairs of the Russian Federation Igor Ivanov Before Representatives of the Sociopolitical and Business Circles of Germany on the Theme "Russia-European Union: The State of, and Prospects for Partnership"*, Munich, 10 December 2003.

52 Daniel Brössler/Stefan Kornelius, *Russland macht der EU Avancen* [Russia Makes Advances to the EU], in: *Süddeutsche Zeitung*, 10 October 2008 (author's translation).

sile defence system in Eastern Europe has recently led to a clash of security perceptions between Moscow and Washington. Russia sees American policy as a significant threat to its own security rather than as a solution to the problem of proliferation. While the EU was at first split on the issue, it has recently aligned itself with the USA. As a result, missile defence has become another issue which contributes to the securitization of the relationship between the EU and Russia.

Ever since President Reagan's controversial Star Wars project, which foresaw the replacement of mutual assured destruction between the two superpowers by strategic defence, an important strand in American strategic thinking has emphasized the importance of active defences. After the end of the Cold War, a (limited) bipartisan security discourse took shape that centres on limited missile defence as a supplement to deterrence. It suggests that nuclear deterrence cannot be expected to work either with rogue states such as Iran or with terrorists who "seek the ability to deliver death and destruction to our doorstep via missiles".⁵³ A subtext of the discourse is the argument that without a limited missile defence the American projection of power in crucial regions of the world such as the Middle East will increasingly become hostage to opponents armed with nuclear weapons. Reversing President Bill Clinton's decision to delay the construction schedule, George W. Bush gave the go-ahead, in 2002, for building a ground-based midcourse missile defence system designed to address these security concerns.⁵⁴ To ensure its effectiveness, Washington entered into bilateral negotiations with Poland and the Czech Republic to allow parts of the infrastructure to be based in Eastern Europe.⁵⁵

The American *démarche* was initially received with mixed feelings in the EU. Eastern European members and several Western European countries such as Britain welcomed it as an important contribution to European security, often in spite of popular opposition and sometimes with qualifications.⁵⁶ Government officials and experts in other EU members, including in Germany, France, and Austria, expressed reservations about the feasibility of the system and, more importantly, its political-military effects on European security. The sceptics pointed out that unless the introduction of the system was agreed with Moscow, it was likely to further damage relations between Russia and the West. Some painted a worst-case scenario, according to which the

53 President George W. Bush, *Statement to the Press*, Washington, DC, 13 December 2001.

54 Barack Obama, like President Clinton before him, supports the idea of missile defence but insists that the technology must first be proved to be workable. At the time of writing, no decision had yet been taken by the President-elect on whether to proceed with the deployment.

55 In 2002, the Bush administration began informal talks with the two countries. In 2007, formal negotiations started on establishing missile defence sites on their territory. Congressional Research Service, *Long-Range Ballistic Missile Defense in Europe*, Washington, DC, 13 June 2008.

56 For instance, Slovenia and Romania argued that the system should protect all NATO members.

démarche might lead to a new strategic arms race. This in turn could prompt Russia to suspend the 1987 Intermediate-Range Nuclear Forces Treaty, thus threatening military stability in Europe.⁵⁷ Reflecting concerns of this kind, the High Representative for the CFSP, Javier Solana, warned that an anti-missile shield could negatively “affect our relations with third countries, namely Russia”.⁵⁸ The gap between these divergent European securitizations was significantly narrowed at the 2008 NATO summit in Bucharest. All European members signed up to the American narrative which stresses “the substantial contribution to the protection of Allies from long range ballistic missiles to be provided by the planned deployment of European based United States missile defence assets”.⁵⁹

The convergence of the American and European positions is set to increase EU-Russian tensions, since Moscow unambiguously identifies current American plans as negatively impacting its security interests. Most importantly, the government fears that the missile defence system is an attempt to shift the strategic balance between Russia and the USA in favour of the latter. This suspicion is underpinned by a number of arguments. Moscow points out that if the USA and the EU were really concerned about an Iranian missile attack, the infrastructure should be sited in Turkey or Iraq. In its current configuration, the system is regarded by Russian experts as having the capability to intercept Russian missiles. Putin drew an analogy with the 1962 Cuban missile crisis: “The situation is quite similar technologically for us”, he said, “we have withdrawn the remains of bases from Vietnam and Cuba, but such threats are being created near our borders.”⁶⁰ Moscow also argues that once the system is in place, Washington could easily expand it beyond the initially planned ten interceptors to be fielded in Poland. A more capable defence, in turn, would go a long way towards enabling Washington to establish meaningful strategic nuclear superiority. Yet for Russia what is at stake is not only global strategic parity but also the European balance of power. By connecting missile defence to NATO enlargement, European and American policy in post-Soviet space and the Treaty on Conventional Armed Forces in Europe (CFE), the Kremlin frames the issue in terms of the advance of Western political and military power at the expense of its own influence in the RSC.

57 Cf. US missile shield must not split Europe, Steinmeier warns, 17 March 2007, at: http://www.monstersandcritics.com/news/europe/news/article_1278847.php.

58 EU's Solana: Participation in U.S. Missile Defense Shield Must Not Harm EU Security, in: *International Herald Tribune*, 29 March 2007.

59 Moreover, the Summit Declaration states that the allies “are exploring ways to link” US capabilities in Poland and the Czech Republic “with current NATO [theatre] missile defence efforts as a way to ensure that it would be an integral part of any future NATO wide missile defence architecture”. With regard to Russia, the Declaration expresses NATO's commitment “to maximum transparency and reciprocal confidence building measures to allay any concerns”.

60 The 2007 quote can be found in Philip Coyle/Victoria Samson, Missile Defense Malfunction: Why the Proposed U.S. Missile Defenses in Europe Will Not Work, in: *Ethics & International Affairs* 1/2008, p. 8.

Finally, ontological security concerns are also present in the Russian discourse on missile defence. It is construed as yet another unwelcome reminder of American global hegemony: “The deployment of American missile defence in Europe has not only a military but also a symbolic significance. Fifteen years after the end of the cold war a situation is obviously being created in which the continent again can only manage with American protection and with reinforced American military presence.”⁶¹ Russia regards this state of affairs as a challenge to the status it claims as a great power and its desire to play an essential role in European security. Following up on official statements made as early as June 2007, President Medvedev announced that should the Obama administration go ahead with the construction of the missile defence sites in Eastern Europe, Russia would deploy Iskander tactical surface-to-surface missiles in Kaliningrad. They would be able to hit targets in both Poland and the Czech Republic.

Clashing Securitizations: The CFE Treaty

The key pillar of conventional arms control in Europe has in recent years given rise to a growing conflict between Russia and the West.⁶² The CFE Treaty started out in 1990 as an arms-control agreement between NATO and the Warsaw Pact. At the Istanbul OSCE Summit in 1999, agreement was reached to adapt the treaty by substituting a system of national and territorial ceilings for treaty-limited equipment for the previous bloc ceilings. The principal aim of the treaty, however, stayed the same, namely the elimination of the capacity for launching surprise attacks. In December 2007, Russia suspended the adapted treaty, which has not yet been ratified by any Western state.

The sticking point in the ratification of the adapted treaty has been the refusal by Russia to withdraw its forces from Georgia and Moldova. Initially, EU members and the then accession countries attached different weight to the security implications of these two issues. Some saw, and see, Russia’s involvement in the territorial disputes in the wider Black Sea region as a significantly greater danger to European security and stability than the balance of conventional weapons. Moreover, they regard Russia’s refusal to abandon all its military bases in Georgia and Moldova not only as a violation of its 1999 Istanbul commitments but, more ominously, as proof of its continuing “imperialist” mindset. If Europe is to be made safe for peace and democracy, then this attitude and the policies flowing from it have to be opposed. Other

61 Statement by the then defence minister Sergei Ivanov, cited in: *The Guardian*, Big rise in Russian military spending raises fears of new challenge to west, 9 February 2007.

62 Cf. Wolfgang Zellner, Will the “Cornerstone of European Security” Come Crashing Down? On the Current Crisis of the (Adapted) CFE Treaty, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2007*, Baden-Baden 2008, pp. 25-35.

EU states at first rejected this policy of strength and highlighted the negative consequences for European security and stability of the West's failure to ratify what the OSCE Charter for European Security calls "a cornerstone of European security". Some countries, such as Germany, went further. Identifying with a co-operative security philosophy that seeks to achieve peace by engaging with "the other" rather than placing pressure on it, they invested the CFE Treaty with additional symbolic value. Its importance, the argument went, could not be reduced to its military stipulations. In addition, it derived from the fact that it was a major *acquis politique* of pan-European security co-operation.⁶³ These different threat assessments notwithstanding, at the Prague NATO summit in 2002, the Europeans joined the USA and Canada in making the ratification of the new treaty conditional on Russia's pullout from Moldova and Georgia. This has remained official policy ever since.

As to Russia, it argues that it has complied with its Istanbul commitments and subsequent bilateral accords with Georgia, most recently by closing down its bases at Akhalkalaki (June 2007) and Batumi (November 2007). In its view, neither its peacekeepers in Moldova nor its troops in the two *de facto* – South Ossetia and Abkhazia – violate any agreements. Regarding itself as complying with its obligations, Moscow attributes more sinister motives to Western policy. Two threats are highlighted in its security discourse. First, the linkage between the CFE Treaty and Russian (peacekeeping) forces is seen as a confrontational policy that seeks to further marginalize Russia's role in the RSC and to de-legitimize its special interest in post-Soviet space. In this view, the policy is part and parcel of a neo-containment policy that aims at building European security at the expense of Russia through measures such as NATO enlargement and missile defence. Second, the policy of a number of alliance members (the Baltic states and Slovenia) not to sign up to the treaty before it comes into force, as well as NATO's refusal to renegotiate certain technical stipulations, are characterized by Moscow as unfair. They are regarded as further tipping the scales of the European balance of power and influence in favour of the EU, NATO, and the USA.

To summarize our survey of the evolving pattern of amity-enmity between the EU and Russia, the number of issue-areas in which at least one side constructs the mutual relationship in terms of a security dilemma – where measures that enhance one actor's security diminish that of the other – has been increasing. So far these security dilemmas are not seen by either side as engendering existential threats. Rather, the threat constructions, which display different levels of intensity, centre on questions of identity and second-order security, political and economic goals.⁶⁴ The injection of American security interests into the RSC as well as the global considerations of the region-based actors – the foreign policy ambition of the EU to be a global force

63 Cf. *ibid.*, p. 30.

64 In the foreseeable future, only missile defence has the potential to become securitized as an existential threat.

for good and Russia's ambition to replace American political-military unipolarity by a multipolar international system – play a role in this process. However, regional dynamics are a crucial factor in fuelling the intensifying securitizations.

Trends and Scenarios

Our analysis suggests that the basic structure of the RSC is currently undergoing a major transformation. The changes in material capabilities are real and likely to continue in the future. The EU remains as determined as ever to harden its foreign and security policy by developing its military and civilian capacity to carry out out-of-area peacemaking and peacebuilding tasks. As to Russia, it can bank on forecasts that predict a return to high energy prices once the world economy has recovered from the doldrums into which it was plunged by the American sub-prime crisis. A booming petro-economy will enable it to rebuild the material foundations of its great-power identity. The changes in the pattern of amity-enmity are equally real. The well publicized disagreements between European and Russian leaders in recent years are not reducible to misperceptions. They are deeply rooted in the dominant discursive structures of the respective polities – their clashing securitizations and the divergent collective identities and security philosophies underpinning them.

The EU and Russia are projecting self-definitions that are at odds with one another. Notions such “common European house” or “strategic partnership” have failed to create an overarching collective identity that could limit negative security dynamics. The EU defines itself as a post-modern normative or ethical power that is committed to the promotion of universal values such as democracy and human rights. From Brussels' perspective, Russia is stuck in the past, holding fast to the anachronistic principles of *realpolitik* – balance of power, spheres of influence, non-interference in domestic affairs, and so forth. Hence, the EU conceives of its relationship with Moscow in developmental terms. Understanding itself as the acknowledged repository and arbitrator of what counts as proper governance (domestic and international),⁶⁵ Brussels has been seeking to Europeanize Russia through means such as the Four Common Spaces.

Conversely, Russia sees its relationship with the EU in spatial terms. Its self-understanding is that of a traditional great power. More recently, the idea of sovereign democracy, which implies resistance to interference by outsiders in domestic governance affairs, has been crafted on to this historical Russian self-image. Under Putin, foreign policy has come to embody an anti-universalistic agenda that posits the territorial confinement of the seemingly

65 Cf. William Walters, *The Frontiers of the European Union: A Geostrategic Perspective*, in: *Geopolitics* 3/2004, p. 688.

self-evident political truths proclaimed by the EU. Geopolitics and the defence of national interests rather than the transformation into a post-modern actor and the induction into an EU-centred universal community of values are at the core of Russia's foreign policy credo. Peace and stability in Europe are to be secured through a strategic alliance between Russia and the EU that is based on equality, balance, moderation, restraint, and the recognition of the legitimate interests and "possessions" of the other.

While media speculations and public statements about the imminent beginning of a new Cold War, which reached a new pitch of intensity in the aftermath of the war between Russia and Georgia, are exaggerated, our analysis indicates that this is a risk. There are only two realistic scenarios for the future of the RSC. First, if current structural trends are allowed to unfold, Europe returns to a more traditional pattern of power-based rivalry. Second, the trend is stopped or reversed. This can only be achieved by intervening in the social structure of the RSC. Its polarization around the EU and Russia is likely to continue in the absence of any serious political or resource constraints that would prevent either side from further building up its regional power projection capabilities. The structural basis for an intervention into the evolving pattern of amity-enmity is the existence of security discourses in both the EU and Russia that highlight common threats and advocate cooperative responses. We mapped these countervailing narratives but space constraints do not allow us to present this analysis here. Instead, we will allude to these converging securitizations in the next and final section.

The OSCE: Back to the Future?

In the wake of the end of the Cold War, the OSCE became the leading pan-European institutional expression of the new Western security project. It emphasized threats to human security and democratic peace. In doing so, it transformed itself from an institution that guaranteed established geopolitical lines of influence, while at the same time promoting peace and justice through the restraining of political and ideological rivalries, into an institution that is actively engaged in de-legitimizing territorial boundaries according to a particular post-Westphalian vision of political truth centred on liberal claims. As Russia unexpectedly failed to fully espouse the European Union's understanding of what constitutes good political order, and, more importantly, began to actively oppose the policies flowing from it, the OSCE could not but enter into a crisis (political, budgetary, etc.).⁶⁶ Where does this leave the Organization?

66 Additional factors such as EU and NATO expansion further aggravated the crisis. Recent moves to strengthen the first and second dimensions of the OSCE and to expand its third dimension beyond the traditional issues of human rights and democracy have been important as they show the capacity of the Organization to adapt to evolving circumstances. But

We do not wish to enter into the complex discussions that have been ongoing for some time about solutions to the crisis of the OSCE. Many sensible things have been said about this issue by people better suited to do so than we.⁶⁷ Hence, we limit ourselves to identifying one conclusion that follows from our analysis. The last decade has shown that the ability of the OSCE to socialize – or bully – Russia into abandoning old-fashioned geopolitical imperialism and becoming a card-carrying member of the de-territorialized Empire of “right and peace” is rather limited.⁶⁸ As the relationship between the EU and Russia is increasingly becoming securitized by both sides, the role of the OSCE as chief promoter of the Western security project in the RSC is becoming incompatible with its role as promoter of co-operation, security, and stability. To us this incompatibility suggests, to paraphrase John Mearsheimer,⁶⁹ the need for the OSCE to partially go back to the future – to give renewed emphasis to genuine diplomacy and put strict limitations on political proselytizing (or the anti-diplomacy of the self-diffusion of the liberal West).

Its Cold War history and its continuing membership diversity put the OSCE in a better position to adopt a reflexive attitude towards its own security practices than other, more homogenous institutions such as the CIS, NATO, and the EU.⁷⁰ The divergent collective identities and security philosophies brought together under the umbrella of the OSCE do not have to be seen as a challenge to be overcome through normalization around the standards of the majority. A more constructive approach may be to consider the existing diversity as an opportunity to learn to accommodate and live with multiple truths about and understandings of European security. Such self-reflexivity is likely to require a strong dose of traditional geopolitical scepticism, which highlights the threats to peace and security of policies that privilege universalist ideological claims over compromise and restraint. As Henry Kissinger observed some time ago, “no power will submit to a settlement, however well-balanced and however ‘secure’, which seems totally to deny its vision of itself”.⁷¹ Of course, the travails besetting the OSCE are too complex for any simple solution to work. Yet, based on our analysis above, it

they have not modified the core security philosophy of the OSCE, which remains as committed to a particular liberal vision of international order as ever.

- 67 For an overview of the debate, see Heinrich Schneider, Long on Promise – Short on Impact: The OSCE Reform Initiative 2004-2005 and Its Results, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 35-57.
- 68 Cf. Michael Hardt/Antonio Negri, *Empire*, Cambridge, MA, 2003, p. 15.
- 69 Cf. John Mearsheimer, Back to the Future: Instability in Europe After the Cold War, in: *International Security* 1/1990, pp. 5-56.
- 70 This said, there are a number of other features of the OSCE that hold it back from adopting a more reflexive attitude towards its liberal security project. The EU, together with North America, dominates the OSCE politically and ideologically. Moreover, its pronouncedly intergovernmental nature offers very limited room for autonomous organizational leadership. Whether the structural trend towards conflict in the RSC that we identified will push the OSCE towards overcoming its own limits remains to be seen.
- 71 Henry Kissinger, *A World Restored: Metternich, Castlereagh and the Problems of Peace 1812-22*, Boston, 1973, p. 146.

seems to us that any “realistic” proposal aimed at re-energizing the Organization needs to take seriously the idea that the best way forward may be a return to the virtues that made it a successful Cold War institution. The CSCE was an outstanding example of a diplomatic body that facilitates political dialogue in which each participant refrains from reducing the others to figures of the self. Instead of seeking to establish consensus around an extensive list of supposedly shared norms and standards, a process which inevitably delegitimizes genuine “otherness”, the CSCE provided a *modus vivendi* that allowed for the peaceful mediation of the differences flowing from the divergent political identities and interests of its members.⁷²

But a reformed OSCE can be more than yesterday’s CSCE. The Organization has established its credentials as an innovative, albeit frequently controversial securitizing agent. To help stop or reverse the movement of the RSC towards a conflict formation, the OSCE has to limit the role of its operational bodies as multipliers of Western securitizations. At the same time, it has to put significantly more effort than it already does into constructing pan-European securitizations that creatively articulate mutual, rather than conflictual, security concerns of its participating States. A number of security problems lend themselves to the reinforcement of positive security dynamics. Important areas in which the securitizations of the EU and Russia (partly) converge include irregular migration (risk to social and economic values, notably cultural identity, social integration, access to medical treatment, housing, etc.); organized crime (shared concerns about trafficking in narcotics, weapons, and human beings, as well as corruption and money laundering); terrorism (in the wake of 9/11, the discourses on the nature of the threat and its sources partly converged); and environmental security (convergence of risk perceptions around issues such as nuclear safety, environmental terrorism, leaking oil pipelines).

In these and other fields, the OSCE is already active. Yet, to enhance its impact on the pattern of amity-enmity in the RSC, the Organization has to prioritize these “bridging” discourses and supportive non-discursive practices such as capacity-building projects. Conversely, as far as conflictual security problems are concerned – say, the frozen conflict in Moldova and the de facto South Ossetia and Abkhazia, which are at the centre of a thick web of controversial securitizations that include national security, great power status, conventional arms control, human rights, and democracy – the OSCE’s function as an arena for diplomatic dialogue and compromise has to take precedence over its role as securitizer. Failure to do so is only likely to speed up Europe’s return to a competitive security order.

72 Our recommendation is a radicalized version of the proposal made by the Panel of Eminent Persons to strengthen the political dialogue among OSCE members. The Panel, however, was unwilling to concede that the success of such a dialogue depends on the readiness of the Organization to limit its aspirations to normative power, which consists in the desire to set standards of appropriate behaviour across OSCE space in line with Western ideology and to contribute to their implementation.

Burning Issues

The Kosovo Status Process and the Prospect of Sovereignty¹

“The advantages of recognition taking place by some collective international act, or through the medium of an international institution cannot be denied. It would obviate the present embarrassments due to unilateral acts of recognition.”²

Introduction

Up until its declaration of independence in February 2008, Kosovo had, for over eight years, been a territory in limbo.³ Notwithstanding the deep modernist grounding of the “standards before status” approach fashioned by the United Nations Interim Administration Mission in Kosovo (UNMIK) after policies of conditionality and the idea of “earned sovereignty”, the international community had operated, for half a decade, in naive denial of the continued relevance of self-reliant statehood.⁴ In effect, it reinforced a climate of heightened insecurity, in which the conflict remained frozen rather than resolved. Ever since the publication of the (first) “Eide Report”,⁵ resolving the international legal status of Kosovo had become a priority on the international agenda. This process culminated in the report of the UN Secretary-General’s Special Envoy, Martti Ahtisaari, in March 2007. The international community, so it seemed, had finally understood that it needed to close the sovereignty gap that had opened up when it assumed transitional governance functions in 1999 for an unspecified period of time. This contribution reflects upon the status process as it unfolded in 2006 and speculates on some of the implications that Kosovo’s independence will have in public international law, especially with a view to the forthcoming International Court of Justice (ICJ) Advisory Opinion on the matter.

1 The views expressed in this contribution are the author’s own. The author would like to thank Michael Weiner of the Austrian Development Agency, Dr Christian Pippan of the University of Graz, and Verena Ringler of the International Civilian Office in Priština for commenting on an earlier version of the article, as well as a number of former UNOSEK officials for sharing background material.

2 Joseph Starke, *Introduction to International Law*, London 1984, p. 132.

3 For a discussion of Kosovo’s international legal status under Security Council Resolution 1244 of 10 June 1999, see generally Bernhard Knoll, *The Legal Status of Territories Subject to Administration by International Organisations*, Cambridge University Press, 2008 (Chapter V).

4 Cf. Bernhard Knoll, From Benchmarking to Final Status? Kosovo and the Problem of an International Administration’s Open-Ended Mandate, in: *European Journal of International Law* 4/2005, pp. 637-660.

5 *The Situation in Kosovo*. Report to the UN Secretary-General, undertaken pursuant to the UN Secretary-General’s Reports of 30 April 2004, S/2004/348, and 6 August 2004, S/2004/932 of 20 November 2004.

*“Belgrade is in denial and fragile. We need to find ways to make them accept what they must accept.”*⁶

At the outset of diplomatic efforts to start the Kosovo Status process stood a larger design, according to which mediation efforts conducted by a third party would ideally result in an endorsement, by the Security Council, of a general plurilateral (or limited multilateral) treaty⁷ between the parties in a resolution based on Chapter VII of the UN Charter. Parties to the determination of the future permanent political boundaries of the territory of Kosovo had to include Serbia, the holder of a reversionary title to the exercise of sovereign powers, as well as Kosovo’s local institutions, supported in some form or other by UNMIK. Such an accord, concluded under the auspices of the Contact Group and a UN mediation body, could have effectively ended the status of the “international trust” and resolved the sovereignty puzzle.

On 14 November 2005, the UN Secretary-General appointed the former Finnish President Martti Ahtisaari as Special Envoy, after the Security Council had “welcomed”⁸ this proposal. Ahtisaari had maximum leeway to “start a political process to determine Kosovo’s future status”, as it was up to him to determine the pace and duration of the process on the basis of consultations with the Secretary-General, taking into account the co-operation of the parties and the situation on the ground.⁹ Only the most basic framework was established to guide the efforts of what was termed the Office of the Special Envoy of the Secretary-General of the United Nations for the Future Status Process for Kosovo (UNOSEK). Indeed, the Contact Group’s ten Guiding Principles annexed to the letter confirming Martti Ahtisaari’s appointment as Special Envoy¹⁰ outlined merely that a settlement was to promote stability,

6 Condoleezza Rice, quoted by a UNOSEK official (in a personal interview with the author) who was present at the meeting between Special Envoy Ahtisaari, Secretary of State Rice, and Under Secretary Nicholas Burns, Washington, DC, 11 May 2006.

7 Cf. Article 20 (2) of the *Vienna Convention of the Law of Treaties*, Vienna, 23 May 1969.

8 Cf. Letter of Ambassador Andrey Denisov, President of the Security Council, to Secretary General Kofi Annan, 10 November 2005, S/2005/709, 10 November 2005. The modalities leading to the appointment of the Special Envoy were chosen with care, since Russia had earlier insisted on a formal Security Council Resolution requiring unanimity. An alternative approach could have involved the Security Council’s utilization of Rule 28 of its Provisional Rules of Procedure, allowing for the appointment of “a commission or committee or a rapporteur for a specified question”, *Provisional Rules of Procedure of the Security Council*, S/96/Rev.7 (1983), p. 6. The basis for this rule is found in Article 29 of the UN Charter: “The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions”.

9 Cf. *Terms of Reference for the Special Envoy of the Secretary General for the future status process for Kosovo*, annexed to a Letter from the Secretary-General to the President of the Security Council, Ambassador Mihnea Ioan Motoc, S/2005/689, 31 October 2005, para. 3.

10 The *Guiding Principles of the Contact Group for a Settlement of the Status of Kosovo* were finalized at the meeting of Contact Group Political Directors in Washington, DC, on 2 November 2005 (in attendance: Special Envoy Ahtisaari and his Deputy Rohan), sub-

non-partition, multi-ethnicity, democracy, and human rights. They represented the first in a series of messages that the Contact Group planned to send to the parties with the intention of steering the process and focusing it on key priorities. Importantly, the Contact Group emphasized that the settlement must “conform with European standards and contribute to realise the European perspective of Kosovo”.¹¹ At that time, the Contact Group had already defined its own role in the status negotiations and had agreed that it would actively support the UN-led process by identifying substantive status issues¹² and providing technical expertise.

The *modus operandi* of the Contact Group that cranked into action after several years of inactivity following NATO’s intervention in the spring of 1999¹³ was for each meeting to focus on a set of issues to be introduced in a discussion paper. Meetings were held approximately once a month between foreign ministry western Balkans division heads, political directors, or ministers, and regularly involved representatives of NATO, the European Commission, and the EU Presidency (the “extended” Contact Group) as well as UNOSEK and UNMIK. The figure below lays out the flexible organizational arrangements that were put in place at the end of 2005 and lasted until the Contact Group-initiated EU-USA-Russia Troika took over the process in August 2007 following the failed attempts to pass a Security Council Resolution on the basis of Ahtisaari’s *Comprehensive Proposal*.

The Contact Group’s main occupation consisted in planning the future international presence and merging its civil and military tracks. Already at the outset of the status negotiations, it had become clear that the Vienna Process had to be accompanied by a “dual transition” in Priština: Although it was considered to be imperative that UNMIK maintain its responsibilities until a new civilian presence was mandated and found its role, the transfer of authority had to be outlined and the EU had to take on responsibility for operational planning.¹⁴ Second, the Contact Group assumed a key role in the dis-

mitted to the Security Council on 7 November, and politically endorsed in the UN framework by the letter of UN Security Council President Ambassador Denisov to the Secretary-General, cited above (Note 8).

11 Ibid., Principle 2.

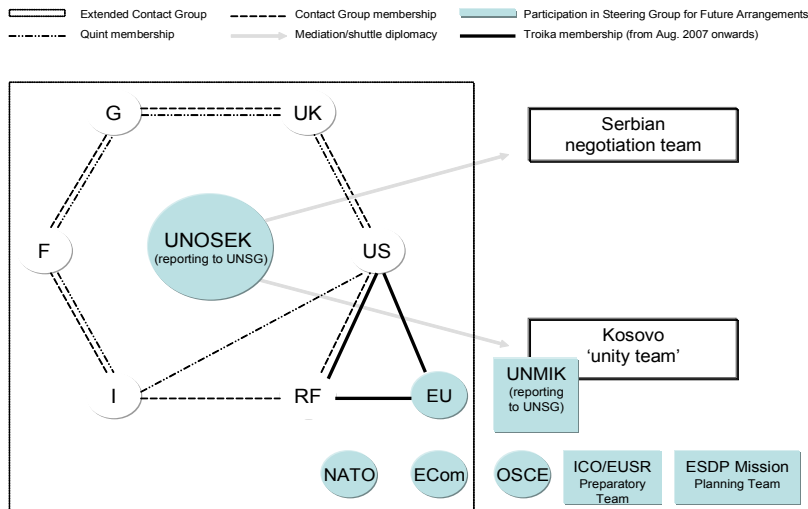
12 Thirteen core issues ranging from cultural heritage, decentralization, and the economy to minority and property rights and returns were first grouped together by the USA and suggested to the Contact Group at its 2 November meeting in Washington, DC.

13 For an original insight into the Contact Group’s attempts at resolving the Kosovo crisis between 1997 and 1999, see Chapter VII.2.1 of Jochen Prantl’s *The UN Security Council and Informal Groups of States: Complementing or Competing for Governance?* Oxford 2006, pp. 222ff.

14 In this regard, see Annex 1.1 (Elements of Cooperation between UNMIK and ICO in the Transition Period) of the International Civilian Office – European Union Special Representative (ICO/EUSR) Preparation Team’s *Second Report to the Political and Security Committee* of 20 February 2007. Early on, UNMIK contributed its own book-length strategy for mapping out the transition to a successor arrangement (*Executive Report: Informal technical needs assessment for future international engagement in Kosovo*, February 2006), which formed the basis of the work of the Steering Group on future international arrangements chaired by the UNMIK Special Representative of the Secretary-General (SRSG) – an informal planning body that provided technical input to the status process.

cussions about the phasing-out of UNMIK, particularly concerning the transfer of rule of law-related competencies to Kosovar institutions and the reform of the security sector.¹⁵

The Contact Group in the Kosovo status process, January 2006-December 2007



Following Special Envoy Ahtisaari’s first visit to the region at the end of November 2005, the parties were encouraged to set up negotiation teams, provide an outline of their positions, and agree on common platforms.¹⁶ As the Kosovar negotiation team struggled to devise a strategy while domestic politics threatened the team’s unity, Serbia’s propositions were from the start characterized by two mostly reinforcing currents. Within the Serbian body

Participation in the Group – UNOSEK, EU Council Secretariat, Commission, NATO, OSCE, UN DPKO – overlapped with membership of the extended Contact Group (see figure).

15 In Pristina, preparations for the transfer of authority to the Provisional Institutions of Self-Government (PISG) following a status resolution started in earnest in October 2006. The Strategic Group on Transition (SGT) was chaired by the ICO/EUSR Preparatory Team and UNMIK. Annexed to it were three non-technical working groups (elections, public messaging, and pre-constitutional groups), which included the head of the ICO/EUSR Preparatory Team, the SRSG, representatives of the Planning Team for an ESDP Rule of Law Mission, KFOR, the European Commission, the OSCE, and the Unity Team. Five technical working groups were assembled under the PISG-chaired Technical Group on Transition which also referred issues to the SGT. The technical working groups covered the areas of rule of law, governance, civil administration, legal transition, and economy and property. See the *Report of the UN Secretary-General on the United Nations Interim Administration Mission in Kosovo*, 9 March 2007, S/2007/134, para. 21.

16 Both the Kosovo PISG platform and that of the Serbian negotiation team are reprinted in *Kosovo Perspectives Weekly Bulletin* (VIP News Service), 17 February 2006, pp. 8-11 and 14-15, respectively.

politic, energies were focused on using the status process as a means of galvanizing the electorate in support of the government and the “moderate nationalism” it exhibited in order to counter the threat from the far-right Serbian Radical Party (SRS) and the revanchiste Socialist Party of Serbia (SPS). Outside Serbia’s “black box”, its government took uncoordinated soundings to gauge the extent to which international opinion could be mobilized in its support. While the legendary rivalry between President Boris Tadić and former Prime Minister Vojislav Koštunica in matters of foreign affairs was chiefly responsible for the chaos, Serbia and Montenegro was also unfortunate to be represented by a foreign minister whose exuberance and charisma were matched only by his comic inconsistency. Vuk Drašković’s prime foreign policy instrument was the art of allegory. Why, he maintained, would the international community rush into building a roof for the common house of Kosovo (status), if its foundations (standards) had not even been laid? The Kosovo Albanian approach was a recipe for failure, he declared, like demanding a university diploma before starting to study.

Second, he excelled in utilizing parallels devoid of similarity to the case under consideration. His first policy pronouncement after the initiation of the status process openly contradicted the President’s suggestion to constitute Kosovo as two entities within the Serbian state, itself a simulacrum of the Dayton model.¹⁷ Minister Drašković offered “real sovereignty” and “internal independence” to Kosovars based on the internationally brokered peace plan for Croatia (Zagreb-4, Z-4) of early 1995, which foresaw the incremental inclusion of the “Republika Srpska Krajina” (RSK) into Croatia’s jurisdiction.¹⁸ His reference to the failed attempts of the mini-Contact Group to integrate an irredentist community into a Croat state at war with Serbia was, of course, a dreadful way of advertising his “more than autonomy, less than independence” solution for Kosovo. His offer, designed along the same lines as the Z-4 plan, came a decade too late and suffered from a number of flaws. Comparing the position of RSK renegades under Milan Martić with that of a population that had been governed under the “sacred trust” of the international community and which already enjoyed a much larger measure of self-government than the Krajina Serbs would have gained under the Z-4 arrangement, displayed extraordinary frivolity, particularly in failing to propose

17 Cf. *Beta Week* No. 500, 24 November 2005, p. 2.

18 Minister Drašković, quoted in *Frankfurter Rundschau*, 16 November 2005. See also his comments to the Tanjug news agency, 2 June 2005: “That what Z-4 guaranteed to the Serbs in Krajina, now it would guarantee to Albanians. What it guaranteed to the Croats, it should now guarantee to the Serbs in Kosovo”. The “Zagreb-4 Plan” (1995 draft Agreement on Krajina, Slavonia, Southern Baranja and Western Sirmium), formally designed as an agreement between Zagreb and Knin, but containing substantial constitutional provisions of a future autonomous RSK, was drafted by representatives of Russia, the USA, the EU, and the UN and would have assured the irredentist Serbian community of substantial autonomy while peacefully re-integrating the territory into Croatia’s sovereign jurisdiction. Neither Slobodan Milošević nor the collegium of Krajina Serbs could agree to the plan. The territory was forcefully integrated into Croatia in summer 1995 in Operation Oluja (“storm”) in the course of which approximately 200,000 people were expelled.

how a Kosovo entity could exercise its substantial autonomy within, and partake of, the Serbian state and its institutions.¹⁹

The weeks preceding the commencement of direct negotiations were the time to build a case. While the Kosovo Albanians mourned the death of their President and icon, Ibrahim Rugova, the Serbian government mobilized its public relations machinery in Brussels and Washington. But January 2006 was also the time when the international community resolved to carry things forward. First, it decided to follow Special Envoy Ahtisaari's suggestion to deliver clear "private messages" on the status process in its bilateral contacts with the parties, urging them to start preparing the public opinion of the people they represented. This was held to be particularly important for Serbia, to which the first of Ahtisaari's "private messages" was addressed: "The unconstitutional abolition of Kosovo's autonomy in 1989 and the ensuing tragic events resulting in the international administration of Kosovo have led to a situation in which a return of Kosovo to Belgrade's rule is not a viable option."²⁰ While the Russian Contact Group representative refused to carry this message to Belgrade, he did not object to its use by other Contact Group members, and underlined the need for a united approach.

Second, and just a few weeks before the beginning of direct technical talks, the Contact Group, this time in ministerial formation, delivered a statement at the London Afghanistan Conference whose significance can hardly be overstated. It stressed that "the character of the Kosovo problem, shaped by the disintegration of Yugoslavia and consequent conflicts, ethnic cleansing and the events of 1999, and the extended period of international administration under UNSCR 1244, must be fully taken into account in settling Kosovo's status". Further, and even more importantly, the Ministers reminded Belgrade that "the settlement needs, inter alia, to be acceptable to the people of Kosovo. The disastrous policies of the past lie at the heart of the current problems."²¹ In Priština, this statement was received enthusiastically as it clearly tilted the balance to the Kosovar side. But it also heightened the role of the Contact Group in laying the foundations for UNOSEK's engagement in the months to come.

19 The inclusion of Kosovo Albanian politicians in Serbia's central government was "not envisaged", said the deputy head of Serbia's negotiation team, cf. Leon Kojen, *Kosovos Zukunft aus serbischer Sicht [A Serbian View of Kosovo's Future]*, in: *NZZ*, 1 June 2006. Indeed, the Serbian negotiation platform, cited above (Note 16), did not include an offer of participatory rights at the "central" level. For the opinion of the Venice Commission on Serbia's 2006 constitution and its "guarantee" of autonomy, see below (Note 130).

20 UNOSEK's suggested private messages from Contact Group representatives on the Kosovo status process were discussed at the Contact Group meeting in Vienna on 16 January 2006. The messages did not stay private for long. See the public statements a former Political Director of the British Foreign Office, John Sawers, made during his visit to Kosovo and Belgrade on 6 and 7 February 2006: *British Diplomat Sparks Serb Protest over Kosovo*, *AFP*, 7 February 2006; *Unbequeme Wahrheiten für Serbien [Uncomfortable Truths for Serbia]*, in: *NZZ*, 9 February 2006, p. 3.

21 FCO Press Release, *Statement by the Contact Group on the Future of Kosovo*, London, 31 January 2006, paras 6 and 7.

On the practical side, the Contact Group set itself the task of finalizing a conceptual blueprint of the new international presence by June 2006 that included its mandate and competences, structure, funding, and transition strategy. The discussions revealed a tentative consensus that the future presence should have a light footprint and might, in implementing the eventual settlement, make use of corrective powers. Its substitution powers would be restricted to a necessary minimum to allow for a high degree of local ownership. Governance functions were to be formally separated from capacity-building, while the ICO presence was to assume a strong co-ordination mandate to ensure coherence and efficiency in the latter field. Deputy Envoy Albert Rohan summed up the preferences of UNOSEK and the EU Council Secretariat as follows: “as light as possible, as heavy as necessary”. Agreement was also reached regarding the need to base the new international presence on a new Security Council Resolution and to institute a steering group comprising key stakeholders to support and guide the presence.

Miscalculations and Flawed Premises

Progress in the deliberations of the Contact Group was, however, not replicated in the “bottom-up approach” that UNOSEK pursued with the parties. A number of structural factors contributed to the extraordinarily slow progress on issues such as minority rights and decentralization.²² First, the proximity talks and technical negotiations could not be clearly separated from the larger status question. UNOSEK’s insistence that the four negotiation tracks²³ revolve around issues that required a solution regardless of the direction in which Kosovo’s international legal status tilted was a means of focusing the parties’ attention on technicalities. Nonetheless, it was clear that a number of

22 Ever since Ambassador Kai Eide’s second report (*A Comprehensive Review of the Situation in Kosovo*, annexed to Letter from the Secretary-General addressed to the President of the Security Council, S/2005/635, 7 October 2005) and the recommendations contained therein, “deep” decentralization was seen as the key to “unlocking” the status process as a whole with the potential to accommodate the range of legitimate concerns and aspirations shared by the minority communities in Kosovo. Mediators tried to reach agreement in principle on four inter-related areas. This concerned, first and foremost, the transfer of additional competencies to municipalities (“own” competencies) and the delegation of further powers from the centre (mainly healthcare, education, public utilities, social policy, culture, and, most controversially, justice and police). The second focus was on introducing i) new local revenue sources, ii) a mechanism for sharing central income tax revenue, and iii) preferential treatment for financial subsidies from Belgrade to increase municipal financial sustainability. Third, UNOSEK was to facilitate negotiations over the redrawing of municipal boundaries to moderately increase the number of Serb majority municipalities. Fourth, functional co-operation among municipalities, including cross-boundary co-operation, was deemed a significant means of providing for cohesion and unity of purpose among Serb-majority entities (and, crucially, for securing Belgrade’s influence over them). In total, eight meetings related to decentralization were held in Vienna, all of them on the basis of substantive UNOSEK option papers.

23 (1) decentralization; (2) cultural heritage and holy sites; (3) standards, minority rights, and returns; (4) economy and property issues.

solutions found could be realistically implemented only within a sovereign state – a conclusion that enraged Serbia’s government.²⁴

The international community’s battle plan also relied on a set of flawed premises concerning its dealings with Belgrade, and on the success of messages to Priština. As Special Envoy Ahtisaari put it at the outset of the negotiations, Belgrade had to accept that Kosovo would not return to its control; and Kosovars would have to understand that they had to “earn” their objective by moving forward on standards:

While today’s democratic leadership of Serbia cannot be held accountable for the policies of the Milosevic regime, [it] must come to terms with Milosevic’s legacy [...] Milosevic’s dark past can neither hold them prisoner nor should it prevent them from demonstrating political courage and the vision necessary to come forward with *realistic proposals* for the future of both Kosovo and Serbia [...] In Kosovo it is the responsibility of the Kosovo Albanians to ensure that conditions and foundations are created for a sustainable and multi-ethnic, democratic society [...] The results achieved in [...] implementation of standards will be a *decisive factor in determining the pace of the political process* designed to settle Kosovo’s future status.²⁵

As to the first premise, Belgrade simply did not play along, maintaining throughout the negotiations that a change in regional borders would not only work against their interests, but would also bring Serbian radicals to power and present risks for neighbouring countries. The belief that Serbia would be co-operative and come forward with “realistic proposals” (diplomatic speak for agreeing to Kosovo’s sovereign statehood), encouraged by the promise of a strategic partnership – bilateral initiatives, Partnership for Peace-related activities, and a concrete perspective for EU integration – was rooted more in the realm of wishful thinking than in a realistic appraisal of the state of Serbian politics. In particular, Serbia refused to take part in a barter that required it to exchange Kosovo for fast-track integration into Euro-Atlantic structures. Assuming that it would, which Brussels and Washington largely did, was a serious misjudgement that over-rated the “soft power” of the prospect of ac-

24 Cf. the joint letter by President Boris Tadić and then Prime Minister Vojislav Koštunica to Special Envoy Ahtisaari: “We entered into the negotiations believing that discussion of concrete issues before addressing the central question of future status might help build confidence and thus pave the way to a mutually acceptable solution. So far, our proposals on decentralization have been met with scant respect for the genuine fears of the Serb community. In fact, the Pristina delegation in Vienna has shown little interest in discussing matters in the status-neutral way you have urged, and this has blocked the talks and made it difficult to explore the possibilities of compromise.” Serbian Presidential Administration archive number 06-00-01549/2006-01, 18 May 2006.

25 *Statement of the Special Envoy*, EU Foreign Ministers Gymnich meeting, 11 March 2006, paras 4-6 (emphasis added).

cession.²⁶ Serbia's leadership neither took advantage of the opportunity to place the blame for the loss of Kosovo on Slobodan Milošević and Tomislav Nikolić of the SRS, the government's main challenger, nor did it educate the Serbian public on "realistic" scenarios. In short, the incentive structure provided by the Quint – forward-looking and designed to assist a "country in denial" to move forward along the trajectory of European integration – was simply less tangible than, and outweighed by, the one provided by Russia – and the latter was obstructive, fixed on the status quo, and largely ignorant of its wider implications for Serbia's future.

The messages sent to Priština in the course of the negotiations were, on the other hand, not devised in good faith, and consequently gave rise to expectations that could not be fulfilled as the process came to a close. The Contact Group's prioritization and "deadlinization" of certain standards²⁷ was intended to make the Kosovo Albanian public trust that tangible progress in standards implementation would bring them closer to their objective. However, both UNOSEK and Contact Group envoys understood perfectly well that the resolution of Kosovo's status and the process designed to yield it were separate issues from whether or not Kosovo's Provisional Institutions of Self-Government (PISG) moved standards implementation into the centre of their activities. As the UNMIK Special Representative of the Secretary-General (SRSG) noted with concern, the causality also worked in the opposite direction: "It is important to acknowledge that further progress on standards implementation, and the sustainability and consolidation of what has been achieved thus far, will require both a sustained momentum in the future status process and concrete prospects for a conclusion of the process."²⁸ The re-employment, by Western diplomats, of the notion of "earned status",

26 Cf., for instance, the testimony of Under Secretary of State Nicholas Burns to the U.S. Congress: "We have been explicit with Belgrade: constructive engagement in the Kosovo status process [...] and a constructive regional role [...] would help clear the path to EU and NATO membership", *Kosovo: Current and Future Status, Hearing before the Committee on International Relations, House of Representatives*, 18 May 2006, Washington 2006, p. 15. This message, namely that Serbia would be judged on how much it adopted a "realistic approach" and a "constructive attitude", had been amplified by EU officials ever since the status negotiations had opened. In response, Serbia's Foreign Minister, Vuk Jeremić, maintained that "there have been messages to Serbia from some quarters to choose between Europe and Kosovo [...] This is an unacceptable choice and an indecent offer, to say the least, in 21st century Europe", *VIP Daily News Report*, 30 August 2007.

27 In co-ordination with UNMIK, the Contact Group identified a list of priority action items ranging from the passing of "internationally accepted laws" on languages and cultural heritage, via the completion of a public transportation strategy for minorities and the reconstruction of commercial property damaged during the 2004 riots, to the allocation of funds for returns. The list was handed over to Kosovo's former Prime Minister, Agim Çeku, on 9 June 2006. Requests (including one to support the inclusion of Kosovo Serbs into Kosovo institutions) were simultaneously delivered to Belgrade. Since Kosovo's government was not in a position to report on progress on priority standards directly in key sessions of the Security Council, regular updates were delivered in writing. See, e.g., the paper on Key Recent Achievements annexed to the letter of Prime Minister Çeku to Ambassador Ellen Margrethe Løj (Denmark), President of the UN Security Council (No. 130/06), 16 June 2006.

28 *Report of the UN Secretary-General S/2007/134*, cited above (Note 15) para. 23.

which had already caused confusion in the period during which UNMIK devised government benchmarks,²⁹ may have convinced their capitals that pressure on the Kosovo negotiation team would be maintained. Yet there was no automatic assurance that a positive assessment of governance indicators would lead to a favourable determination by the Security Council; this was a political process open to spoilers who could, at a stroke of a pen, veto any resolution endorsing an eventual settlement emerging from the process.

Those structural deficiencies in the UN-led process did not cause the Kosovo Albanians to adopt unconstructive positions; quite the opposite: Buoyed by the private messages of diplomatic envoys, their negotiation team's attitude remained constructive.³⁰ Yet the lack of a credible incentive structure for Priština – a firm link between standards implementation and a favourable Security Council Resolution – led Quint diplomats and UNOSEK officials to over-promise on a number of occasions. Their faith that a multi-lateral solution would eventually be found that would endorse the Special Envoy's proposal of an independent Kosovo restrained by a new civil and military presence was not merely a diplomatic ruse to prod the Kosovo Albanian delegation into showing more flexibility; more worryingly, it was based on a miscalculation as to the motives and strategies underlying Russia's actions. Russia had, through its Contact Group envoy, Ambassador Alexander Botsan-Kharchenko, walked a long way with the Quint and, despite his criticism of the envisaged "artificial" negotiation deadline of end-2006, his continued insistence on a negotiated solution, and his cursory references to the precedent that Kosovo's independence might set, had at no point signalled outright objection to any of the issues discussed under the Contact Group's work plan.

Spoiling the Party

Discussions in the first half of 2006 furthered a collective understanding on the part of the Quint that Ahtisaari's end product would be subject to a political trade-off with Russia on other international issues prior to its endorsement by the Security Council. As US Under Secretary Nicholas Burns noted in a meeting with Special Envoy Ahtisaari, Russia "will be unhelpful in the

29 The latest version of the "Kosovo Standards Implementation Plan" (KSIP) comprised 120 pages. For its endorsement by the UN Security Council see *Security Council Reiterates that Kosovo Standards Plan Should Be Basis for Reassessing PISG*, UN/PR/SC/8082, 30 April 2004.

30 The disappointment with Belgrade's obstructionism is palpable in the Contact Group Statement of 24 July 2006 following the first round of direct talks between President Tadić and Prime Minister Koštunica, on the one side, and President Fatmir Sejdiu and the Kosovo Unity Team, on the other. It noted that "Prishtina has shown flexibility in the decentralisation talks. However, Prishtina will need to be even more forthcoming on many issues before the status process can be brought to a successful conclusion [...] Belgrade needs to demonstrate much greater flexibility in the talks than it has done so far. Belgrade needs to begin considering reasonable and workable compromises for many issues under consideration, particularly decentralisation."

Contact Group and the UNSC. Although we have a commitment that they will not block a Security Council Resolution on the status, they will make it very difficult throughout the process”.³¹ Half-way into UNOSEK’s efforts to produce a settlement, this was a general perception shared by Quint governments. One of their ambassadors, for instance, reported from a lunch with Russian Foreign Minister Sergey Lavrov that, while one should be wary about his intentions of applying aspects of Kosovo’s anticipated independence to the frozen conflicts, “we are receiving hints that they may attempt to extract a price elsewhere. Provided we do everything we can to play their sensitivity about being treated as a member of a club, a serious power who should be fully involved in negotiating the eventual outcome, the thing should be doable.”³²

Such were the opinions held in the wake of a series of *démarches* in all Quint capitals in which Russian diplomats made clear their serious dissatisfaction with the direction the status process was taking. They criticized the tendency to lay the blame for the lack of progress in the negotiations squarely on Belgrade; they insisted firmly on the priority of a negotiated solution and refused to accept a settlement imposed upon Belgrade; they urged the abandonment of a deadline to the negotiations, and demanded that UNOSEK’s “favourable treatment” of the Kosovo Albanian side should cease. Slowly, Russia backtracked from its earlier declared intention to maintain unity within the Contact Group, distanced itself gradually from Ahtisaari’s ideas, and began to reveal its true face: an escalating rhetoric in uncompromising support of Serbia’s position,³³ which the latter used as a cover for its inflexibility. This stance hardened further in the course of the following year. The West, however, maintained its belief that Russia could be prodded into at least abstaining from a vote in the Security Council, as China had on 10 June 1999 when Resolution 1244 was passed. As we know with the benefit of hindsight, this is not what happened.

The Quint had, shortly before the beginning of the “political” status talks in July 2006, adopted a firm position on a “limited sovereignty” of Kosovo under the working assumption that no negotiated settlement would be reached between the parties. But to the surprise of the USA and the EU, Russia challenged the axiom that Kosovo represented a *sui generis* case devoid of precedent in international law. Moscow’s lingering opposition to the Western standpoint was not a mere face-saving exercise for a Slav cousin in

31 Burns quoted by a UNOSEK official present at the meeting on 11 May 2006, cited above (Note 6).

32 Personal interview with a senior Quint official, Moscow, 8 June 2006.

33 Russian Ambassador Vitaly Churkin’s stance at the 13 December 2006 Security Council meeting was illustrative in this regard. He chided the former UNMIK SRSG Joachim Rucker for having gone beyond his mandate by advocating a quick status decision, defended Belgrade against the criticism that it was unconstructive and inflexible, and insisted that only a negotiated solution would pass the Council; cf. transcript of the 5588th Meeting, *Kosovo Envoy Tells Security Council Delay of Status Proposal Raised Tension*, SC/8900, 13 December 2006.

need. It represented a high-point in Russia's new global assertiveness. As one commentator wrote at a time when it had already become clear that Russia had little incentive to seek a compromise with the West on this issue: "Moscow has assumed the role of a judge: a guarantor of international law, protector of human rights and commentator who bears no direct responsibility for the current and future situation on the ground."³⁴ In the guise of defending the principle of territorial integrity, it asserted two coveted yet underrated factors in the psychology of international relations: respect for its status as a major power that could not be ignored, and revenge – in this case for the humiliation over Russia's failure to prevent the NATO bombing of Serbia in 1999.

As a consequence of the Quint's miscalculation of Moscow's intent, all five draft resolutions tabled in the Security Council during June and July 2007 had to be withdrawn following the credible threat of a Russian veto.³⁵ The EU had at this point not realized that this was one of the moments in which it had to demonstrate unity and vision if it were to be a credible external actor, particularly with regard to the stability of the Balkans and the region's European future. Torn between two contradictory positions taken by the USA and Russia, this principal regional stakeholder adopted one of its favourite tactics when faced with international difficulties: calling for an extended period of time in which negotiations should be resumed.

The Troika

The 120-day deliberations that followed were led by Contact Group-mandated negotiators (representing the EU, the USA, and Russia, respectively) and aimed to "facilitate a period of further discussions between the parties".³⁶ Essentially, the "Kosovo Troika", as it was called, repeated the shuttling between capitals that was witnessed when UNOSEK led the process, and provided for six additional occasions for face-to-face negotiations. At all of the joint sessions, probably to distance itself from the methodology employed by Special Envoy Ahtisaari, the Troika reiterated that it was not making proposals of its own, but was merely asking questions to ensure that all options were being examined by the parties. The Troika had indeed no intention of

34 Oksana Antonenko, Russia and the Deadlock over Kosovo, in: *Survival* 3/2007, pp. 91-105, here: p. 101.

35 The deadlock in the Security Council is briefly described in ICG, *Breaking the Kosovo Stalemate: Europe's Responsibility*, Europe Report No. 185, 21 August 2007, pp. 2-3.

36 *Statement of the Contact Group Ministers*, New York, 27 September 2007. See also the UN Secretary General's *Statement on the New Period of Engagement on Kosovo*, SG/SM/11111, New York, 1 August 2007. The Troika's negotiation method is recounted in ICG, *Kosovo Countdown: A Blueprint for Transition*, Europe Report No. 188, 6 December 2007, pp. 2-5.

imposing a solution; “instead, the burden was on each party to convince the other side of the merits of its position”.³⁷

Such fresh idealism could not conceal the true purpose of the trilateral effort: to buy time, from August 2007 onwards, in which a “critical mass” of EU member states could assemble to recognize an independent Kosovo following the eventual failure of the talks.³⁸ Of the myriad diplomatic initiatives that have accompanied the protracted dissolution of the former Yugoslavia since 1991, the Kosovo Troika may indeed stand out as the most futile. In hindsight, the Troika’s attempts at brokering an agreement at any price, however implausible, and “to leave no stone unturned”³⁹ in the process at times bordered on the comic: Its initial resistance to ruling out the option of partitioning the territory,⁴⁰ its proposals on a temporary “neutral status”⁴¹ and on a “loose confederation” between Serbia and Kosovo,⁴² and the consideration it gave to adapting the one-state-two-systems “Hong Kong model”, proposed by Belgrade to secure its long-term claim to sovereignty,⁴³ all sent confusing messages that threatened to undermine efforts undertaken by European and UN actors.

Take, for instance, the Troika’s treatment of Kosovo’s “European perspective”, which the European Commission and UNMIK tried hard over the years to secure and turn into a concrete and tangible promise. While Kosovo’s international administration had, with varying degrees of success and despite its misguided “standards before status” policy, kept the territory on track with regard to its obligations assumed under the Stabilization and Association Process, the Troika’s chief envoy, Ambassador Wolfgang Ischinger, managed to implicitly turn these aspirations against the PISG when he established an explicit linkage between the imperative of concluding a horizontal status agreement with Belgrade and Kosovo’s further integration into European structures: “In absence of such an agreement the European door will not be as open as I’m sure everyone here in this region would hope it to be.”⁴⁴

Overall, the opening of status negotiations in late 2005 certainly was a political prerequisite for what a former German political director called the

37 *Report of the European Union/United States/Russian Federation Troika on Kosovo*, 4 December 2007, attached to a letter of the UN Secretary-General to Ambassador Marcello Spatafora, President of the UN SC, 10 December 2007, para. 6.

38 The Troika-led negotiations eventually failed in November 2007. Cf. *Contact Group Troika Press Communiqué*, The Baden Conference, Baden, 28 November 2007.

39 *Troika Press Statement*, Vienna, 5 November 2007.

40 Cf. *Diskussion um eine Teilung Kosovos* [Discussing the Partition of Kosovo], in: *NZZ*, 17 August 2007, p. 3, and: *Kosovo Drifts towards Partition*, in: *Balkan Insight* (BIRN) No. 104, 20 September 2007.

41 Cf. “Neutral status” proposal drawing negative reaction, in: *B92*, 15 November 2007.

42 Cf. *Lippenbekenntnisse im Kosovo-Streit* [Paying Lip Service in Kosovo Dispute], in: *NZZ*, 2 October 2007, p. 6.

43 Cf. *Go slow on Kosovo?* Economist Intelligence Unit Briefing, 3 October 2007.

44 Wolfgang Ischinger, quoted in *EU Pressures Rivals to Reach Kosovo Deal*, in: *International Herald Tribune*, 13 August 2007, p. 3.

creation of a sustainable political foundation for the future of the territory.⁴⁵ The two years of negotiations were characterized by the intensified use of informal groups that conducted crisis management at times autonomously from the Security Council. Due to the impasse there, the process as designed by the UN Secretary-General and the Contact Group could not deliver the results: a multilateral endorsement of a status solution as devised by UNOSEK, as discussed below. At key points, the process allowed politicians and diplomats to over-promise, both regarding the speed with which it had to be brought to an end and, more importantly, with regard to the outcome. UNOSEK's emphatic distancing from both Serbian and Albanian nationalisms may have facilitated the elaboration of a decentralization concept, which the mediators pursued with scientific zeal and, as some may claim, naive optimism. However, the mandate that UNOSEK and the Kosovo Troika both had to facilitate direct negotiations, table summaries, identify mutual standpoints, and report their findings to the UN Secretary-General proved insufficient to make up for the unavailability of a compulsory dispute-settlement mechanism for statehood questions and the inherent difficulties in applying the general criteria of statehood.⁴⁶

UNOSEK's Settlement Proposal

"It's the wrong question to ask whether we need a robust or a light presence; we need robust policies."⁴⁷

Half-way through UNOSEK's direct technical talks, in his one of his regular reports to the UN Secretary-General on the progress in the negotiations on decentralization, Ahtisaari remarked candidly:

In recent expert-level discussions with the sides, Pristina representatives have adopted a largely constructive approach, and seem ready to discuss concrete options. [...] Belgrade representatives have, instead, focused more on the process itself – with an emphasis on the format of the talks and the modalities for the way forward – and have declined to discuss practical proposals related to specific locations of possible new municipalities. They have raised the issue of the “slow pace of the talks so far” (rather incon-

45 Cf. Michael Schaefer, German Foreign Policy and the Western Balkans, in: Johanna Deimel/Wim van Meurs (eds), *The Balkan Prism. A Retrospective by Policy-Makers and Analysts*, Munich 2007, pp 65-80, here: p. 70.

46 Cf. Colin Warbrick, States and Recognition in International Law, in: Malcolm D. Evans (ed.), *International Law*, New York 2006, pp. 217-75, here: p. 241.

47 EU official, quoted in ICG, *Kosovo Status: Delay is Risky*, Report No. 177, 10 November 2006, p. 8.

sistently, since they carry at least part of the responsibility for delays), and of insufficient room being allowed for negotiations as such (here, also, they share responsibilities [...]). Belgrade's attitude has so far been to unduly prolong the talks on the practical issues by, *inter alia*: i) not concretely focusing on specifics of the territorial delineation of new municipalities; ii) by preventing an early May meeting on religious sites; iii) by not yet having delivered an overview of their claims in the economic field; and iv) by objecting to a meeting devoted to minority protection. This approach goes hand in hand with its repeated calls to move the talks immediately to status, thereby suggesting that the "bottom-up" approach has failed, while clearly disregarding its own role in the procrastination.⁴⁸

From the start of the status process, it had been evident even to peripheral observers of Kosovo affairs, that an agreement between Belgrade and Priština would not be attainable.⁴⁹ From Ahtisaari's point of view, Belgrade's refusal to be part of any constructive negotiations demonstrated a deeper unwillingness to enter into a novel arrangement that would enable the various ethnic communities to co-exist. It allowed itself, and by extension the international community, to be held hostage by retrograde political forces on the basis of short-term political calculations. Although Ahtisaari also criticized Priština's focus on unnecessary details and noted a tendency for the ethnic Albanian side to say what UNOSSEK officials wanted to hear without following up with action, he reproached Belgrade for having become *the* key obstacle to improving the situation in Kosovo through preventing Kosovo Serb participation in the PISG – a charge that did not go down well with Russia.

Shortly before delivering his "package" to the UN Secretary-General, he added an even gloomier note, observing that "there has been a lot of talk about reaching a compromise. In practice, however, compromise has meant that *you* want the other side to accept *your* position. No amount of delays and meetings will bring a change to this behaviour."⁵⁰ Yet despite the unproduct-

48 UNOSSEK, Code Cable, *Overview of recent developments*, 24 April 2006, paras 2, 3, and 6.

49 Cf., for instance, the two diametrically opposed resolutions of the Kosovo Assembly of 17 November 2005, para. 9: "The Assembly of Kosovo confirms the will of the people of Kosovo for independence which is non-negotiable", and of the Serbian Parliament of 21 November 2005, Resolution of the Mandate for the Talks on the Future Status of Kosovo, para. 2: "The Parliament of the Republic of Serbia confirms that it [...] is unacceptable to alter the internationally recognized borders of a democratic country against its will" (unofficial translation of both resolutions reprinted in: *VIP Daily News Report* No. 3210, 16 November 2005). These resolutions provided the democratic foundation for, and source of legitimacy of, both sides' negotiating teams.

50 *Statement of the Special Envoy, Meeting of the OSCE Permanent Council*, Vienna, 20 February 2007, p. 5 (emphasis in the original). In his final speech as Special Envoy to the Security Council on 3 April 2007, he added: "No additional talks – no matter how long they last, and no matter the format in which they are conducted – will change this. This is a fact one has to accept".

ive negotiations he facilitated in over a dozen meetings in various Viennese baroque palaces, he believed that the parties had indicated options for rapprochement of their irreconcilable and mutually exclusive positions. They are contained in UNOSEK's *Comprehensive Proposal*, which Ahtisaari submitted through the UN Secretary-General to the Security Council in March 2007.⁵¹ Whether the unilateral commitment to the tenets of the *Comprehensive Proposal* that accompanied Kosovo's request for bilateral recognition⁵² will enable it to become the basis of the country's long-term stabilization cannot yet be answered conclusively. However, two of its aspects, the proposed scope of international power and the entrenchment of a range of constitutional values, are of considerable interest here.

The Question of International Powers

In the course of 2005, a consensus had emerged between the Contact Group, the European Council, and the European Commission⁵³ that a single personality should draw together the various threads of a post-status international civilian presence in Kosovo. The *Comprehensive Proposal* enshrined this consensus, designating the International Civilian Representative (ICR) as the final authority on questions of interpretation of the settlement's "civilian" components. The range of his powers and their limitations are, however, poorly defined, and enforcement mechanisms remain unidentified.⁵⁴ The tone was set by the open-ended formulation in Annex IX of the *Proposal* that recognized that "fulfilling Kosovo's responsibilities under this Settlement will require a wide range of complex and difficult activities".⁵⁵

The Annex further proposed that the ICR monitor and intervene where necessary to ensure the implementation of Kosovo's settlement obligations and stipulated that the ICR may annul laws or decisions adopted by Kosovo

51 *Comprehensive Proposal for the Kosovo Status Settlement*, annexed to the *Report of the Special Envoy of the Secretary-General on Kosovo's Future Status*, 26 March 2007, S/2007/168/Add.1; on the same day, Secretary-General Ban Ki-moon conveyed the proposal, with his full support, to the President of the UN Security Council, Ambassador Dumisani Kumalo.

52 The Kosovo Assembly had already accepted the Comprehensive Proposal and committed to its full implementation in its declaration of 5 April 2007. For a discussion of the Proposal, see Jean d'Aspremont, *Regulating Statehood: The Kosovo Status Settlement*, in: *Leiden Journal of International Law* 3/2007, pp. 649-68. His conclusion that Kosovo's statehood will be recognized on the basis of an evaluation of the conditions laid down by Ahtisaari (p. 656) proved to be premature.

53 See the two joint papers by Secretary-General/High Representative Javier Solana and Commissioner Olli Rehn, *The Future EU Role and Contribution in Kosovo* of 7 June 2005 and *Joint Paper on Kosovo* of 6 December 2005, Chapters 4 and 3, respectively. In 2006, the discussions within the extended Contact Group on the question of a follow-up presence (both civil and military) were conducted on the basis of a number of options papers presented by France, the UK, the USA, UNOSEK, NATO, the European Commission, and the EU Council Secretariat.

54 Cf. ICG, *Kosovo: No Good Alternatives to the Ahtisaari Plan*, Europe Report No. 182, 14 May 2007, p. 17.

55 *Comprehensive Proposal*, cited above (Note 51), Annex IX, Article 1.

authorities, as well as sanction or remove officials from public office.⁵⁶ Tucked away among provisions defining the powers of the European Security and Defence Policy (ESDP) mission EULEX⁵⁷ that was to operate under the authority of the ICR in his second identity of EU Special Representative, the international mission has been authorized “to reverse or annul operational decisions taken by the competent Kosovo authorities, as necessary, to ensure the maintenance and promotion of the rule of law, public order and security”.⁵⁸ A clear definition of which “operational decision” made by which authority could be affected by such annulment is not provided. Although the ICR’s powers and the frequency of ICR interventions are to be gradually wound down, the proposal established no clear benchmarks and does not contain a “sunset” provision. It effectively leaves it to the ICR to recommend the criteria to the International Steering Group for Kosovo (ISG), which is to review the powers of the ICR within two years of his appointment.⁵⁹

At first sight, the ICR mandate appears to arrogate the virtually unlimited powers that have made the Office of the High Representative (OHR) in Bosnia the subject of so much criticism.⁶⁰ As in Bosnia, over-stretching the role of the new civilian presence will, at some point in the future, run counter to the principles of partnership and co-operation that underlie the Stabilization and Association Process and eventual enlargement.⁶¹ As one official within the ICO/EUSR Preparation Team stressed at a time when it was not clear under which authority the Office would be deployed, if at all: “We should avoid coming in a position where we have to implement 1244; this is not our mandate and would assure us a considerably hostile reception in Kosovo whereas for now people are looking forward to us coming in.”⁶² Falling prey to the temptation of authoritarianism may create a situation incompatible with European values and norms.⁶³ It may also undermine the long-run

56 Cf. *ibid.*, Article 2.1 (c, d).

57 European Union Rule of Law Mission in Kosovo, see Council Joint Action 2008/124/CFSP and Council Joint Action 2008/123/CFSP, both of 4 February 2008.

58 *Comprehensive Proposal*, cited above (Note 51), Annex IX, Article 2.3 (f). The UN Secretary-General’s June proposal to accommodate EULEX under a “UN umbrella” reporting at least nominally to New York under Resolution 1244 has, however, contributed to its separation from the ICR/EUSR; cf. ICG, *Kosovo’s Fragile Transition*, Europe Report No. 196, 25 September 2008, p. 9.

59 *Comprehensive Proposal*, cited above (Note 51), Annex IX, Article 5.1. The ISG for Kosovo had its inaugural meeting in February 2008 in Vienna and was initially comprised of 15 states that had recognized Kosovo’s independence; cf. ISG Press Statement, 28 February 2008.

60 For a “neo-Burkean” critique of the interventionist paradigm interpreted as imperialism in disguise, see Gerald Knaus/Felix Martin, *Travails of the European Raj: Lessons from Bosnia and Herzegovina*, in: *Journal of Democracy* 3/2003, pp. 60-74.

61 Cf. Michael Karnitschnig, *The United Nations and the European Union in Kosovo*, in: Jan Wouters et al. (eds), *The United Nations and the European Union*, The Hague 2006, pp. 323-351, here: p. 346.

62 ICO/EUSR PT, *Note on the Status Process*, Priština, 24 July 2007.

63 That Kosovo’s future status must be fully compatible with European norms and values was one of the conclusions of the June 2005 European Council, cf. *Presidency Conclusions: Declaration on Kosovo*, Brussels, 16/17 June 2005, Annex II.

development of Kosovo institutions under the new constitution, key elements of which were outlined by the *Comprehensive Proposal*.

Building Legitimacy: A New Constitution

The political transition to post-status Kosovo was to end with the adoption of a constitution following an inclusive and transparent process.⁶⁴ To this end, the external process of status determination was accompanied by attempts to build deliberative legitimacy from within; the new status framework was to be backed by a deep commitment to international law. By including strong pre-commitment devices, UNOSCE followed the tradition of international efforts to resolve nationalist conflict and its aftermath, but departed from its illustrious precursors – the regime for Upper Silesia, the International Governing Commission for the Saarland, and the OHR as mandated by the Dayton Peace Accords – in significant ways. In the absence of a horizontal status settlement, Special Envoy Ahtisaari’s settlement proposed only key elements of a new constitutional structure, around which local institutions were to frame a locally owned text. This was felt to be especially relevant for measures to enhance minority protection and representation. As Tom Ginsburg observes with regard to post-First World War minority regimes in Poland and Czechoslovakia, the entrenchment of commitments within a new constitution is meant to reassure minorities and thus reduce the probability of their resisting the new government structures.⁶⁵ While the constitutional process was not limited to issues such as decentralization and minority protection that were discussed in Vienna and elsewhere, the settlement imposed clear limits on the constitutional imagination of Kosovars and their ideas about political organization.

At the level of applicable law, the draft settlement stipulates that all UNMIK-promulgated legislation, including Administrative Directions and Executive Decisions, are part of the new sovereign legal order and should remain in force “until their validity expires, or until they are revoked or replaced by legislation regulating the same subject matter in accordance with the provisions of this Settlement”.⁶⁶ As James Pettifer rightly observed in one of the first analyses of Ahtisaari’s proposal, this may be the key paragraph of the entire document; were the proposal to be implemented, the panoply of post-crisis-period administrative regulations would remain in place for an in-

64 Cf. OSCE Mission in Kosovo, *Parliamentary and Expert Roundtable on Constitutional Issues*, Skopje, 20-22 July 2006, executive summary. The “Constitution of the Republic of Kosovo” came into effect on 15 June 2008.

65 Cf. Tom Ginsburg, Locking in Democracy: Constitutions, Commitment, and International Law’, in: *New York University Journal of International Law and Politics*, 4/2006, pp. 707-759, here: p. 732. Cf. also Annex 1 of the 2007 *Comprehensive Proposal*, cited above (Note 51), which stipulates that the constitution shall incorporate a large number of minority rights and standard which “shall be directly applicable in Kosovo” (Article 2.3).

66 *Ibid.*, Article 15.2.1 (main text).

determinate period.⁶⁷ In the same spirit, UNOSEK suggested limiting local competencies in the area of external relations in an apparent departure from the post-colonial rule of *tabula rasa*. In concrete terms, UNOSEK's settlement proposed that "Kosovo shall continue to be bound [...] by all international agreements and other arrangements in the area of international cooperation that were concluded by UNMIK for and behalf of Kosovo".⁶⁸ The proposal's explicit reference to a speedy accession to the Council of Europe and its instruments⁶⁹ was designed to predetermine the new sovereign state's choices, emulating recent practice in Eastern Europe that clearly confirmed the trend of automatic succession to human rights treaties.⁷⁰

Like its predecessor, the 2001 Constitutional Framework imposed by UNMIK,⁷¹ the new Kosovo constitution is a hybrid regime, combining indigenous elements and those guaranteed by the *Comprehensive Proposal*. The two components were merged with the intention of reducing the obvious tensions between ethnic decentralization and the unified jurisdiction of the nascent state; between representation in the legislature based on ethnicity and universal suffrage; between the rights of "communities" and individual rights; between the imperative of creating conditions for a stable political landscape and the need to build and sustain democratic opposition; and between empowerment of local actors and limitations on the same as prescribed by the settlement – in particular between the expanded jurisdiction of the local executive branch and its international oversight in key areas. Accordingly, the establishment of a Constitutional Commission, mandated to draft the document in consultation with the international community⁷² was intended to build broad local ownership around a number of issues: minority representation in the legislature⁷³ and within the executive branch;⁷⁴ the extent of – and limits to – decentralization;⁷⁵ the type of electoral system and the composition of the new Central Election Commission;⁷⁶ and the concept and content of "community rights".⁷⁷

Grounding the legitimacy of the entire new state structure on a set of international values that are to be incorporated in the document will naturally pose problems with regard to the relationship between external and local

67 Cf. James Pettifer, *The Ahtisaari Report – Totem & Taboo*, Conflict Studies Research Centre, Defence Academy of the United Kingdom, No. 07/08, February 2007, p. 3.

68 *Comprehensive Proposal*, cited above (Note 51), Article 15.2.2.

69 Cf. *ibid.*, Article 2.1.

70 Cf. Pierre-Marie Dupuy, *Droit International Public*, Paris 2006, para. 57(a).

71 Cf. *On a Constitutional Framework for Self-Government*, UNMIK/REG/2001/9, 15 May 2001.

72 Cf. *Comprehensive Proposal*, cited above (Note 51), Article 10.4. The Constitutional Commission, subdivided into ten working groups, was established in June 2007 by the President of Kosovo.

73 Cf. *ibid.*, Annex I, Article 3.2, as well as Annex II, Article 4.

74 Cf. *ibid.*, Annex I, Article 5.

75 Cf. *ibid.*, Annex III.

76 Cf. *ibid.*, Annex I, Article 7.

77 Cf. *ibid.*, Annex II, Article 3.

actors, between foreign and domestic solutions, and between outside and inside arrangements.⁷⁸ For one, pre-determining boundaries within which a constitution – which should itself produce boundaries to the exercise of majoritarian rule – is to be framed appears designed to confiscate the right to internal self-determination from a freshly liberated people *before* they have constituted themselves in freedom. More pragmatically, a complex heterogeneous construction such as the new constitution of Kosovo may attempt to fulfil too many functions at once: a promise of a reasonable balance of power between the international community and those that lived for almost a decade under its tutelage, an international guarantee extended to minority communities, and a social contract among the citizens of a new polity with respect to their security, welfare, and representation, regardless of their ethnicity. Developments in this area are, in any case, likely to add further layers of precedent, for they may demonstrate that the social and cognitive aspects of norm-building by an international agent are enduring enough to resist, in the short run, local attempts to reconfigure international transplants.

Wider Implications for Public International Law

“If a government is concerned about its ‘territorial sovereignty’, then it must demonstrate that it makes every effort to protect the individuals that reside in its territory. A government that demonstrates with credibility that it undertakes all efforts possible to this end will command respect.”⁷⁹

On 10 June 1999, the Security Council “disaggregated” sovereignty over the territory of Kosovo into formal title (left with Serbia as *nudum ius*⁸⁰), material interest (accorded to a people with “unique historical, legal, cultural and linguistic attributes”⁸¹) and governing power (vested in UNMIK). Its decision to suspend a territorial dispute for almost a decade reflected one of the chief dilemmas of a post-colonial legal system that upholds two sets of contradictory concepts: rights associated with territorial possession claimed by and on behalf of a sovereign, on the one hand; and claims to sovereignty framed by and on behalf of a “people”, on the other. This process of “desovereigniza-

78 For a recent discussion of external influence on constitution-making see Philipp Dann/Zaid Al-Ali, *The Internationalized Pouvoir Constituant*, in: Armin von Bogdandy/Rüdiger Wolfrum (eds), *Max Planck Yearbook of United Nations Law 2006*, pp. 423-463, as well as Armin von Bogdandy et al., *State-Building, Nation-Building, and Constitutional Politics in Post-Conflict Situations*, in: *ibid.*, pp. 579-613.

79 Hans Corell, *From Territorial Sovereignty to Human Security*, Address to the Canadian Council of International Law (1999 Annual Conference), Ottawa, 29 October 1999.

80 For the concept of *nudum ius*, see, more generally, Bernhard Knoll, *United Nations Imperium: Horizontal and Vertical Transfer of Effective Control and the Concept of Residual Sovereignty in “Internationalized” Territories*, in: *Austrian Review of International and European Law* 7/2002, pp. 3-52.

81 *Constitutional Framework*, cited above (Note 71), sections 1.2 and 1.1.

tion” was accompanied by the investiture of a fiduciary bond between the United Nations and the people under its temporary tutelage who were to be pushed towards “European standards”. June 1999 was merely the latest instance in which the institution of an international trust served to temporarily suspend state sovereignty while shying away from identifying a unit of self-determination that could, in time, be entitled to formulate and exercise its own claim to the disputed territory.

Whatever the motives for eventually placing Kosovo on the trajectory to statehood and the underlying political-normative choices, there are ample opportunities for international lawyers to exploit what is a very ambiguous case in the history of state creation. While the argumentative basis for two of the strongest claims for self-determination in the case of Kosovo will be examined further below, it is pertinent to recall that the mere creation of UNOSEK was not the only option at the disposal of the Security Council.

The Option of “Status Imposition”

The importance of a *negotiated* solution to the Kosovo situation has been abundantly emphasized, most prominently in the Guiding Principles of the Contact Group. But could the Security Council have conveyed sovereign title in the absence of a negotiated solution? Under Article 33 of the Charter, parties to a dispute shall “first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice”. Yet beyond the principle of peaceful settlement, the UN Charter contains far-reaching provisions, not all of which are so sensitive to sovereign sentiment. The United Nation’s competencies in matters of territorial administration have been shaped by an expanding interpretation of the powers accorded to it in the Charter. In this respect, the powers of the Security Council are of particular importance, as it may adopt binding enforcement measures. In doing so, it is bound to act “in accordance with the Purposes and Principles of the United Nations”, among which the Charter includes bringing about “by peaceful means, and in conformity with principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of peace”.⁸²

It is indeed pertinent to ask whether an explicit territorial status determination would have fallen within the Security Council’s powers. If, notwithstanding the sustained operation of an international mediation mechanism, the holder of the *nudum ius* cannot muster the political will to take on new legal obligations, the Security Council could have deemed a territorial determination necessary to the maintenance of international peace and security. From the perspective of the law of international organizations, and in

82 Article 24(2) and 1(1) of the UN Charter.

particular regarding the scope of its implied powers, this would have certainly represented the most interesting, though daring, course of action.

Aside from the political impasse in which the Security Council was locked on the issue, such a decision would have found no precedent in public international law.⁸³ Two additional arguments, one of a general nature and the other pertaining to the specific situation under consideration, stood between the Security Council and a conveyance of sovereign title. First, the UN Charter does not explicitly vest the United Nations with the power to prescribe changes in the international territorial order; “it was to keep the peace, not change the world order, that the Security Council was set up.”⁸⁴ Second, and more specifically relating to Kosovo, the Charter does not authorize the Security Council to take Chapter VII action in the absence of a real threat: “It is the removal of the threat or restoration of peace that is and must be the object of the Council’s decision under Chapter VII.”⁸⁵ Whether the mere possibility of a re-emergence of civil conflict would have sufficed is open to question, especially because it would have suggested that UNMIK had ostensibly failed in its efforts to create a sustainable peace.

Politically, a status imposition by the Security Council would have implied that it could draw the contours of state frontiers and grant title over territory to an entity that UN member states would, at a later stage, recognize as a self-determination unit – clearly, a revolutionary concept. The Security Council could also have chosen the fallback option, according to which it would have subscribed, under Chapter VII of the Charter, to Ahtisaari’s settlement proposal and mandated a new civil and military presence, while essentially remaining silent on the question of sovereignty. Under this option, it could have removed the major obstacle of Resolution 1244 and thus allowed individual states to recognize a unit that had emerged during eight years of international administration. Had the Security Council endorsed Ahtisaari’s *Comprehensive Proposal*, it would have chosen to give up the

83 The closest the Security Council has previously come to imposing territorial boundaries on a state was its decision to demarcate the Iraq-Kuwait boundary under its Resolution 687, SCOR (XLV), 3 April 1991, S/INF/47 (1991), paras 2-4, reprinted in: *International Legal Materials*, 1991, pp. 847ff. There, the Council merely undertook to give precision to the boundary already concluded between the two states; see the Agreed Minutes Between the State of Kuwait and the Republic of Iraq Regarding the Restoration of Friendly Relations, Recognition and Related Matters, 4 October 1963, Kuwait-Iraq, in: *United Nations Treaties Series* (1964).

84 Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, *ICJ Reports* (1971), p. 294. Judge Fitzmaurice’s remarks referred to a territorial unit that was earmarked for self-determination and may therefore not adequately reflect a situation in which a capacity to abrogate or convey territorial rights were to be utilized in support of the maintenance of international peace and security.

85 Kenneth Manusama, *The United Nations Security Council in the Post-Cold War Era*, Leiden 2006, pp. 42-43. For the prerequisite that there shall be “at a minimum” a threat to international peace before the Security Council takes binding decisions under Chapter VII, cf. also Alan Boyle/Christine Chinkin, *The Making of International Law*, Oxford 2007, p. 232.

politics of ambiguity in favour of the politics of clarity. It could have simultaneously provided a first indication that the international community held itself to be competent to establish not merely the conditions for empirical statehood within a certain territory by assuming transitional authority but, furthermore, to design the conditions under which a polity acquires the outer trappings of a sovereign state.⁸⁶ This result might have spurred a remarkable departure from an international legal tradition, since no state formed since 1945 outside the colonial context has been admitted to the United Nations without some sort of accommodation with the government of the predecessor state.⁸⁷

The protracted negotiations over a new resolution within the Security Council and their eventual collapse in mid-2007 have opened new possibilities. Regardless of whether Kosovo's statehood is consolidated through continued waves of bilateral recognitions, one conclusion is certainly appropriate: There would have been room for conceiving the deployment of international law in new and more ambitious ways. Having exhausted all efforts to achieve a consensual settlement, the Security Council should have been presumed to have broad and flexible authority to act effectively in a situation that could, if not addressed, have turned into a threat to peace.⁸⁸ Practice has amply shown the readiness of international organizations to exercise dispositive powers, especially where broad community values are at stake. Imposing a permanent change in Kosovo's political status based on a new Chapter VII resolution, would have undoubtedly expanded the Security Council's powers in a post-conflict administration context. Had it mustered the commensurate political will, the Security Council could have deemed itself competent to direct changes in political boundaries if such competencies were exercised in good faith and observant of the Charter principles.⁸⁹ That such a measure was

86 For an enumeration of features contained in Ahtisaari's proposal rewarding Kosovo with the "building blocks" of sovereignty see Note 133 below.

87 Cf. James Crawford, *State Practice and International Law in Relation to Unilateral Secession*, in: Anne Bayefsky (ed.), *Self-Determination in International Law: Quebec and Lessons Learned*, The Hague 2000, pp. 31-61, here: pp. 53 and 57.

88 See, in general, Oscar Schachter, *The Development of International Law through the Legal Opinion of the United Nations Secretariat*, in: *The British Journal of International Law* 1948, pp. 91-132, here: pp. 96-98. Cf. also the specific reference in Special Envoy Ahtisaari's final report: "[...] denying or delaying resolution of Kosovo's status risks challenging not only its own stability but the peace and stability of the region as a whole", *Report of the Special Envoy*, cited above (Note 51), para. 4.

89 Cf. Michael Matheson, *United Nations Governance of Postconflict Societies*, in: *American Journal of International Law* 1/2001, pp. 76-85, here: p. 85. He takes this extensive interpretation from a reading of Article 41, which recites a list of possible measures that may be employed by the Security Council to give effect to its decisions. He argues that the list, clearly being exemplary and non-exhaustive, would not limit the Council in deciding on different steps or instruments. In effect also assuming such wide Security Council competencies, cf. Enrico Milano, *Unlawful Territorial Situations in International Law*, Leiden 2006, pp. 225 and 228. Specifically on the powers of the Security Council to recommend the establishment of diplomatic relations should the status negotiations fail, see the presentation by Christian Pippan in: Helmut Philipp Aust/Carla Thies, *Die Zukunft des Kosovo – Bericht vom 31. Österreichischen Völkerrechtstag [The Future of Kosovo – Report from the 31st Austrian Congress of Public International Law]*, in: *Archiv des Völkerrechts* 2/2007, pp. 258-275, here: p. 262. Contra: Ian Brownlie, *Principles of Public*

“necessary” could have been presupposed given that the reintegration of a territory into its pre-conflict state structure could have triggered insurgency and further civil conflict, which, by itself, would have posed a grave threat to regional stability.

All in all, the resolution of Kosovo’s status will not revolutionize the law of international organizations, mainly as a result of Russia’s recalcitrance. It may, however, contribute to the further development of the right to self-determination and accessory claims based on the concept of “remedial secession”. A second, related claim is more foundational in nature. It pertains to the need to respect established facts, to the “protected” status of Kosovo under international law, as well as to the duties that the international community assumes under it.

The Future of Self-Determination Claims

The first claim treats territorial integrity as a rebuttable presumption that may be invoked by states that comport themselves in accordance with the principle of self-determination and equal rights. The claim is seen to acquire legitimacy from conditions that deviate from the substantive elements of internal self-determination – essentially, a meaningful share in public life – which has given rise to remedial prescriptions beyond those applicable to decolonization regimes. This interpretation had been at the core of the Supreme Court of Canada’s dictum on the right of Quebec’s secession from Canada. It held that outside the colonial context, a right to secession may possibly accrue where a people “is denied any meaningful exercise of its right to self-determination within the state of which it forms part”.⁹⁰ Relying heavily on the reinterpretation of the safeguard clause contained in the 1970 *Declaration on Principles of International Law Concerning Friendly Relations*,⁹¹ the

International Law, Oxford 1979, p. 163, Eckart Klein, *Statusverträge im Völkerrecht* [Status Agreements in Public International Law], Berlin 1980, p. 107, Carsten Stahn, Constitution without a State? In: *Leiden Journal of International Law* 3/2001, pp. 531-561, here: p. 541, and Terry Gill, Legal and Some Political Limitations on the Power of the UN Security Council to Exercise its Enforcement Powers under Chapter VII of the Charter, in: *Netherlands Yearbook of International Law* 1995, pp. 33-138, here: p. 86.

90 Judgments of the Supreme Court of Canada, Reference re Secession of Quebec [1998], 20 August 1998, 2 S.C.R. 217, reprinted in: *International Legal Materials* 6/1998, pp. 1340ff., here: para. 154.

91 United Nations General Assembly, A/RES/2625 (XXV), 24 October 1970, UN Doc. A/8028 (1970), Principle V, stating that nothing (in the section on self-determination) shall be construed as authorizing or encouraging the dismembering or impairing of the territorial integrity of states “conducting themselves in compliance with the principle of equal rights and self-determination of peoples [...] thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed, or colour”. The formulation had initially meant that a state possessing a representative government that grants equal access to political institutions and decision-making processes to the entire population within its territory is presumed to satisfy the principle of equal rights and self-determination as regards those peoples. The reinterpretation of this provision implied that states that do not so conduct themselves accordingly would not be protected by

International Commission on Intervention and State Sovereignty also suggested that people are legitimately implementing their right to self-determination following instances of grave and systematic human rights violations.⁹² Affirming that each individual state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity, the *Summit Outcome*⁹³ followed the recommendations of the High-Level Panel and the UN Secretary-General's report, which had endorsed "the collective international responsibility to protect" as an "emerging norm"⁹⁴ that may encompass a commensurate obligation to rebuild and prevent a return to violence once peace has been consolidated.⁹⁵

It would be difficult to argue that this appeal for political and, ultimately, moral responsibility corresponds to a concrete international legal obligation arising under the law of state responsibility. It does, however, reinforce some of the considerations that pertain to the application, *in concreto*, of the idea of forfeited sovereignty, to the case of Kosovo. If a state breaches its obligation to guarantee the life, security, and welfare of its people, it not only fails in its role as domestic governing institution, but also in its function as an executive agent of international legal obligations. As James Crawford notes with his trademark succinctness, current practice suggests that the principle of self-determination also applies to territories forming distinct political-geographical areas whose inhabitants have been arbitrarily excluded from any share in the government of the state to which they belong, with the result that the territory has become in effect non-self-governing.⁹⁶

Kosovo's eventual statehood could therefore be seen as the first case confirming that, as part of the law on self-determination, the basis for maintaining sovereignty is increasingly shifting from an inviolable right to internal forms of governance based on international standards of democracy and human rights. The claim of a group would thus begin to outweigh the oppressor state's claim to the preservation of its territorial integrity. In extremis, a claim to secession may thus acquire legitimacy if participatory rights are trampled on in an irredeemable way. This nexus has been reinforced by Contact Group Ministers who, in early 2006, explicitly referred to the abuses

the principle of territorial integrity. Cf. Malcolm Shaw, Peoples, Territorialism and Boundaries, in: *European Journal of International Law* 3/1997, pp. 478-507, here: p. 483.

92 *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*, International Development Research Centre, Ottawa, 2001.

93 United Nations General Assembly, *2005 World Summit Outcome*, A/RES/60/1, 24 October 2005, para. 139.

94 *Report of the High-Level Panel on Threats, Challenges and Change, A More Secure World: Our Shared Responsibility*, UN Doc. A/59/565, 2 December 2004, para. 203. See also the reference to that document in the *Report of the Secretary-General, In Larger Freedom: Towards Development, Security and Human Rights for All*, A/59/2005, 21 March 2005, para. 135.

95 Cf. the UN Secretary-General's 1992 Agenda for Peace report, *Preventive Diplomacy, Peacemaking and Peace-keeping*, UN Docs. A/47/277 and S/24111 [1992], which identified post-conflict peacebuilding as separate component to the maintenance of international peace and security (paras 21, 55-9).

96 James Crawford, *The Creation of States in International Law*, Oxford 2006, p. 127.

of the Milošević regime in Kosovo and to the “people of Kosovo” to whom a settlement must be acceptable.⁹⁷

The effects of Kosovo’s statehood may, on the other hand, be seen as a recognition that territorial conflict is no longer to be settled with habitual reference to the law inherited from decolonization, which strongly links self-determination and territorial integrity. Rather, the resolution of such conflicts could be embedded in the wider legal context of maintaining international peace and security. The extension of a partial subject of international law governed by an international administration in the interim into a fully fledged subject may be interpreted as part of the international community’s obligation not only to establish “autonomy” and “self-government” but also to provide for the *effectiveness* of governance – an indispensable principle in international law. These obligations are, really, two sides of the same coin: Departing from the principle of effectiveness may render new states incapable of guaranteeing respect for international law.⁹⁸ In turn, ineffective and unstable territorial situations are intrinsic threats to international peace and security.

The transformation of an autonomy regime into the assumption of sovereign responsibilities can therefore be interpreted as a way of ensuring that democratic institutions continuously and effectively guarantee the enforcement of international law, and particularly minority-protection mechanisms, within the territory – a project at which Serbia under Milošević undoubtedly failed with regard to its ethnic Albanian population. From this vantage point, a change in borders is merely a reflection of the change in the nature of a political unit and the need to guarantee the effectiveness of its government supported by an international institution-building mandate. In Special Envoy Ahtisaari’s words, Kosovo’s protected status under Resolution 1244 and the eight years in which it was governed in complete separation from Serbia “is a reality one cannot deny; it is irreversible”.⁹⁹

An argument that sees territorial title as extinguishable through norm-creating facts is neither new nor original, but it seems even more appropriate since international law may attribute consequences to the occurrence of international administration. This dovetails with the line of thought that the exigencies of maintaining international peace may take priority over respecting the sovereign equality of states, should such interference in legally protected positions be necessary, proportionate, in pursuit of a legitimate end, and based on a separate title.¹⁰⁰

97 *Statement by the Contact Group on the Future of Kosovo*, cited above (Note 21), para. 7. That the “realistic outcome” of the status talks should be “acceptable to the people of Kosovo” was repeated in the Contact Group Ministerial Statement in New York, 20 September 2006.

98 Cf. Gerard Kreijen, *State Failure, Sovereignty and Effectiveness*, Leiden 2004, pp. 224–225.

99 *Report of the Special Envoy*, cited above (Note 51), para. 7.

100 Cf. Christian Schaller, *Peacebuilding und “ius post bellum”*, *SWP Studie* No. 11, Berlin, April 2006, p. 6.

The lack of explicit authorization from the Security Council and of a separate title, however, clearly weakens the line of reasoning developed above. Indeed, the wave of bilateral recognitions of Kosovo in the absence of a new Security Council Resolution has raised a further set of problems. Sidelining the United Nations may not only have negative implications for future conflict resolution in the long term, involving the risk that those states recognizing Kosovo's statehood may be unable to control the consequences of their novel interpretation of a Security Council Resolution that is based on Chapter VII of the UN Charter. It may also create serious challenges for Kosovo's accession to international organizations in the short and medium run.¹⁰¹

The Declaration of Independence and the ICJ's Advisory Opinion

The internationalized status of Kosovo rested on a multilateral instrument that temporarily suspended the exercise of Serbia's sovereign rights. Its claim to formal sovereignty, however, remained unaffected and continues as a *nudum ius* as long as Security Council Resolution 1244 is deemed to remain in effect.¹⁰² While this arrangement cannot be interpreted as having "guaranteed" Serbian sovereignty over Kosovo in the hiatus of an international territorial administration, the over fifty acts of bilateral recognition since February 2008 have arguably challenged Article 25 of the UN Charter, which obliges member states *erga omnes* to carry out decisions of the Security Council, and thus its Resolution 1244. It is, as Colin Warbrick recently wrote, "necessary to avoid avoiding the question of how Serbia lost its title simply by postulating a new status for Kosovo which requires (but does not explain) the termination of Serbia's rights, which [...] has been a frequent deficiency in the recognition statements".¹⁰³ The view that "there is no reason why any state should feel inhibited by the continued existence of Resolution 1244

101 For instance, Kosovo requested membership of the IMF and the World Bank on 10 July 2008. The Governor of Serbia's National Bank objected to the move in a letter to the IMF Secretary General, noting Belgrade's position that Kosovo's declaration of independence contravenes Resolution 1244. See, however, the surprising finding of the IMF that "it has been determined that Kosovo has seceded from Serbia as a new independent state and that Serbia is the continuing state", IMF Press Release No. 08/179, 15 July 2008 (emphasis added).

102 See the *Report of the UN Secretary-General* of 28 March 2008: "Since Kosovo's declaration of independence, UNMIK continues to operate on the understanding that resolution 1244 (1999) remains in force, unless the Security Council decides otherwise", S/2008/211, para. 29. The UN Secretary-General also gave this assurance to Serbian President Boris Tadić in his letter of 12 June 2008, cf. *Report of the UN Secretary-General* of 12 June 2008 (Annex 1), S/2008/354. This is in line with para. 19 of Resolution 1244 which stipulates that "the international civil and security presences are established for an initial period of 12 months, to continue after, unless the Security Council decides otherwise".

103 Colin Warbrick, Kosovo: The Declaration of Independence, in: *International and Comparative Law Quarterly* 3/2008, 675- 690 (2008), here: p. 682.

from recognising Kosovo's independence"¹⁰⁴ is therefore accurate only if one deems Kosovo's declaration of independence¹⁰⁵ to have been passed in conformity with international law – a question currently being considered by the ICJ.¹⁰⁶

The fact that this question also involves political aspects does, as the Court stated in its Advisory Opinion on the *Threat or Use of Nuclear Weapons*, “not suffice to deprive it of its character as a ‘legal question’”.¹⁰⁷ On the contrary, “in situations in which political considerations are prominent it may be particularly necessary [...] to obtain an advisory opinion from the Court as to the legal principles applicable with respect to the matter under debate”.¹⁰⁸ Yet rather than itself pronouncing on the contested issue of secession in international law, or on the “emerging norm” of the collective responsibility to protect and a putatively corresponding right to self-determination following instances of grievous human rights violations, the Court can be expected to investigate whether the political pronouncement of the Kosovo Assembly was in line with the international legal regime that the Security Council had imposed on the territory in 1999. More specifically, the Court could entertain the question of whether, and under which circumstances, the international legal authority entrusted with overseeing Kosovo institutions could have annulled the declaration of independence, in accordance with Resolution 1244.

It is in this regard pertinent to recall that the SRSG, who was empowered to oversee the PISG, its officials and agencies, even as they operate in their respective fields of “transferred” powers, has been explicitly authorized to take “appropriate measures” whenever their actions are inconsistent with Resolution 1244.¹⁰⁹ Exercising his unlimited power to review the constitutionality of and annul acts adopted by the local legislature, the SRSG can

104 ICG, *Kosovo Countdown*, cited above (Note 36), p. 16.

105 Made on 17 February 2008, reprinted in *Security and Human Rights 2/2008*, pp. 113-115.

106 Cf. General Assembly Resolution A/63/3, “Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law”, 8 October 2008. The General Assembly voted 76-6 to send the request to the ICJ (74 abstentions).

107 *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, *ICJ Reports* (1996), p. 234, para. 13. The Court has moreover confirmed that “the political nature of the motives which may be said to have inspired the request” and “the political implications that the opinion given might have” are of no relevance in the establishment of its jurisdiction to give such an opinion; *ibid.*

108 *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt*, Advisory Opinion, *ICJ Reports* (1980), p. 87, para. 33.

109 Cf. Chapter XII of the Constitutional Framework, cited above (Note 71). Cf. also the wide-ranging interpretation by the UN Secretary-General of the SRSG's legislative powers: In exercising the authority vested in UNMIK, the SRSG “may change, repeal or suspend existing laws to the extent necessary for the carrying out of his functions, or where existing laws are incompatible with the mandate, aims and purposes of the interim civilian administration”, *Report of the Secretary-General* of 12 July 1999, S/1999/779, para. 39.

be said to have acted, in the past decade, as a “negative legislator”.¹¹⁰ In practice, it has not been uncommon for him to intervene in the legislative process of the PISG and refuse to promulgate laws that, upon advice from UN Headquarters in New York, were deemed to be in violation of the Constitutional Framework and Resolution 1244.¹¹¹ Powers of intervention were exercised through executive decisions to set aside inter-ministerial agreements with other states¹¹² as well as decisions of municipalities¹¹³ and decisions of the local executive taken within the scope of their competence.¹¹⁴

The SRSB has, in the past, also nullified “statements” and “resolutions” of the Kosovo Assembly – political pronouncements that would not have had any direct legal consequences within Kosovo’s legal order – which he considered to have been passed *ultra vires*. Most relevant in this regard had been the draft “Resolution” of the Assembly of 17 November 2005 that reconfirmed “the political will of the people of Kosovo for an independent and sovereign state of Kosovo”. It was immediately declared null and void by the SRSB.¹¹⁵

110 Adapted from Hans Kelsen, *General Theory of Law and State*, New York 1961, pp. 268-269. For an investigation into the SRSB’s role in Kosovo’s legislative process see Bernhard Knoll, *Beyond the “Mission Civilisatrice”*: The Properties of a Normative Order within an Internationalised Territory, in: *Leiden Journal of International Law* 2/2006, pp. 275-304.

111 E.g. the Law on Higher Education, adopted by the Assembly on 25 July 2002. The law was not promulgated by the SRSB pursuant to his authority under the Constitutional Framework, which provides that “laws [passed by the Assembly] shall become effective on the day of their promulgation by the SRSB, unless otherwise specified” (section 9.1.45). See OSCE Mission in Kosovo, *Spot Report on the Monitoring of the Assembly of Kosovo*, 4 April 2003.

112 E.g. *Memorandum of Understanding between the Ministry of Economy and Finance of Kosovo and the Ministry of Economy of Albania*, 30 May 2002, declared void by SRSB Michael Steiner in a letter to Kosovo’s Prime Minister on 25 June 2002.

113 Based on section 47(2) of UNMIK/REG/2000/45 *On Self-Government of Municipalities in Kosovo*, 11 August 2000, the SRSB has the authority to set aside any decision of a municipality which he considers to be in conflict with Security Council Resolution 1244 or the applicable law or which does not take sufficiently into account the rights and interests of “communities” (i.e. minorities); cf. e.g. UNMIK/ED/2004/8 *On Setting Aside Provisions in the Municipal Regulation No. 2000/1 of the Municipal Assembly of Mitrovicë/Mitrovica of 20 February 2004*, 8 April 2004.

114 In a case that aroused considerable excitement, the SRSB, in late 2004, cancelled the decision of the Telecommunication Regulatory Authority (TRA) to select the Slovenian company Mobitel as Kosovo’s second cell phone operator after a tender process that it had conducted under the authority explicitly delegated to it; cf. UNMIK/ED/2004/25, 20 October 2004.

115 Three additional examples confirm the SRSB’s role in providing checks to the competencies of the Kosovo Assembly: First, the Assembly’s “Resolution” on the “Territorial Integrity of Kosovo” (23 May 2002), which challenged the border agreement between the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia, was annulled by the SRSB, who declared that it violated the Constitutional Framework. The UN Security Council issued a strong condemnation; cf. *Security Council Deplores Kosovo Assembly’s Resolution Concerning the Province’s ‘Territorial Integrity’*, UN/PR/SC/7413, 24 May 2002. Second, following the refusal of the SRSB to promulgate the Law on Higher Education (cited above, Note 111), the Assembly issued a “Statement” calling on government, the Ministry of Education as well as the University to implement the provisions of the draft law. This “Statement” was immediately declared null and void

In the case in question – the Kosovo Assembly’s “declaration” of 17 February 2008 – neither the UNMIK SRSG nor the Security Council issued any statement as to its compatibility or not with Kosovo’s Constitutional Framework or Resolution 1244. In order to grasp the significance of this omission, it is pertinent to recall that a subsidiary organ such as a UN mission under the leadership of an SRSG is regularly mandated to execute certain tasks on behalf of the organization to which it remains directly responsible. UNMIK’s leadership remains accountable to the Secretary-General who exercises control over all acts.¹¹⁶ As the Secretary-General is acting through his Special Representative as his subsidiary organ, a UN mission’s exercise of power is limited to the same extent as the initial Security Council’s delegation of power to the Secretary-General.

The competence to annul such an act of wide-ranging political and legal significance could have found its basis in para. 11(a) of Resolution 1244, in which the responsibilities of the international civilian presence are defined as including the promotion of “the establishment, pending a final settlement, of substantial autonomy and self government in Kosovo”. An act of self-determination by a local institution could have been interpreted as an attempt to defy the *raison d’être* of UNMIK (as its task of promoting the “establishment of substantial autonomy” would presumably be overtaken by an unchallenged declaration of independence and corresponding acts of recognition), and could therefore even have triggered the suspension of the Assembly by the SRSG.¹¹⁷ This position had been repeated and confirmed by generations of SRSGs, notably by Hans Hækkerup, who, in a document signed with Belgrade representatives (later endorsed by the Security Council) explicitly stated that “the position on Kosovo’s future status remains as stated in UNSCR 1244, and that this cannot be changed by any action taken by the [PISG]”.¹¹⁸

by the SRSG, see *OSCE Mission in Kosovo Weekly Report* 14/2003, 2-8 April 2003, just like the Assembly’s “Resolution” on the “Values of the Liberation War of Kosova” of 15 May 2003; cf. Franklin de Vriese, *Building Parliamentary Democracy in Kosovo*, in: *Security and Human Rights* 2/2008, pp. 121-136, here: p. 130.

116 Cf. Santiago Torres Bernárdez, *Subsidiary Organs*, in: René-Jean Dupuy (ed.), *Manuel sur les organisations internationales*, The Hague 1988, pp. 100-146, here: p. 141. For a comprehensive discussion of the legal considerations relating to the delegation of powers by the Security Council to the Secretary-General to establish UN peacekeeping forces as subsidiary organs, and the limitations to their exercise by the Secretary General, cf. Danesh Sarooshi, *The Role of the United Nations Secretary-General in United Nations Peace-Keeping Forces*, in: *Australian Yearbook of International Law* 1999, pp. 279-297.

117 Chapter VIII of the Constitutional Framework, cited above (Note 71), gave the SRSG the (“reserved”) power to dissolve the Kosovo Assembly and to call for new elections “in circumstances where the [PISG] are deemed to act in a manner which is not in conformity with UNSCR 1244 (1999), or in the exercise of the SRSG’s responsibilities under that Resolution” (section 8.1.b). The Framework also defined it as outside the responsibility of the PISG to exercise “powers of an international nature in the legal field” (section 8.1.c).

118 Para. 5 of the UNMIK-FRY Common Document of 5 November 2001. See also the Statement by the President of the Security Council welcoming on behalf of the Council the signing of the Common Document, S/PRST/2001/34, 9 November 2001.

It is therefore clear that the SRSG would have been under an obligation, especially when under an instruction of the Secretary-General, to annul the declaration of independence had he considered it in breach of Resolution 1244, from which he derives his own mandate, in accordance with past practice. No such instruction appears to have been given. It is also of considerable relevance that the Security Council has not – after the conclusion of UNOSEK’s and the Troika’s efforts,¹¹⁹ and even within a year of the occurrence of the independence declaration – pronounced itself on the issue in accordance with Articles 24.1 and 34 of the Charter, including “in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security”.

Since the only authority that could have declared, within Kosovo’s normative order, the declaration null and void remained silent on the matter – despite the formal request of Serbia to the UN Secretary-General¹²⁰ – its omission of annulment can be interpreted as tacit consent to or, at a minimum, acquiescence in the course of action taken by Kosovo’s legislature.¹²¹ It may therefore be presumed that the Declaration was passed in line with Resolution 1244.

Challenges to Serbia’s Position

Whichever side of the status debate one finds oneself on, Serbia’s proposal to vest Kosovo with “more than autonomy, less than independence” never seemed to gain support among the powers (excluding Russia) that were effectively arbitrating Kosovo’s fate. Indeed, the forcible reincorporation of two million hostile Kosovo Albanians into a 7.5 million-strong Serbian polity had always appeared to them as running against the latter’s true interests. What should we have made of Serbia’s own argument that it was entitled to the protection of its territorial integrity under international law? Could one

119 As mentioned earlier, all five draft resolutions tabled in the Security Council during June and July 2007 had to be withdrawn following the credible threat of a Russian veto.

120 A *Decision on the annulment of the illegitimate acts of the provisional institutions of self-government in Kosovo and Metohija on their declaration of unilateral independence* was adopted by the Serbian government on 14 February 2008. It demanded that the UNMIK SRSG “undertake all actions at his disposal under [...] Resolution 1244 [...] in order to prevent violation of the United Nations Charter and [...] Resolution 1244 and immediately annul all the acts and actions whereby the Province’s unilateral independence is illegitimately declared”. See also Foreign Minister Jeremić’s Address to the OSCE Permanent Council on 19 January 2008: “We have called on the Secretary-General [...] to instruct his Special Representative to our southern province to make swift and full use of his reserved powers, as enumerated in the Constitutional Framework [...] by proclaiming this illegitimate declaration of independence null and void. He must also be instructed to dissolve the Kosovo Assembly on the grounds that declaring independence is not in conformity with Resolution 1244.” Speech reprinted in *Security and Human Rights 2/2008*, pp. 116-120, here: p. 117.

121 Cf. also Wolfgang Benedek, *Implications of the Independence of Kosovo for International Law*, manuscript to be published in: Isabelle Buffard, et al. (ed.), *International Law between Universalism and Fragmentation. Festschrift in Honour of Gerhard Hafner*, The Hague 2008.

not give credence to the Serbian government's intention to invite its estranged Kosovo Albanian cousins back into its state, based on equality and non-discrimination, in recognition of their cultural identity, and on the basis of full respect for their internal autonomous arrangements? Could the pre-requirements for the true need to secede have faded away with the evolution of events and the passage of time, as Judge Higgins once suggested?¹²² After all, NATO's bombing campaign relieved the Kosovo Albanian population from the threat of persecution and, possibly with it, weakened their claim to external self-determination.¹²³ Notwithstanding its stale references to the inviolability of its borders, Serbia was never able to make a persuasive case that a population should be part of and pay allegiance to a state that has treated them the way it had. Beyond the reliance on the notion of remedial secession that may only tentatively reflect an international legal standard, Serbia's argument was open to challenge on two grounds. The first is historical, the second concerns more recent developments.

The protracted history of decolonization – from which the idea of remedial action springs – suggests that historical patterns of injustice have promoted corresponding remedial measures in the sphere of self-determination. It allowed constitutional processes to be judged retrospectively in light of self-determination values.¹²⁴ By the same token, remedies to redress historical violations like those addressed by the ministers of the Contact Group¹²⁵ are to be developed in accordance with present-day aspirations of the aggrieved group.¹²⁶ This line of reasoning was already established by the three jurists who had to evaluate the self-determination claim of the Åland Islanders in 1920. They concluded that the “fact that Finland was eventually reconstituted as an independent State is not sufficient to efface the conditions which gave rise to the aspiration of Åland Islanders and to cause the conditions to be regarded as if they had never arisen”.¹²⁷

Serbia's argument was, secondly, subject to challenge on grounds of its current constitutional choices. Had Serbia been serious in its intention to

122 Judge Rosalyn Higgins, *Self-determination and Secession*, in: Julie Dahlitz (ed.), *Secession and International Law*, The Hague 2003, pp. 21-38, here: p. 37.

123 The argument is neatly summarized by Srdan Cvijić, *Self-determination as a Challenge to the Legitimacy of Humanitarian Interventions: The Case of Kosovo*, in: *German Law Journal* 1/2007, pp. 57-79, here: p. 74: “Milosevic's regime certainly misgoverned Kosovo, but one can justifiably ask why the Serbian democratic government should have to pay the price for the abuses of Milosevic's authoritarian regime.” With reference to the “historical nature” of abuses and the high threshold at which a denial of internal self-determination activates the rights to secession, the claim is repeated by Morag Goodwin, *From Province to Protectorate to State?*, in: *German Law Journal* 1/2007, pp. 5-7.

124 Cf. S. James Anaya, *Indigenous Peoples in International Law*, New York 2004, p. 107.

125 Cf. *Statement by the Contact Group on the Future of Kosovo*, cited above (Note 21).

126 Cf. also Christian Tomuschat, *Ein anerkannt zerrüttetes Verhältnis* [A relationship whose breakdown has been acknowledged], in: *Tagesspiegel*, 24 February 2008.

127 Report of the International Committee of Jurists Entrusted by the Council of the League of Nations with the Task of Giving an Advisory Opinion upon the Legal Aspects of the Åland Islands Question, in: *League of Nations Official Journal Special Supplement 3*, October 1920, p. 12.

grant “Kosovo and Metohija” the widest possible range of autonomous rights within its state, as announced by then Prime Minister Koštunica in the wake of the status process,¹²⁸ it could have entrenched them in its 2006 constitution. But it did nothing of the sort. The new constitution, whose preamble defines Kosovo as integral part of Serbia, provides for the possibility of autonomous rights being severely restricted, by means of ordinary legislation, in the fields of territorial boundaries, human and minority rights, the management of provincial assets, levels and kinds of central taxation, etc. Its contents further convinced the West that Serbia could not at this stage genuinely commit to a comprehensive autonomy regime. In an apparent tangent to the second Commission that addressed the Åland Island question in 1921,¹²⁹ the Council of Europe’s Venice Commission opined in 2007 that Serbia’s constitution “does not at all guarantee substantial autonomy for Kosovo, for it entirely depends on the willingness of the National Assembly of the Republic of Serbia whether self-government will be realized or not”.¹³⁰

Conclusion

One of the key suggestions in Special Envoy Ahtisaari’s 2007 proposal consisted in endowing Kosovo with the capacity to enter into contractual relations with other subjects of international law.¹³¹ The proposal thus attempted to expand upon a presumed capacity that is traditionally seen as a consequence of statehood.¹³² While remaining silent on the question of “external independence”, the settlement proposal provided one of its key constitutive building blocks.¹³³

128 Cf. *Statement by the Prime Minister of the Republic of Serbia at the Security Council Meeting on 24 October 2005*, p. 6: “[...] our political efforts will be directed to defining a specific and viable form of substantial autonomy for Kosovo and Metohija, whereby legitimate interests of Kosovo Albanians will be fully acknowledged”.

129 “The separation of a minority from the State of which it forms a part and its incorporation in another State can only be considered as an altogether exceptional solution, a last resort when the State lacks either the will or the power to enact and apply just and effective guarantees”. *Report of the Commission of Rapporteurs Presented to the Council of the League*, League of Nations Document B.7.21/68/106, 16 April 1921 (emphasis added).

130 European Commission for Democracy through Law, *Opinion on the Constitution of Serbia*, No. 405/2006, 70th Session, Venice, 17-18 March 2007, para. 8.

131 The right to negotiate and conclude international agreements and to seek membership in international organizations features among the proposal’s General Principles (Article 5). Indeed, the proposal expected Kosovo to take all necessary measures towards ratifying the European Convention of Human Rights (ECHR) and its Protocols (Article 2.1). The first in a series of Commission/Council papers on the future EU’s role in Kosovo already advocated that a post-1244 Kosovo would be endowed with treaty-making powers under a settlement, so that it could benefit optimally from its involvement in the Stabilization and Association Process; cf. *The Future EU Role and Contribution in Kosovo*, cited above, (Note 53), chapter 4.

132 Cf. Crawford, *The Creation of States in International Law*, cited above (Note 96), pp. 61-62.

133 Other building blocks included: the right to establish a security force under the auspices of the International Military Presence (Annex VIII, Article 5); the assumption of external

There are a number of ways to make sense of current developments, the first of which may be termed an “anti-Franckian” reading of events.¹³⁴ Should one give credence to a claim formulated on grounds of remedial secession, Kosovo’s sovereignty may be seen as the nadir of a development that has attempted to detach the essence of self-determination from its territorial significance and has to that end advocated the mediation of such claims with reference to broad participatory rights and, more generally, to a presumed “right to democratic governance”. Following Kosovo’s achievement of independence, the territorial aspects of a claim to self-determination will appear over-pronounced. If the status process does leave a legacy in international conflict management, it will be one of maximalist positions along the following lines: “Why shall we, as a community, accept an offer of self-government and a decent share in *imperium* in the common polity, if we can have *dominium* all along?” Whether those maximalist claims will eventually be recognized, is, of course, an altogether different question, which depends on the extent to which the specificity of the Kosovo situation will resist, or be amenable to, transformation into precedent.

Irrespective of whether Kosovo will be containable in a secure box marked “*sui generis*”, or serve as a precedent for the resolution of “frozen conflicts”, or as an inspiration for a wider group of disgruntled minorities, the status process has already left a number of reference points for the future resolution of territorial conflict. The statements of the Contact Group clearly hinted at the Federal Republic of Yugoslavia’s minimal state responsibility for policies affecting its citizens. In this light, the notion of supreme state authority appears severely circumscribed by performance criteria. Such minimal responsibility places an obligation upon the state to ensure the physical security of the political community. This in turn can be understood to limit the state’s monopoly on the legitimate use of force domestically. An understanding of sovereignty as reflecting performance criteria implies that a target state may forfeit its jurisdiction over territory when it does not meet the latter.

Overall, the effective abrogation of Serbia’s residual title over the territory, if it were to occur, would enrich the notion of an international authority that assumes the role of a supreme arbitrator in attempting to resolve a territorial dispute. International law has clearly come a long way since Sole Arbitrator Max Huber’s enunciation, in 1928, of the importance of the effective display of state activities for the determination of sovereignty over a terri-

debts (Annex VI); air space control (Annex VIII, Article 7); the right to have a flag, seal, and anthem (General Principles, Article 1.7); the right to obtain Kosovo citizenship (Annex I, Article 1.6); the obligation to invite an international mission (General Principles, Article 1.11). In addition, the proposal provides no restrictions as to the conduct of foreign affairs, which suggests that it be treated as a competence to be transferred to local authorities in due course.

134 Cf. e.g. Thomas M. Franck, Legitimacy and the Democratic Entitlement, in: Gregory H. Fox/Brad R. Roth (eds), *Democratic Governance and International Law*, Cambridge 2000.

tory.¹³⁵ International authority has acted, in 1966,¹³⁶ as arbiter between two similar claims: one, brought forward by the Mandatory, South Africa, who, having disavowed the promise of promoting the “sacred trust”, intended to prolong its territorial control; and a second claim by a different, injured (and putative) entity, the “people” of South-West Africa, who looked to the international community for assistance in their progress towards the goals for which the “sacred trust” was instituted and, more concretely, towards the fulfilment of the permanent promise of popular sovereignty.

If anything, the resolution of Kosovo’s status has to be seen in the context of a decreasing reliance on the international norm that has protected the territorial integrity of established states ever since the Committee of Jurists concluded in 1920 that the Åland Island question should not, under public international law, be left entirely to the domestic jurisdiction of Finland. The jurists introduced the term “transitional situation” to deal with circumstances of transformation and dissolution of a state in which the right to dispose of territory may be limited, and in which the principle of self-determination “may be called into play”.¹³⁷ Consequently, the Commission found that the Council of the League of Nations was competent to make recommendations, which it deemed just and proper in the case.¹³⁸

This development may, however, also be considered in terms of practice before the advent of the system of collective security and corresponding institutions claiming normative competencies with a global reach. In the long story of colonial expansion, the task of jurists had been to develop a taxonomy according to which every entity encountered in the scramble for territory could be properly categorized. The legal capacity of each entity was to be “objectively” established by the “degree of civilization” it had attained before the metropolitan power bestowed recognition upon it.¹³⁹ The methodology of standardizing progress along an axis of “civilization” was carried over into League of Nations practice as colonial territories were transformed into sovereign states under the protection of the Mandate system and later the Trusteeship system.

Today’s organized international community has conscientiously built upon this practice. The “move to institutions” helped expand legal and ad-

135 Cf. Island of Palmas case (Netherlands, USA), in: *Reports of International Arbitral Awards*, 4 April 1928, pp. 829-871, here: p. 831.

136 Cf. United Nations General Assembly, A/RES/2145 (XXI), 27 October 1966, UN Doc. A/6316 (1966).

137 Cf. recently Oliver Diggelmann, The Aaland Case and the Sociological Approach to International Law, in: *European Journal of International Law* 1/2007, pp. 135-143, here: p. 137.

138 Cf. Markku Suksi, Keeping the Lid on the Secession Kettle, in: *International Journal on Minority and Group Rights*, 2-3/2005, pp. 189-226, here: p. 217. The solution found for the Åland Islanders by the Commission of Rapporteurs in 1921, i.e. that they should to conditionally remain under the sovereignty of Finland, does not distract from the findings above; as opposed to conditions prevailing in Kosovo in 1998/99, the Commission of Rapporteurs did not find evidence of any gross violations of the rights of Åland Islanders.

139 Antony Anghie, *Imperialism, Sovereignty and the Making of International Law*, Cambridge 2005, pp. 77-78, with reference to Westlake and Lorimer.

ministrative techniques so that they could operate and intervene in a way that does not merely assess but *transforms* the inherent capacities of an entity that exists in the twilight of international personality. The eventual marginalization of the Security Council in the management of Kosovo's status does not necessarily diminish this role, or precipitate a "crisis" of Article 24, which arrogates to the Security Council the "primary responsibility for the maintenance of international peace and security". Quite the contrary. The overarching leadership of the Security Council-mandated Contact Group provided an effective interface between unilateral temptation and multilateral commitment. Before Russia's isolation in this context became apparent and the interplay between the Security Council and the Contact Group reached a dead-end in July 2007, the latter had set remarkable standards for its involvement in self-determination issues. Its pronouncement that a settlement must be acceptable to the "people of Kosovo" was nothing less than revolutionary. Secondly, the Contact Group narrowed down the range of possible outcomes in negotiations and decided upon successive arrangements that would limit the future state's range of domestic competences. This further demonstrated that the concept of "earned sovereignty", emphatically postulated by some as a panacea to problems associated with self-determination, has not significantly influenced the way in which an entity may *itself* contribute to the finalization of its status. The ward, after all, may mature into statehood only by parental decision, not by reaching certain benchmarks.¹⁴⁰

In this polyphonic narrative, in which participating voices vie for equality and independence, the case of Kosovo may well represent a *contrapunctus*: an event that stands out in its specificity, but which may in due course integrate itself into the laws of harmony and its progressions. For one, it demonstrated how ethical and moral imperatives, in an apparent tangent to the novel "responsibility to protect", may help a non-state territorial entity to emerge as a full-blown personality. Special Envoy Ahtisaari's report accompanying UNOSEK's *Comprehensive Proposal* of March 2007 neatly sums up the motivations underlying his recommendation – a *mélange* of (1) a recognition of past injustice; (2) the territory's protected status and the realities flowing from it; (3) the communal responsibility to thwart threats to international peace and security; and (4) the pursuit of all conceivable avenues that could have yielded a horizontal settlement in line with a traditional understanding of Article 2(7) of the UN Charter:

My recommendation of independence [...] takes into account Kosovo's recent history, the realities of Kosovo today and the need for political and economic stability in Kosovo. My Settle-

¹⁴⁰ See the letter accompanying the *Report of the Special Envoy*, cited above (Note 51), here: para. 16, whose recommendation for Kosovo's independence does not, in any way, make reference to the efforts of local institutions and UNMIK's Kosovo Standards Implementation Plan.

ment Proposal [...] builds upon the positions of the parties in the negotiation process and offers compromises on many issues to achieve a durable solution.¹⁴¹

The recognition of Kosovo's statehood by a large "coalition of the willing" in the aftermath of Kosovo's declaration of independence – which remains unchecked by the UNMIK SRSG – confirmed what had long been conventional wisdom: that Resolution 1244 was no longer a guarantee but had rather become an obstacle to the maintenance of international peace and the security of the region. The international community's support of Kosovo's aspirations transformed it from a territory under international administration into a "state *in statu nascendi*". Not only was this the most pragmatic course of action available.¹⁴² It must also be seen from the vantage point of modern international law's devotion to furthering social goals and the current needs of present-day society – a principal trait which, in the tradition of American International Law, has been termed the "sentiment of solidarity".¹⁴³ Indeed, it is extraordinary to observe that a policy stratagem that sought to achieve regional security and stability increasingly became a vehicle for coalescing international concern for the essentially autonomous character of local government structures – a concern that, via a messy chain of bilateral recognitions, may extend to the point of enjoining a territorial entity to yield sovereignty. In the case of Kosovo, considerations of morality were clearly injected into the process by cosmopolitan organizations, which, by recognizing the collective desire of a political community to withdraw from the constitutional authority of a state, subscribed to a theory of international law based on principles of justice.

141 *Report of the Special Envoy*, cited above (Note 51), here: para. 16.

142 For this heightened sense of pragmatism, cf. Special Envoy Ahtisaari's final report, which proclaims that "economic development in Kosovo requires the clarity and stability that only independence can provide [...] Only in an independent Kosovo will its democratic institutions be fully responsible and accountable for its actions. This will be crucial to ensure respect for the rule of law and the effective protection of minorities. With continued political ambiguity, the peace and stability of Kosovo and the region remains at risk", *ibid.*, paras 9 and 10.

143 Cf. Alejandro Alvarez, Latin America and International Law, in: *American Journal of International Law* 3/1909, pp. 269-353, here: p. 270.

The OSCE States:
Their Interests and Commitment

Julie Finley

The United States View of the OSCE in 2007: Looking Back and Moving Forward on an Enduring Partnership¹

Introduction

When United States President Gerald Ford signed the Helsinki Final Act on 1 August 1975, his words to the newly vested Conference on Security and Co-operation in Europe (CSCE) were sobering, if hopeful:

Peace is not a piece of paper. But lasting peace is at least possible today because we have learned from the experiences of the last 30 years that peace is a process requiring mutual restraint and practical arrangements. This Conference is part of that process – a challenge not a conclusion [...] Our peoples will be watching and measuring our progress. They will ask how these noble sentiments are being translated into actions that bring about a more secure and just order in the daily lives of each of our nations and citizens.²

Today, more than 30 years later, it is even more apparent how insightful the president's words were. Although the geopolitical environment of Europe and its issues of concern are quite different, the same dynamic still remains – a group of nations, now the OSCE, up against sweeping challenges and seeking to meet lofty goals by undertaking many small, significant, interconnected, and concrete actions. Though it may be easy to see that fundamental principles have remained constant in the OSCE's mission – we have sustained our commitments to the Helsinki Final Act and our work is still best described as responding to a challenge rather than serving as a conclusion – it is illuminating to examine just how far we have come since that day in 1975. It is also useful to place our engagement in the year 2007 within this context. Looking back briefly on our institutional history and in depth on our most recent work, the process of examination itself comes to hold an invaluable utility, for it is only by looking at where we have been that we can fully appreciate where we are and, thus, best assess where it is that we need to go.

¹ This contribution was written in early 2008.

² *Address by US President Gerald R Ford to the third stage of the Conference on Security and Co-operation in Europe*, Helsinki, 30 July to 1 August 1975, at: http://www.osce.org/documents/osce/1975/08/15775_en.pdf.

At the time of the CSCE's inception, the United States' view of the Conference was at once optimistic and a little doubtful, given both the deep-seated divisions that Europe faced and the pressing need to resolve these differences. When President Ford addressed the Conference in Helsinki, he directed separate parts of his speech to the nations of the West and the nations of the East. Indeed, given the tensions of the time, it was hard to contemplate a Europe that would be peaceful, democratic, and undivided – as we all hope that Europe is well on its way to becoming today. Springing forth from the Cold War, the CSCE was originally utilized as more of a hesitant forum for East-West diplomatic dialogue than the comprehensive rights and security organization it has become. However, a brief survey of its history reveals that it, and later the OSCE, was up to the challenges posed by the Cold War, and even more broadly, that it has continued to rise to all the challenges to European security that have followed since. Under Secretary of State Nicholas Burns put it very well during his intervention at the 15th Ministerial Council on 29 November 2007:

Finally, Mr. Chairman, let me just say that the OSCE and the CSCE have been through a lot in the last 30 to 35 years. We have been through the height of the Cold War, the end of the Cold War, through the Balkan Wars of the 1990's, and now into this millennium. There were tough times before, but we are currently experiencing tough times as well now. There are serious disagreements around this table about the future of this organization, but we have always been able to find ways through cooperation and compromise to build on the Helsinki Final Act [...] As we face the current difficulties and disagreements, we should be inspired by the work of our predecessors in the past. The United States intends to take the higher road of cooperation, compromise and dialogue as we continue to try and build a democratic peace in Europe, which is our overarching strategic ambition.³

During its brief but rich existence, the OSCE has continually refined itself to meet the demands of its time, and what has emerged is an organization that is at once current, comprehensive, expert, and specialized. The OSCE has been responsible for a great deal of the progress that has been made in European security in recent decades – progress that once seemed untenable, but has been accomplished so thoroughly that now, looking back, one is tempted to see it as inevitable. In its recent work, the OSCE has embodied the legacy of

3 R. Nicholas Burns, Under Secretary for Political Affairs, *Intervention to the OSCE Ministerial Council*, 15th OSCE Ministerial Council, Madrid, Spain, 29 November 2007, at: <http://www.state.gov/p/us/rm/2007/95922.htm>.

its past while tailoring itself to the evolving contemporary demands of its mandate. This is the perspective in which our efforts in 2007 need to be considered and it is with an equal eye to obstacles overcome and hurdles that still remain that one can best appreciate the vantage point from which the US views the OSCE.

How the United States Views the OSCE

In the spirit of two pragmatic principles that have long been central tenets of the OSCE – that a task should be carried out by those with the best expertise to perform it and that one should avoid re-doing something that has already been done well – it seems appropriate to once again borrow the words of Under Secretary Burns at the 15th Ministerial Council in summarizing the US assessment of the OSCE today:

There's no question that over the years the OSCE has gained international prominence for the pioneering work it has done on the concept of cooperation and cooperative security. The concept links security among nations with respect for human rights within nations. This has been the secret of the OSCE, and that is what made it unique.⁴

The United States and the OSCE have shared key goals from the very beginning. This is even evident in the pillars that comprise the March 2006 United States National Security Strategy: promoting freedom, justice, human dignity, and effective democracy – pillars which also form the foundation of the OSCE. The United States, like the OSCE, believes that it is through guaranteeing these fundamental human freedoms that we can best build a safe and secure Europe, and, more broadly, that we can best build a safe and secure world. During its partnership with the Organization, the United States has come to believe that the OSCE represents a valuable opportunity for the country to promote its shared interests collectively, co-ordinating actions rather than inadvertently duplicating them, and thus maximizing success. The United States has come to rely on the OSCE as a powerful instrument for progress for several reasons.

First, we believe that the OSCE is an important vehicle for “effective multilateralism”, one that operates on the basis of an equal partnership and strength in consensus. The OSCE is one of a kind, functioning as the only Eurasian security organization in which all of the states comprising the Euro-Atlantic region, Central Asia, and the Caucasus have an equal voice and responsibility. As a forum for political dialogue, it is all inclusive, and as a

4 Ibid.

body that operates on consensus, its actions must fundamentally represent the commitment of all. This is especially significant, because although we as participating States have all attached ourselves to the values put forth in the Final Act, our broad membership represents diverse national situations and perspectives, lending even more value and import to our collective agreements and action.

Second, the United States values the OSCE for its cross-cutting approach. The issues surrounding rights and security are all interconnected and draw upon one another. Therefore, to be effective, it is necessary that the response to these issues does the same. The OSCE is not only effective but unique because it is able to engage states across all three dimensions of security. Recent work has only further proven that efforts and progress in one dimension are inextricably tied to efforts and progress in another. For example, we have seen that one of the best ways to make meaningful headway in the economic dimension is to ensure an open society in which individuals and institutions are vested with certain fundamental freedoms. Similarly, it is our belief that another goal of the OSCE, promoting energy security, can be approached by developments in the economic dimension, namely by working towards a foundation in which market forces are able to operate transparently and under commonly accepted norms. One of the OSCE's greatest strengths in promoting security and co-operation in Europe is its recognition that such a mandate requires much more than attention to solely traditional "security" issues.

Third, the United States believes that the OSCE fills a unique niche. Although the Organization's particular role has been questioned by some in the past, it is clear today that the OSCE has found its place. While co-operation with other international organizations and avoiding duplication of efforts will always be an ongoing consideration, it is evident that the OSCE has amassed a great deal of specialized, focused technical and organizational expertise in a number of areas. States within the OSCE region, as well as many partner states, face a wide array of concerns – concerns that have been met by concerted efforts within the OSCE. In responding, the Organization has been able to make tangible, substantive progress on major issues by playing to its strengths and taking up those concerns that it is best or even uniquely suited to address. The OSCE has many accomplishments to its name and an unparalleled repertoire of expertise on key issues, and when setting the priorities for actions that the United States would like to encourage within the OSCE, we consider those areas where the Organization can bring particular institutional knowledge and issue-specific experience.

While the OSCE is both effective and accomplished, it is important to note that its work is far from complete and its commitment to shared values far from invulnerable. The common commitments that participating States made long ago through the Organization, and indeed the very principles that hold us together, are being challenged in new ways in some parts of the

OSCE region. Much has gone on in the past year, and we will be confronted by continuing challenges in coming years. The United States believes in the OSCE, and, as a result, we do not accept that now is a time to pare down our existing commitments; nor is it a time to merely rest on our accomplishments of the past. Rather, we and our OSCE partners should reaffirm our faith in the core principles of the Organization and forge ahead. In this context, the following review of key elements of United States goals and objectives for OSCE engagement in 2007 uncovers two very important things. First, such a survey of key OSCE activities serves as testament to the strength and importance of the Organization, highlighting US participation and involvement on a number of fronts. Second, it reveals opportunities for further future efforts, several of which the United States has itself suggested through statements made within the Permanent Council and other important forums.

United States Goals and Objectives

United States Secretary of State Condoleezza Rice made the following remarks when she addressed the Permanent Council on 31 May 2007:

I know, too, that the OSCE has its past, it has its present, but it also has its future. And if I look at the important work that is being done in the support of elections, in the support of peacekeeping, in support of human rights, and in support of the security architecture that is the basis on which a Europe whole, free and at peace is emerging, I want to pledge to you that the United States will remain active with this organization, intending to continue to play a leadership role and to use the good offices of this institution for the important tasks ahead.⁵

In 2007, the United States devoted a great deal of effort towards continuing to translate Secretary Rice's pledge into action.

Countering Terrorism

The OSCE has begun to assume an important and focused role in countering terrorism – a battle which, fought within the OSCE region, can contribute to human security throughout the world. It has been a key goal of the United States to encourage and support this emerging work. We commend the *Decision on OSCE Engagement with Afghanistan* adopted at the 15th Ministerial Council meeting in Madrid in November 2007, which allows for the OSCE to

5 Secretary Condoleezza Rice, *Remarks at the Organization for Security and Cooperation in Europe*, Vienna, Austria, 31 May 2007, at: <http://www.state.gov/secretary/rm/2007/may/85853.htm>.

go into Afghanistan with a mission that will help promote border security with neighbouring Tajikistan, as we believe this action will fill a crucial gap in existing Eurasian security. The border between Afghanistan and Tajikistan has been a point of vulnerability, allowing not only terrorist activity but also a range of other security threats, ranging from organized crime to drug smuggling, and to put it quite simply: The Afghan government needs the help of the international community in countering these problems. The co-operation fostered by the OSCE on this issue is essential to the future security of Afghanistan, and the agenda for OSCE engagement in Afghanistan is a prime example of how the Organization can shape its efforts to be at once singular and complementary, taking up a new issue that has not been adequately addressed while co-ordinating with existing efforts in the region undertaken by NATO, the UN, and the European Union.

The United States believes that the OSCE holds even more potential in efforts to counter terrorism and that this is an issue of great import for all participating and partner States. In line with this priority, the United States has expressed the belief that border security is one of the most pressing issues that the OSCE faces, an issue that relates not only to terrorism, but also to illegal migration and illegal trafficking in goods and persons. Thus, working together to build stable, lawful borders throughout the OSCE region represents one of the most daunting and yet most rewarding objectives before us, and this issue stands as an opportunity to increase the participation of Central Asian states within the Organization.

The US recognizes that the OSCE is not only able to promote security within OSCE States, but can also serve as a model for the world around it. Actions taken by participating States can function as a source of knowledge and a standard for other regions seeking to address instability and to promote freedoms that contribute to security. Through the Organization's work in arms control – including efforts related to small arms and light weapons and stockpiles of conventional ammunition – and its initiatives on border and travel document security, OSCE participating States have started to shape a regional response to the serious threat of terrorism. They have wisely begun to chart their course using tried-and-tested OSCE expertise. In addition, by promoting freedom, security, and prosperity on all fronts, the OSCE has done much in its other activities to combat the negative conditions that allow terrorist organizations to take root. In this spirit, the US worked closely with the Russian Federation and the OSCE's Action against Terrorism Unit to organize the Conference on Public-Private Partnerships in Countering Terrorism in the summer of 2007. This was a highly successful and informative event and was well attended by a wide range of government officials, NGOs, and private sector individuals – emphasizing the great importance of society as a whole in addressing the global threat of terrorism.

The Continuing Importance of the CFE Treaty

Another priority for the United States in the OSCE is to work towards enhanced security across the OSCE region, and it has engaged on this objective in several critical areas. Chief among these is the disagreement surrounding the Treaty on Conventional Armed Forces in Europe (CFE) and the Russian Federation's decision to "suspend" this instrument at the end of 2007. The US believes that it should be apparent to all that the CFE Treaty is the most successful arms-control instrument of its kind. It has not only led to the verified destruction of more than 69,000 pieces of military equipment, but more broadly, through a regime of mutual information exchange and more than 5,500 on-site inspections of military forces, it has helped promote a secure Europe that operates on a foundation of openness and transparency. We deeply regret Russia's decision on this issue, and we are disappointed in a move that has made it more challenging to find co-operative solutions and to move forward toward the Adapted CFE Treaty. However, we have continued to urge Russia to fulfil its Istanbul commitments and have since engaged Moscow in focused dialogue regarding the Treaty and the proposal of a "parallel actions package".

The United States and our allies have made it clear that the commitments Russia made at the Istanbul Summit, particularly those regarding the withdrawal of forces in Georgia and Moldova, worked to create the conditions that allowed the agreement on the Adapted CFE Treaty to come about. Thus, it is through the parallel actions process, with Russia fulfilling its remaining commitments, that treaty members will, in turn, be able to move forward towards ratifying the Adapted CFE Treaty. The treaty has truly changed the face of European security, replacing uncertainty and mistrust with information and confidence, and it continues to be highly relevant today. In the United States view, it is essential that concerted co-operation continue on the CFE Treaty in order to avoid a reversal of progress and of everything that this valuable instrument has accomplished.⁶

Enhanced Security Across the OSCE Region

On a broader note, the United States has focused on promoting the full compliance of all participating States with all their politico-military commitments. We continue to support the Vienna Document 1999 and the OSCE Code of Conduct on Politico-Military Aspects of Security as valuable means to this end. In recent years, OSCE participating States have been met with a number of particular challenges in the security arena. It is also important to note that the United States believes that the OSCE has amassed solid exper-

⁶ Further underlining the importance of the CFE Treaty, the United States Mission to the OSCE has produced a "CFE Treaty Fact Sheet", which can be viewed at the US State Department website, at: <http://www.state.gov/t/vci/rls/prsr/2008/99743.htm>.

tise on a range of security issues. It has, for instance, run successful policing programmes at five of its Balkan field missions, and the United States has put forth the idea that the OSCE expand these successful activities further into Central Asia and the Caucasus. It has also been an important component of the United States' strategy to encourage the OSCE to enhance some of its other activities in this region. We believe that regional co-operation on a number of issues including border security, counter-terrorism, and the promotion of key democratic reforms and human rights is a vital element of larger security and well-being for all OSCE participating States. The OSCE has the potential to fill crucial gaps in these areas.

Engaging All OSCE Participating States

Another key goal has been to encourage the Organization to expand its efforts in engaging all OSCE participating States. The United States has been particularly supportive of increasing the OSCE's further engagement with the Mediterranean Partners for Co-operation and of increasing outreach to partner countries such as Afghanistan. The United States places great value in the partnership process to foster greater co-operation between participating States and Partners for Co-operation in order to better address shared concerns about security and stability. At the November 2006 Mediterranean Seminar, the United States offered suggestions for tasks that would benefit from increased co-operation, identifying three priority areas: counter-terrorism, the management of multi-ethnic societies and strengthening democratic institutions and practices. We worked to promote this further development throughout the year and will continue to do so in the coming year.

It is important to note that these are especially opportune areas for increased co-operation, not only because they are fields in which both participating States and OSCE partners have a collected, vested interest, but also because these are fields in which the OSCE has particular expertise and technical tools that Mediterranean partners can make valuable use of. Additionally, in expanding co-operation with Afghanistan, the United States recognizes that there is great collective benefit to be had for all when the OSCE chooses to put its expertise to use not only for border management efforts, but also for programmes promoting ethnic and religious tolerance and for contributing to the further development of strong democratic and civil society institutions.

Promoting Respect for Human Rights and Fundamental Freedoms

A key objective for the OSCE, one that is of great importance to the United States, is to continue to promote respect for human rights and fundamental freedoms. Much work remains to be done in this field, and it has become apparent that major efforts are necessary to prevent a reversal of progress al-

ready made. With regard to strengthening democratic institutions and practices, the United States has taken the view that the major focus of work should be on better implementation of existing commitments within participating States, especially in adherence to existing OSCE election standards. In this area, we believe that ODIHR is an invaluable contributor. In 2007, ODIHR conducted an ambitious programme of sixteen election observation and assessment missions, once again affirming that its efforts represent the “gold standard” in this field internationally. ODIHR has done much to advance sound principles of democracy, encouraging all OSCE participating States to ascribe to the highest election standards, and offering concrete constructive criticism when they do not.

The United States is a great supporter of innovation and of assessing the need for improvement in existing practices, but we also believe in making sweeping changes only if such changes are necessary and beneficial. With respect to ODIHR, this is not the case. We are firm in the conviction that proposals to reform ODIHR made by some states in recent years, such as the resolution proposed at the 15th Ministerial Council in Madrid, would instead work to undermine the Organization’s ability to do a job that it has thus far been doing very well. Rather, the United States believes that 2007 in the OSCE has underlined a different need – a need for all participating States to live up to their existing OSCE commitments in the area of democracy. It is of great importance that governments assemble the political will to not only allow, but to encourage, free and fair elections, where ODIHR is able to periodically provide expert, independent monitoring of these activities. When elections have not fully met international standards, ODIHR is able to provide assistance, and when elections have been conducted freely and fairly, ODIHR provides a mechanism for proclaiming such a laudable accomplishment to the world.

In 2007, the United States in particular exercised its support for ODIHR and a commitment to democratic principles. For example, in addition to our usual contribution to ODIHR’s election monitoring efforts, the United States Embassy in Albania contributed 22 monitoring teams to the observation effort during Albanian elections in February. This gave United States personnel an opportunity to witness firsthand the high degree of professionalism and expertise with which ODIHR conducts its activities and the importance of its work. We experienced ODIHR’s election monitoring from the other side in November of 2006, when we invited the Organization to observe our Congressional elections. The United States, like all of its colleagues in the OSCE, has committed itself to invite ODIHR to observe its elections and to take ODIHR’s recommendations into focused consideration, a commitment which we take seriously. In addition to taking pride in ODIHR’s determination that the United States “has a longstanding democratic tradition” and that Congressional elections “were held in a competitive political environment underscored by freedom of speech and broad access to the media”, our government

has also taken steps to ensure that the 25 specific recommendations for improvement outlined in ODIHR's report are adequately taken into account.⁷

The United States has continued to support ODIHR in its activities and will continue to encourage Russia and other CIS countries to increase their participation in election observation missions, as all OSCE participating States benefit from such participation. In this area, one of the greatest disappointments of 2007 occurred when ODIHR was forced to cancel its plans to observe the 2 December Duma elections in Russia as a result of what were deemed "unprecedented" restrictions imposed on its mission. While the United States supports ODIHR's decision in view of the overly narrow limits in which the Organization would have been forced to operate, we particularly regret that this was a decision that needed to be made in the first place. In this regard, we urge Russia, and all participating States, to live up to OSCE commitments and to support ODIHR without imposing any barriers that undermine the integrity of the Organization and its ability to carry out its important work effectively.

Preserving the OSCE's Effectiveness

One of our most important goals for the OSCE has been to preserve its effectiveness. The United States has actively pointed out that, in several cases, some OSCE participating States have chosen to question or disregard human-rights commitments that form the core of the Organization's identity. Our participation has and will continue to include actions to encourage these countries to live up to the commitments that they have made to themselves, their people, the OSCE, and by extension, the world. The United States is committed not only to upholding its own obligations to free and fair elections, freedom of association, and freedom of speech and media, but also to working with other OSCE States in order to ensure that they fulfil their commitments as well.

The United States has thus made it an objective to work to ensure that the OSCE Human Dimension Implementation Meeting (HDIM) continues to be an effective forum for raising and exploring an array of issues, including dialogue on human-rights cases and support for human-rights defenders. The United States has also lent strong support in making sure that NGOs remain included in the OSCE's human dimension initiatives, including their full participation in the HDIM. In its 2007 report to Congress on "United States Policy and the Organization for Security and Co-operation in Europe", the United States State Department also identified a need to combat the growing trend of some states curtailing civil society through the use of restrictive NGO legislation, and to develop more effective ways to help human-rights

⁷ Office for Democratic Institutions and Human Rights, *United States of America Mid-Term Congressional Elections 7 November 2006*, OSCE/ODIHR Election Assessment Mission Report, Warsaw, 9 March 2007.

defenders. The United States Mission to the OSCE has worked on furthering these two priorities.

Advocating on Behalf of Freedom of the Media

Advocating on behalf of freedom of the media has been another important point of United States engagement within the OSCE. This is an area in which the OSCE has a great deal to offer. Not only does the Office of the Representative on Freedom of the Media fulfil a watchdog function, it boasts a great number of practical and technical services, providing accessible, substantive best practice guides on a range of relevant issues, as well as models for media-related legislation and direct consultation for countries undertaking legislative changes. The United States has made it a point to call out wrongs in this area, and we have expressed concern about the situation in some participating States where the lives and well-being of journalists have been threatened. The United States has also been particularly supportive of the work of the Representative on Freedom of the Media on voluntary professional standards among media personnel, believing this to be far more beneficial than state-imposed alternatives. Finally, the United States helped to fund two successful regional media conferences during 2007 in the South Caucasus and Central Asia that centred on this subject.

Continued Effort on Unresolved Conflicts

The United States has also long held the view that the OSCE should make it a priority to resolve the unresolved or so-called “frozen” conflicts. In this vein, the US believes strongly in the importance of promoting final-settlement talks in the conflicts in Moldova, Nagorno-Karabakh, and Georgia. The United States has taken an active part in these processes, giving continuing political and resource support to the work of the OSCE Mission to Georgia and its projects in South Ossetia, serving in its role as an observer in the negotiation process for the Transdniestria conflict and working with other mediators to encourage settlement talks to resume, and engaging as one of the Minsk Group Co-Chairs to resolve issues between Armenia and Azerbaijan in the Nagorno-Karabakh conflict. It has been a priority of the United States in 2007 to do its part in stepping up efforts to broaden international support for resolution of these conflicts.

Combating Human Trafficking and Countering Intolerance and Discrimination

In the area of combating trafficking in human beings, the United States has also made suggestions of ways in which the OSCE can direct its actions expertly and advantageously. We have put forth the idea that the OSCE can

take on a particularly useful role by acting to improve victim identification related to human trafficking, noting that the Organization could assist states in training relevant officials and personnel. This too is an area where the OSCE's cross-dimensional approach holds special value, as many of the Organization's efforts can work to combat trafficking, and the United States continues to promote implementation of the OSCE's Action Plan to Combat Trafficking.

It is also a major goal to ensure that existing OSCE commitments to combat intolerance and discrimination are fully implemented. Once again, it will take the sustained political will of all participating States to bring this about. Efforts to counter anti-Semitism, anti-Muslim sentiment, racism, xenophobia, and other forms of discrimination should all be given serious attention. The United States has engaged with other delegations and relevant offices of the Secretariat to bring us closer to this goal.

Key Role of the OSCE Field Missions

A survey of what the United States believes to be key areas of OSCE engagement would not be complete without highlighting the importance of the OSCE field missions in achieving many of these goals. The field missions have been an integral part of the OSCE's work by promoting security, human freedom, and democracy. They perform vital on-the-ground tasks in institution building, co-ordinating conflict-prevention efforts, contributing to the development of civil society, and working towards conflict resolution and post-conflict rehabilitation.

One important belief in this regard, shared by the United States and the majority of its OSCE colleagues, is the continuing need for the OSCE Mission in Kosovo. We have repeatedly stated that it is important that the Mission continue its work there. The issue of Kosovo's status generated a great deal of dialogue within the OSCE. In our view, it became quite clear that Kosovo's independence, although difficult to come to terms with for a few of our participating States, was the only viable option in this case, given the unshakable differences that led to an impasse in status negotiations and the country's unique and turbulent history. Even the most basic examination of this situation and history will prove that Kosovo is also a very special case and that claims of it potentially serving as a precedent are inaccurate. The United States has continued to support the operation of the OSCE Mission in Kosovo because of the many valuable services it offers, particularly in its ability to monitor and report on the safety of minority communities.

All in all, the OSCE has made great strides in its efforts to build democratic institutions, to promote interethnic tolerance and protection of national minorities, and to fight organized crime and corruption. The field missions in the region have been an indispensable component of this process, and we recognize that work in this area continues. The OSCE can continue to make

important contributions in Kosovo. The United States also believes that all of the OSCE field missions and their host nations can best be served by a continuous evaluation of the size and workload of each mission as progress is made or as new issues arise. It is through this attention to the particulars of our work that we can most effectively allocate our resources and attention and best achieve our shared goals.

The United States and the OSCE: Our Future in the Context of Our History

On 24 May 2005, I made the following statement before the Senate Committee on Foreign Relations during my confirmation hearing to become the United States Permanent Representative to the OSCE:

Sixteen years after the fall of the Berlin Wall, we can all be proud of the OSCE's achievements, but we should also be mindful of unfinished business. A true transatlantic community of shared values is still a work in progress [...] There are no dividing lines in today's Europe. The OSCE has a single set of democratic principles adopted by all. The only way to defeat the underlying causes of instability is to ensure that people have a chance to freely choose their leaders, to live well and to live in peace. The OSCE can help us all advance toward that dream of a transatlantic community of shared values that is a better, safer place to live.⁸

Now, almost three years later, I have not only maintained this sentiment on a personal and professional level but have also become even more certain in my conviction that it indeed reflects United States involvement with the OSCE more largely, for it is not possible to fully appreciate the future of this relationship without considering it in the context of its history. The United States has been committed to the OSCE from the very beginning. Needs and priorities within the OSCE region have changed widely and often dramatically during the Organization's history, but like the OSCE itself, the United States' relationship with the Organization has become stronger and more refined as this history has progressed.

It is not uncommon for discussions of the OSCE to turn to focus on questions of the Organization's relevance and future. A brief survey of this very publication, *The OSCE Yearbook*, is a prime example. These are important questions, and, indeed, the Organization's awareness of itself has been one of its greatest strengths, with ongoing self-assessment of its efforts and progress serving as a catalyst for fine-tuning and further action. 2007 has

⁸ *Statement of Julie Finley before the Senate Committee on Foreign Relations, May 24, 2005*, at: http://www.globalsecurity.org/military/library/congress/2005_hr/050524-finley.pdf.

been no different. The United States and the other participating States and partners of the OSCE have been faced with many challenges – challenges that have shown us our strengths by allowing us to prove how much we are able to accomplish and challenges that have spurred our future agenda by reminding us how much work still remains to be done. The achievements of the past year and the ongoing areas of OSCE engagement are more than demonstrative of not only the Organization’s relevance but its necessity.

As for the OSCE’s future, perhaps the best answer to this question is to state quite simply: The future is now. While staying true to the principles laid out in the Helsinki Final Act and moving forward towards increased cooperation and more active promotion of comprehensive security, the United States joins its colleagues in working through the OSCE as an indispensable multilateral vehicle for upholding democracy, human rights, and security in 2008 and in the years to come. However, as partners in this effort, we must all remember that the very same values that have made this organization important and effective in the past are the values that are under siege today. Perhaps President’s Ford’s final words at the end of his 1975 address in Helsinki say it best:

History will judge this Conference not by what we say here today,
but by what we do tomorrow – not by the promises we make, but
by the promises we keep.⁹

Decades after the events in Helsinki, the United States continues to engage through the OSCE with the same conviction. The OSCE has a rich history, but it also has a great deal of work to do to ensure that its promises are kept. It is only through sustained commitments and efforts on the part of all participating States that the Organization, and, as a result, all of Europe, can have a bright and productive tomorrow.

⁹ *Address by US President Gerald R Ford to the third stage of the Conference on Security and Co-operation in Europe, cited above (Note 2).*

Kazakhstan's OSCE Chairmanship – The Road to Europe?¹

Madrid, 29 November 2007, 6:35 p.m.

In the early evening of 29 November 2007, Kazakh Foreign Minister Marat Tazhin gave his keenly awaited speech to the OSCE Ministerial Council in Madrid. Kazakhstan had that day swapped its place in the order of speeches with Turkey. The Council meeting had also fallen behind schedule, and it was unclear when the foreign minister of the country whose application to hold the OSCE Chairmanship absolutely had to be decided upon in Madrid would be able to speak. After he had done so,² all eyes turned to the head of the US delegation, who was applauding enthusiastically. The decision had been made, even if it would only be officially confirmed the next day. Kazakhstan would assume the Chairmanship of the OSCE in 2010. How did this come to pass?

Kazakhstan's Application

In early 2003, during a discussion in the OSCE Permanent Council in Vienna on the work of the OSCE Centre in Almaty and a controversial debate on co-operation between OSCE field missions and their host countries, the then Kazakh Permanent Representative to the OSCE, Ambassador Rakhat Aliev, announced his country's candidacy for the 2009 OSCE Chairmanship. He justified the candidacy in terms of the economic and political transformation of his country, which is unsurpassed in Central Asia. Kazakhstan possesses a functioning market economy, he noted, great progress has been made in establishing a society based on equality of opportunity and human rights, and the social solidarity in this multiethnic and multiconfessional country is exemplary. He admitted that a great deal naturally still needs to be done to strengthen the democratic foundations of the society, but stressed that Kazakhstan intended to expand its co-operation with the OSCE, as the latter's comprehensive approach to security is in tune with Kazakhstan's foreign

1 The following comments reflect the personal views of the author, not the position of the German Foreign Office. I would like to thank Constanze Fleischhauer and Florian Seitz for their active support.

2 Cf. *Address of H.E. Dr. Marat Tazhin, Minister of Foreign Affairs of the Republic of Kazakhstan, at the OSCE Ministerial Meeting (Madrid, November 29, 2007)*, MC.DEL/38/07, 29 November 2007, at: http://www.osce.org/documents/mcs/2007/11/28529_en.pdf.

policy priorities.³ Kazakhstan thus became the first Central Asian country and the first member of the CIS to throw its hat in the ring.

Kazakhstan – Central Asia’s Model Pupil?

After achieving independence and joining the CIS,⁴ Kazakhstan pursued a balanced foreign policy, maintaining good relations with its neighbours as well as contacts with Europe and the USA. In the first half of the 1990s, the country endured a period of uncertainty – a consequence of its disentanglement from the Soviet Union and transformation into an independent state. Since 1999, however, economic development has accelerated, based primarily on oil and gas wealth and the attractiveness for foreign investors that this has brought. In the wake of the economic boom, President Nursultan Nazarbayev also made the enhancement of Kazakhstan’s political and diplomatic status an explicit policy goal, with the aim of making the country into a significant actor in the Eurasian space – the triangle defined by European, Russian, and Chinese power. He was helped in this not only by his country’s economic power, but also by the good example that Kazakhstan had set in the region as a stable, religiously tolerant, multiethnic state with no significant interethnic conflicts.

As it received the unreserved support of the international business community,⁵ Kazakhstan’s self-confidence grew. At the same time, however, human-rights organizations pointed to ongoing deficits in democratic development, the enforcement of human-rights standards, freedom of expression, and other problematic domestic developments.⁶ The interests of business, on the one hand, and the concerns of human-rights organizations, on the other, mean that a sense of disharmony has tended to exist whenever talk turns to Kazakhstan.

Kazakhstan joined the OSCE in 1992, and, in doing so, accepted the Organization’s entire *acquis*. At that time, similarly to its CIS partners, and especially its Central Asian neighbours, Kazakhstan arguably had only a vague understanding of the commitments into which it had entered. Although the CIS has developed into a fairly heterogeneous entity whose members have not always taken a joint line – including in the OSCE – they shared a powerful cultural solidarity. Kazakhstan adopted as its own the criticisms of

3 Cf. OSCE, Permanent Council, PC.DEL/143/03, 19 February 2003.

4 The CIS was founded in 1991 by Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

5 As exemplified by the conference organized by the German Society for Foreign Policy (*Deutsche Gesellschaft für Auswärtige Politik, DGAP*) and the Committee on Eastern European Economic Relations (*Ost-Ausschuss der Deutschen Wirtschaft, OADW*) with President Nazarbaev at the Hotel Adlon in Berlin, 31 January 2007.

6 Cf. the press release from Human Rights Watch, *Kazakhstan: OSCE Chairmanship Undeserved*, 30 November 2007, at: <http://hrw.org/english/docs/2007/11/30/kazakh17458.htm>.

the OSCE made with increasing vigour since 2004 by Russia, and summarized in the “Astana Appeal”, which was signed by all the CIS states with the exception of Azerbaijan, Georgia, Moldova, and Turkmenistan.⁷ It contains a list of demands for OSCE reform, calling above all for the enhancement of the security dimension, the curtailment of the human dimension, and a reduction in the activities of the field presences. The human dimension and field missions are described as manifestations of double standards and an interference in domestic affairs by the West. As far as the latter is concerned, however, the reform proposals contained in the Astana Appeal contradict the principles of the Charter of Paris – which was signed in 1990 as a founding document of the OSCE to stand alongside the Final Act of Helsinki (1975) – and the 1991 Moscow Document.⁸

Against this background, Kazakhstan’s application for the OSCE Chairmanship and the resulting debates over the pros and cons led to a split among both the OSCE participating States and the EU into a larger group of supporters of the plan and a smaller group of opponents.

Disunity in the EU

The EU traditionally shows solidarity with the USA and other Western countries in the OSCE, and stresses the key significance of the human dimension. This includes the protection of human-rights defenders, the observation of human-rights and rule-of-law standards, and the support for democratic reform and transformation processes. The EU had difficulties with Kazakhstan’s application from the start, and most of its member states were rather slow to address it seriously. While they all welcomed Kazakhstan’s willingness to take on more responsibility, they could not agree on how this should be achieved. For a long time, the common EU position therefore consisted of an extremely low common denominator, namely the statement that the Chairmanship needs to embody the standards and values of the Organization in an exemplary manner.

On the one side were those EU member states that stressed the equality of OSCE participating States and thus recognized the legitimacy that this gave Kazakhstan’s application for the OSCE Chairmanship. They also called

7 *Appeal of the CIS Member States to the OSCE Partners*, Astana, 15 September 2004. Distributed at the request of Armenia, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan and Ukraine, SEC.DEL/225/04, 16 September 2004 (unofficial translation from the Russian).

8 In the Moscow Document, the OSCE participating States have “categorically and irrevocably” declared “that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned”. Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 605-629, here: p. 606.

for democratic reforms and the observance of human-rights standards, but rejected utterly any discussion of an OSCE Chairmanship with conditions attached. These states – including Germany, which had supported Kazakh ambitions from the start – tended to see the advantages of the application and the process of reaching a positive decision and of the actual exercise of the Chairmanship by Kazakhstan.

On the other side were the EU countries that wanted to draw up a list of “benchmarks” for the application process and to use them to monitor Kazakhstan’s compliance along the way. This would allow them to maintain an influence on proceedings and even to withdraw their consent if necessary. Behind this scepticism lay the concern of a number of EU states that the Kazakh Chairmanship could threaten the human dimension *acquis*, take the OSCE – entirely in the Russian interest – down the path of an organization entirely dominated by its governments, and if not endanger the very existence of its flexible, independent institutions, above all the Office for Democratic Institutions and Human Rights (ODIHR), certainly reduce their effectiveness. This view was supported by the United States, among others. However, in taking this position, these states effectively denied Kazakhstan the right to equality and risked establishing a precedent for subsequent candidates for the Chairmanship.

The Struggle over Principles within the OSCE

The dispute over the Kazakh Chairmanship coincided with the discussion of OSCE reform. In response to the Astana Appeal, the 2004 Sofia OSCE Ministerial Council appointed a “Panel of Eminent Persons”,⁹ which presented extensive proposals for the reform of the Organization in the summer of 2006,¹⁰ although it did not prove possible to achieve a consensus on such a wide-ranging package. At the Brussels Ministerial Council in 2006, the foreign ministers adopted only technical reforms,¹¹ that left the heart of the dispute untouched: Russia and the CIS on the one side, and the USA and the EU on the other could not agree on the central question of the significance of the human dimension. During 2006, Russia linked the question of OSCE reform

9 Cf. Organization for Security and Co-operation in Europe, *Twelfth Meeting of the Ministerial Council*, Sofia, 6 and 7 December 2004, MC.DOC/1/04, 7 December 2004, Decision No. 16/04, Establishment of a Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, MC.DEC/16/04 of 7 December 2004, pp. 56-57.

10 *Common Purpose. Towards a More Effective OSCE*, Final Report and Recommendations of the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, 27 June 2005, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 359-379, available online at: http://www.osce.org/documents/cio/2005/06/15432_en.pdf.

11 Cf. Organization for Security and Co-operation in Europe, *Fourteenth Meeting of the Ministerial Council*, 4 and 5 December 2006, Brussels 2006, 5 December 2006, Decision No. 19/06, Strengthening the Effectiveness of the OSCE, MC.DEC/19/06, 5 December 2006, pp. 58-62.

with the decision on the Chairmanship: A decision in favour of Kazakhstan, which the CIS had adopted as its chosen candidate in August 2005,¹² would show that the OSCE was capable of reform. Russia and several other CIS states warned that a decision against Kazakhstan would see the work of the Organization grind to a halt and lead to the marginalization of the OSCE.¹³ The climax of this dispute was reached at the OSCE Ministerial Council in Brussels in December 2006, when the participating States failed to reach agreement on the 2009 Chairmanship as they were required to, and postponing the decision was the only way to ensure the Organization remained united while simultaneously preserving Kazakhstan's chance of a positive decision in the coming year.¹⁴ Nonetheless, Russia was very clear in expressing its dissatisfaction with this decision and declared that it would accept no decision that would place conditions on the assumption of the OSCE Chairmanship in the following year.¹⁵

German Support

Prior to the launch of its bid for the Chairmanship, Kazakhstan had proved a rather awkward partner to the OSCE. Its fulfilment of OSCE standards remained partial, especially in the human dimension; promising attempts at co-operation were few and far between; and there was little will to work together with the OSCE Centre in Almaty. While Kazakhstan repeatedly stressed the significance that co-operation with the OSCE possessed for its foreign policy, it simultaneously complained of a lack of understanding of its special features and path of development. By applying for the OSCE Chairmanship, Kazakhstan had staked a claim to improve its profile on the international stage and play a trailblazing role in Central Asia and beyond. Supporting these ambitions would make it possible to press more strongly for the observation of the OSCE *acquis*, as an OSCE Chairmanship can only enjoy international success and respect if it also convincingly embodies the values for which it speaks and acts. This was the message Germany's then chancellor, Gerhard Schröder, delivered to President Nazarbayev during his visit to Astana on 4-5 December 2003, where he also announced that Germany was willing to support Kazakhstan's candidacy for 2009.

Since then, Kazakhstan has made a number of improvements – particularly in comparison to its neighbours. In principle, it has a multiparty system,

12 Cf. OSCE, Permanent Council, PC.DEL/820/05, 30 August 2005

13 Cf. *Address of the Ministers of Foreign Affairs of the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Russian Federation, the Republic of Tajikistan and the Republic of Uzbekistan to the OSCE Ministerial Council in Brussels*, MC.DEL/5/06, Brussels, 3 December 2006.

14 Cf. *Fourteenth Meeting of the Ministerial Council*, cited above (Note 11), Decision No. 20/06, Future OSCE Chairmanship, MC.DEC/20/06, 5 December 2006, pp. 63-64.

15 Cf. *ibid.*, Interpretative Statement under Paragraph IV.1(A)6 of the *OSCE Rules of Procedure*, Attachment 2 to MC.DEC/20/06, p. 64.

which has legitimized the establishment of opposition parties. The judiciary and criminal law have been fundamentally overhauled; trial by jury was introduced for serious crimes at the start of 2007. Freedom of religion, respect for minority rights, and tolerance of refugees are largely guaranteed. The beginnings of a system for monitoring human rights are in place in the form of an ombudsman and national commissions for human rights, democratization, and civil society. In November 2005, the International Covenant on Civil and Political Rights (ICCPR) was ratified, and the First Optional Protocol to the covenant was signed in late 2007.

However, in its dialogue with representatives of the Kazakh government, Germany had repeatedly pointed out the areas where the Kazakh political system was in need of further improvement and had echoed the criticisms made by the OSCE. These included the recommendations made by the OSCE Representative on Freedom of the Media on the improvement of the country's media laws and those made by ODIHR on the reform of Kazakhstan's electoral law, a reconsideration of the considerable hurdles to the registration of political parties, and the introduction of direct elections at the local level as a further key step towards ensuring the right to the democratic expression of will.

Germany and Kazakhstan traditionally enjoy good relations, ever since, on 31 December 1991, Germany became the first – and for a long time the only – country to recognize Kazakh independence. Among the factors that prompted Germany to promise to support Kazakhstan's application for the OSCE Chairmanship was a recognition of Central Asia's steadily growing significance for Europe. Particularly since 11 September 2001, the countries in that region are playing an increasingly important role in key issues for the international community, such as ensuring security and stability, combating international terrorism and organized crime (particularly in the areas of trafficking in human beings, drugs, and weapons), and protecting energy supplies. Against this backdrop, supporting Kazakhstan promised positive effects for the development of the region, its co-operation with Europe, and the security situation around Afghanistan.

The EU's Central Asia Strategy

This set of justifications was taken up by the German EU Presidency, and resulted in the EU Central Asia Strategy adopted at the European Council in Brussels on 21-22 June 2007.¹⁶ It is based upon a comprehensive approach to co-operation with Central Asia and was developed in close partnership with the states of the region. Initial elements were discussed at a meeting between the EU Troika of foreign ministers and their Central Asian counterparts on

16 *The EU and Central Asia: Strategy for a New Partnership*, at: <http://www.auswaertiges-amt.de/diplo/en/Europa/Aussenpolitik/Regionalabkommen/Zentralasien.html>.

28 March 2007 in Astana to involve the countries concerned in the early planning, as a spirit of open co-operation was essential to the plan's success. Kazakhstan is the key country in the region, and its support was therefore critical. Hence, the Kazakh application for the OSCE Chairmanship, though not an object of the strategy, played an important role in its development, as it encouraged Kazakh willingness to co-operate, thus determining the horizon of expectation of both sides.

The Madrid Decision

The participants at the OSCE Ministerial Council in Madrid faced a heavy burden of expectation. Following the failure to reach a decision at Brussels in December 2006, the need to decide who would lead the Organization in 2009 was imperative. According to the OSCE's regulations, the question of the 2010 Chairmanship also had to be decided at Madrid. The candidates remained unchanged, with Kazakhstan applying for 2009 and Lithuania for 2010. Greece had already declared itself willing to accept the Chairmanship in case criticism of Kazakhstan made it necessary to seek a substitute candidate.

During 2007, Kazakhstan had undertaken a number of initiatives to improve its standing with critics of its candidacy. In May, a constitutional reform was adopted that brought improvements in the area of rule of law (habeas corpus, limitation of the death penalty to acts of terrorism and serious crimes) and a certain strengthening of parliamentary power. At the same time, however, the reform strengthened the position of President Nazarbayev, by allowing him to stand for a third term while remaining chairman of the ruling *Nur Otan* party.¹⁷ This served to further strengthen the presidential system and improved *Nur Otan*'s prospects for the parliamentary elections to be held in August 2007 at the expense of the – already weak – opposition parties. While ODIHR did acknowledge that Kazakhstan had made a number of limited improvements since the last elections, it found fault with the conditions under which the election took place, and particularly the electoral law, whose seven per cent threshold made it hard for opposition parties to enter parliament, thus leading to a one-party legislature.¹⁸

17 Cf. Valeri Sitenko/Anton Morosov, *Kasakhstan. Daten – Fakten – Hintergründe* [Kazakhstan. Figures – Facts – Background], Berlin 2007, pp. 37-38.

18 Cf. OSCE-ODIHR/OSCE Parliamentary Assembly/Parliamentary Assembly of the Council of Europe, International Election Observation Mission, Parliamentary Election, Republic of Kazakhstan, 18 August 2007, *Statement of Preliminary Findings and Conclusions*, Astana, 19 August 2007, at: www.osce.org/documents/odihr/2007/08/25960_en.pdf, as well as OSCE, Office for Democratic Institutions and Human Rights, Republic of Kazakhstan, Parliamentary Elections, 18 August 2007, *OSCE/ODIHR Election Observation Mission Report*, Warsaw, 30 October 2007, at: www.osce.org/documents/odihr/2007/10/27638_en.pdf.

The EU and the USA, in particular, had expected the Kazakh parliamentary elections to give a clearer signal that progress was being made towards improving the observation of OSCE commitments and democratic standards. This was only realized in part. For the participants of the Madrid Ministerial Council, the evaluation of developments in Kazakhstan in 2007 continued to depend on perspective: The critics considered the glass to be half empty, the supporters saw it as half full.

Even as the Ministerial Council began, the prospects of an agreement still appeared poor. Behind the scenes, however, a flurry of diplomatic activity began, particularly between the Kazakh and US delegations. The USA was the key mover among the sceptics. Even if the US government had not yet taken a definite position on this question, it was the position of the US government that would determine whether a decision would be made in Kazakhstan's favour or not. And this in turn would determine whether the OSCE could demonstrate and retain its ability to act.

The solution could only consist of a compromise that took account of the interests of all candidates, Russia's criticisms of the conditional decision made in Brussels in 2006, and the fundamental misgivings of the critics of the proposed Kazakh Chairmanship. Furthermore, there could be neither winners nor losers. Taking account of these factors, a solution was found that provided Chairmen-in-Office for the next three years: Greece in 2009, Kazakhstan in 2010, and Lithuania in 2011.¹⁹ The path to this solution had been prepared by the speech to the Ministerial Council by the Kazakh foreign minister, which included clear statements of commitment to ODIHR and the human dimension of the OSCE.²⁰

Hopes and Expectations

Kazakhstan would like to use its OSCE Chairmanship to improve its regional and international standing and prestige. In this regard, it is therefore "damned to succeed". Merely applying for the Chairmanship ensured that it would receive considerable attention. Thanks to the advance of trust placed in it at Madrid, Kazakhstan can be sure of receiving attentive and critical attention in the period up to its assumption of the Chairmanship in 2010. Kazakhstan is obliged to retrospectively win-over some of its critics, and therefore needs to do everything to demonstrate its organizational abilities, prove that it is a good moderator, and play a constructive role in the OSCE and other international organizations. If it should take the path of political obstructionism within the OSCE, this would do its reputation lasting damage.

19 Cf. Decision No. 11/07, OSCE Chairmanships in 2009, 2010 and 2011, MC.DEC/11/07, 30 November 2007, in: Organization for Security and Co-operation in Europe, *Fifteenth Meeting of the Ministerial Council*, 29 and 30 November 2007, Madrid 2007, 30 November 2007, pp. 37-38.

20 Cf. *Address of H.E. Dr. Marat Tazhin*, cited above (Note 2).

Positive effects can also be expected on Kazakhstan's internal development. The reform agenda and the desire for expert technical preparation are considered major priorities, as became obvious in President Nazarbayev's address to the nation in February 2008, in which he announced the creation of the "Path to Europe" programme, which aimed at promoting economic co-operation, in areas including technology and management, improving legislation, and preparing a "strategic vision" for the Kazakh OSCE Chairmanship. He also called for all departments of government to be included in the work of preparing for the Chairmanship.²¹ This could lead to modernization and an increase of efficiency in the government's work.²²

During the implementation of the EU Central Asia Strategy, a Kazakh Chairmanship of the OSCE could have a positive influence on regional integration in Central Asia, as long as it takes account of the strong prejudice in the region against individual states taking on a "leadership role". If Kazakhstan embraces the elements of the strategy that suggest a regional approach (such as combating organized crime and trafficking in human beings, weapons, and drugs, and terrorism; border management; energy issues; environmental degradation; water management; and migration), co-operation with the EU could be accompanied by OSCE measures to promote "co-operative security". This also applies to dialogue with regional organizations such as the Shanghai Co-operation Organization (SCO) and the Collective Security Treaty Organization (CSTO).

Prospects for the Future of the OSCE

If the Kazakh candidacy had been rejected or the idea put on ice, it would have led to the country's estrangement from the OSCE, while similarly damaging the Organization's relations with the other CIS states. The divisions within the OSCE would have become deeper, which would have made debates over the competency of election monitoring missions and the extension of mandates even more difficult. Kazakhstan and its neighbours would have reoriented their political compasses away from Europe to Asia.

The alternative offers numerous opportunities. As the first CIS country to assume the responsibility of the Chairmanship, Kazakhstan can send out an

21 Cf. *Address by the President of the Republic of Kazakhstan H.E. Mr. Nursultan Nazarbayev to the people of Kazakhstan*, February 2008, at: http://www.akorda.kz/www/www_akorda_kz.nsf/sections?OpenForm&id_doc=0793D9432423DDE5062573EC0048005B&lang=en&L1=L2&L2=L2-22.

22 Long before the Madrid decision was made, Germany responded to Kazakh requests by starting to provide OSCE-specific training that would help the country to perform the work of the Chairmanship effectively. A young Kazakh diplomat was taken on as a trainee at the OSCE section of the German foreign office as early as 2006; in 2007 and 2008, the Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH), with the support of the foreign office, ran training courses for Kazakh diplomats. A third course with a larger number of participants from Kazakhstan and Lithuania is being planned for 2009.

important signal of “co-ownership” that might encourage the critics of the OSCE to identify with it more strongly once again. Kazakhstan is already involved in decision making as a member of the “Quintet”,²³ and has assumed the responsibility of chairing the Economic and Environmental Committee of the OSCE.

Kazakhstan can help to ensure that the Organization focuses even more strongly on Central Asia as a region in which the OSCE’s involvement brings greater added value in terms of security policy. This is not to call into question the effectiveness of the OSCE in other regions, particularly the Balkans. But against the background of the development of the EU’s European Neighbourhood Policy (ENP), the growing closeness of many countries, including those in the Western Balkans, to the EU and NATO, and the increasing assumption of OSCE tasks by the EU, the OSCE will need to shift the focus of its activities more strongly to the South Caucasus and Central Asia in the medium term. In contrast to the EU, the OSCE has so far developed no strategy for Central Asia of its own.²⁴ But even without a fully developed strategy, the Kazakh Chairmanship will still be able to build upon existing OSCE initiatives and bring about progress in the region. This conclusion is based upon the following considerations:

- *Central Asia has a major need to catch up in the areas of border security and border management.* Implementing the border security and management concept adopted at the 2005 Ljubljana Ministerial Council while working closely with the EU Border Management Programme for Central Asia (BOMCA) could help.²⁵
- *The OSCE field presences in Central Asia urgently need to be expanded.* Kazakhstan has a unique opportunity to actively involve the OSCE Centre in Astana and its liaison office in Almaty in preparing and carrying out its Chairmanship. This could have positive effects on those Central Asian countries that are constantly seeking to have the mandates of their OSCE field presences restricted.

23 Alongside Finland, which holds the Chairmanship in 2008, the members of the Quintet are Spain (2007), Greece (2009), Kazakhstan (2010) and Lithuania (2011). Under the Finnish Chairmanship, the former OSCE Troika has been expanded in this way, following the Madrid decision on the OSCE Chairmanships in 2009, 2010, and 2011, cited above (Note 19).

24 One was called for as early as 1999 by Ambassador Wilhelm Höyneck, the first Secretary General of the OSCE. The OSCE Conflict Prevention Centre produced a strategy paper in April 2006, calling for the OSCE to return to its core competencies of identifying regional conflict potential and conflict prevention. Cf. Tim Epkenhans, *The OSCE’s Dilemma in Central Asia*, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2006*, Baden-Baden 2007, pp. 211-222.

25 Cf. Organization for Security and Co-operation in Europe, *Thirteenth Meeting of the Ministerial Council*, 5 and 6 December 2005, Ljubljana 2005, 6 December 2005, *Border Security and Management Concept*, MC.DOC/2/05 of 6 December 2005, pp. 9-15. This document is the basis for the projects for the Tajik-Afghan and Tajik-Chinese borders, which were developed by the OSCE Secretariat on the request of the Tajik government, and which are being put into action since 2008, with German participation.

- *Kazakhstan announced at the Ministerial Council that the OSCE would be expanded as a new platform for dialogue between Europe and Asia. A broad security dialogue encompassing all the dimensions of the OSCE would offer opportunities to build on European experiences and the principles of the old CSCE, to address the idea of confidence- and security-building measures (CSBMs), and simultaneously to make use of the format for dialogue on the necessary development of civil society, modernization and social transformation, and the rule of law and good governance.*
- *Kazakhstan has good prospects for intensifying the dialogue between the OSCE and regional organizations such as the SCO and CSTO. Those of the OSCE's Asian Partners for Co-operation that are interested in this kind of co-operation could be involved more intensively in this process, and the question could be raised as to whether there is a prospect for involving China as an OSCE Partner for Co-operation in the long-term.*
- *Against the background of Kazakhstan's avowal of its commitment to ODIHR and the principles of the human dimension, it will have to take a position in the dispute with Russia over ODIHR, election monitoring, and OSCE reform. There is no way Kazakhstan can go back on the promises made in Madrid without losing face. At the same time, however, Astana's close association with Russia will remain, setting up an interesting balancing act.*
- *The August 2008 crisis between Russia and Georgia over South Ossetia has returned "frozen conflicts" – including Transdnistria and Nagorno-Karabakh – to the top of the OSCE agenda. Kazakhstan has carefully weighed up its reaction towards Russian recognition of South Ossetian and Abkhaz independence. It remains to be seen whether a CIS member as OSCE Chairman can benefit from its special relationship with Russia and the conflict parties. Demand is already increasing for the OSCE as a platform for dialogue on European security and as a moderator to support conflict resolution.*

Madrid, 29 November 2007, 6:55 p.m.

The OSCE is the only regional security organization that allows Europe, its transatlantic partners, and the countries of Central Asia to participate in an ongoing dialogue as equals and on the basis of mutually recognized values and principles. By means of the speech given by its foreign minister in Madrid, Kazakhstan has underlined its allegiance to the OSCE and promised to respect its values and *acquis*. The relieved applause that Marat Tazhin received showed that the Organization is willing to use the potential that the Kazakh Chairmanship offers. If Kazakhstan can utilize the Chairmanship to

develop a political culture of compromise, and justifies the trust shown in it by the OSCE participating States by running a prudent and consistent Chairmanship, this would have an exemplary effect on more than just its Central Asian neighbours. It could demonstrate how a young state, freshly emerged from its transformation process, could use the active policy-shaping opportunities provided by the OSCE to improve its own foreign policy profile. And ultimately everyone could benefit from that – the countries of Central Asia, the EU, and above all the OSCE and its participating States.

II.
Responsibilities, Instruments, Mechanisms,
and Procedures

Conflict Prevention and Dispute Settlement

How Effective Is the OSCE's Promotion of Democracy? Analytical Considerations of the Effectiveness of the Long-Term Missions in South-Eastern Europe¹

Introduction: The OSCE's Undervalued Achievements in Democratization

The signing of the Charter of Paris by all the countries of Europe in 1990 ushered in a new era of democratization in Europe: "We undertake to build, consolidate and strengthen democracy as the only system of government of our nations."² The democracy and human rights norms established in Copenhagen and the right to intervention created in Moscow empowered the OSCE to support all its participating States as they move towards democracy. The signatories included the Socialist Federal Republic of Yugoslavia, as it then was, whose commitments were ultimately taken on by its successor states. Yugoslavia also began to implement democratic reforms, although these were to lead to the disintegration of the Yugoslav state and were abruptly ended by the outbreak of civil war. These days, in politics and academia, the bulk of the positive developments in the region tend to be ascribed to the normative power the EU enjoys thanks to its ability to confer membership. Without a doubt, the prospect of belonging to a community of economically prosperous and democratic states is the decisive motor of reform in South-eastern Europe. Still, the OSCE does play a role in this, and its impact is often underrated. For one thing, the Organization had long-term missions in the region from the very start of the peace process and often laid the foundations upon which the EU has been able to build in more recent years. Furthermore, it was the advice, expertise, and intensive monitoring work of the OSCE that often played a decisive role in shaping the substance of the reforms motivated by the EU. Nonetheless, the OSCE's engagement was not without its problems, and the benefits were accompanied by counterproductive side effects. This is a further indication of how little we actually know about the ways in

1 This article is a summary of the author's dissertation findings, for which she carried out analysis of OSCE weekly reports published between 1995 and 2005, and over 100 anonymous interviews with experts at the OSCE missions. The various primary sources are not listed individually here, but are contained in: Solveig Richter, *Partner, Mahner, Beserwischer? Zur Effektivität externer Demokratisierung durch die OSZE in Südosteuropa* [Partner, Critic, Smart-Alec? On the Effectiveness of External Democratization by the OSCE in South-Eastern Europe], Dissertation, Dresden 2008.

2 Charter of Paris for a New Europe, 21 November 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 537-566, here: p. 537.

which the effects of intervention can unfold and of the effectiveness of the work of individual organizations to promote democracy.

Despite the ready availability of data, comparative analyses of the OSCE's effectiveness are rare. The following discussion will therefore focus on analysing the OSCE's long-term contribution to democratization processes in South-eastern Europe since 1995, and will take a close critical look at both positive and negative aspects. The OSCE's interventions have involved a wide range of different strategies. The following analysis is based on the assumption that a given intervention strategy can lead to different results in different transformation contexts; something that can be highly effective in one context may prove counterproductive or lead to side effects in another. South-eastern Europe offers a first-class laboratory for examining the effects of various strategies pursued by the OSCE. In three countries in particular – Croatia, Bosnia and Herzegovina, and Serbia – the OSCE has applied virtually the full spectrum of available means, from highly co-operative to strongly interventionist, from advisory to supervisory.³ What strategy has the OSCE used to promote democracy in which context and how effective has it been? What counter-productive side effects may have been produced by the OSCE's engagement in each case? Can patterns of impact be observed?

Democratization Strategies of the OSCE: Between Intervention and Co-operation

The long-term missions to Bosnia and Herzegovina and Croatia were established in 1995 and 1996, respectively, against the background of the recently ended civil war with the aim of promoting peacebuilding by means of democratization. The situation in Bosnia and Herzegovina, which required the creation of an entirely new state whose government was not in possession of full sovereignty necessitated an entirely different approach to that needed in Croatia, which at least had a functioning government, if not a democratic one.

The Dayton Peace Agreement⁴ provided an entire armada of international agencies with mandates and installed what was at the time a unique construction: an international transitional administration in Bosnia and Herzegovina. The OSCE, whose long-term mission to Bosnia and Herzegovina opened on 29 December 1995, was part of this, and was explicitly handed various tasks related to democratization (ensuring the smooth running of the

3 Detailed portrayals of the long-term missions are a regular feature of the OSCE Yearbook. This contribution aims to build on these and therefore does not repeat their finely tuned considerations of the mandates and activities of the missions.

4 *The General Framework Agreement for Peace in Bosnia and Herzegovina*. Initialed in Dayton on 21 November 1995 and signed in Paris on 14 December 1995, available online at: <http://www.oscebih.org/overview/gfap/eng>.

first elections and monitoring human rights), as well as confidence- and security-building measures in the defence sector. As a part of the international community's quasi-protectorate, the OSCE intervened in nearly all aspects of the political process in Bosnia and Herzegovina. Unlike in Croatia and Serbia, it could make use of a considerable repertoire of powerful instruments. The mission's mandate was revised several times by the Permanent Council, and new priorities and competencies were added by flexibly interpreting the Dayton Agreement. In the first phase, from 1995 to 1997, the OSCE possessed merely regulatory and implementing authority in the area of elections, and attempted to use mediation, observation, and confidence- and security-building measures to protect human rights, press freedom, and freedom of speech. Between 1997 and 2002/2003, thanks to the "Bonn powers" of the Office of the High Representative (OHR), which the OSCE could make use of, as well as the focus on returning occupied property, and a continuing emphasis on the organization of elections, most of the mission's work consisted of operational measures designed to promote implementation. In the years thereafter, various strategies overlapped, and the OSCE attempted to perform a mix of mediation, project work, capacity building, and dialogue. This saw co-operation with local executive and legislative organs and educational reform becoming new priorities, areas in which the mission had already been active since 2001-2002. As a means of strengthening the rule of law, the mission was originally involved in the appointment of all new judges and prosecutors. But since 2003, the implementation of criminal law reform and the observation of domestic war-crime trials have taken up much of the mission's time. At the same time, however, the continuing use of the OHR's Bonn powers meant that the mission's democratization strategy retained a strongly interventionist character, comprising a mixture of instruments for implementation, incentive-based means, and observation. In this way, the OSCE's activity developed into a tightrope walk between robust intervention and co-operative support.⁵

The Dayton Agreement also triggered a strengthening of the role of the international community in Croatia. Because the OSCE is an inclusive organization based on the consensus principle and had no mandate from the UN Security Council for its activities in Croatia, it required the agreement of the host country before it could send a long-term mission. This situation influenced the mission's democratization strategy from the start.

In the first place, the invitation was given very reluctantly in the face of international pressure, and the Croatian government offered no more than its formal approval. The first mandate, granted on 18 April 1996,⁶ was not

5 For more information, see particularly: David Chandler, *Bosnia. Faking Democracy after Dayton*, London 1999; Martina Huber, *The Effectiveness of OSCE Missions: Synthesis Report*, in: Martina Huber/et al. (eds), *The Effectiveness of OSCE Missions: The Cases of Uzbekistan, Ukraine and Bosnia and Herzegovina*, The Hague 2002, pp. 13-38.

6 Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 112, PC.DEC/112, 18 April 1996.

geared towards comprehensive peace-building in terms of content or staffing. Only when the mandate was broadened by the Permanent Council on 26 June 1997 in the light of obvious deficits was the mission provided with more resources in the form of an expanded field presence, and a more clearly defined set of tasks, which led to an enhancement of the mission's profile.⁷ The topic of refugee return, introduced specifically in the second mandate, and, in particular, related questions concerning the return of property, was one of the mission's core activities between 1996 and 2005. In the early years, the mission also focused on the areas of media reform, elections, police, and rule of law. With the arrival of the new regime in 2000, projects to strengthen civil society, the constitutional court, and the ombudsman, and activities in the areas of judicial reform and minority protection grew in importance. This core mandate was joined by additional tasks relating to the police (the Police Monitoring Group in the Danube Region, 1998-2000, as a confidence- and security-building measure) and judicial issues (observing war-crime trials, since 2002). However, the mission's police-related activities were scaled down and qualitatively changed when the mandate of the Police Monitoring Group ended.

Second, the OSCE's democratization strategy was largely based on cooperative instruments for dialogue, monitoring, and mediation, which, in objective terms, barely impinged upon Croatia's sovereign rights. The main focus of the mission's work was on the legislative process and judicial practice in Croatia. As interpreted by the mission itself, the rule-of-law mandate aimed at the lasting structural transformation of the normative framework. The "information superiority" that the mission was able to establish thanks to its extensive field presence lent its criticisms and proposals a high degree of moral legitimacy. Nonetheless, when its instruments of persuasion and "the strength of the better argument" were not enough, it was relatively powerless in the face of Croatian officials' unwillingness to co-operate or enact reforms. In terms of incentives, the mission's only option was to "borrow" the political weight of other organizations. Thanks to close co-operation with the delegation of the European Commission, Croatia's desire to join the EU thus became the strongest card in the mission's hand. The mission began as early as 2000 to make skilful use of this EU incentive as a powerful potential reward alongside its own instruments of conditionality, which consisted largely of social punishment, naming and shaming, and the exertion of public pressure by means of its reporting system, which was unique in the OSCE area. Overall, however, the mission to Croatia had to struggle with a paradox from the start: It was established to watch over – and hence inevitably to criticize – the government, but it was provided with inadequate instruments to perform this role.

7 Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 176, PC.DEC/176, 26 June 1997.

The mission was closed at the end of 2007 and an OSCE Office in Zagreb was set up with a new mandate, primarily focusing on the observation of domestic war-crime trials and the implementation of the housing care programmes.⁸

The OSCE Mission to Serbia⁹ was established in 2001 under entirely different circumstances than those which prevailed in Croatia and Bosnia and Herzegovina (the mandate was adopted on 11 January).¹⁰ First, it was not created against the background of a recently concluded conflict, but rather in the context of a regime change and an incipient democratization process. Second, the government issued the OSCE a genuine invitation rather than one given only formally and reluctantly under political pressure. And third, the mission was not to act as a corrective by observing compliance with international commitments, but rather to support a democratically elected government's efforts to implement the transformation process. The OSCE's presence in Serbia is therefore considered to be a "second-generation" mission. In institutional terms, this was also reflected in the fact that the mission was kept fairly small and compact and provided with relatively spare human and financial resources.¹¹ In terms of both actors and processes, the mission to Serbia worked in a heavily project-oriented fashion in the areas of media, justice, prison and police reforms, and the protection of human rights and national minorities. It organized a wide range of seminars, study tours, and training and educational events to disseminate best practices. In performing these roles, the mission worked less with high-level decision makers than with mid- and lower-level officials and employees. Security- and confidence-building measures and mediation also became important activities for the mission. Its engagement in southern Serbia, for instance, was characterized by efforts to act as an honest broker to mediate between ethnic groups and to work with all sides to seek solutions. The overarching aim of all this was to maintain co-operative relations with the government. The mission had neither cause nor the ability to pursue confrontational policies, provided as it was with both a weak mandate and a very limited power to impose sanctions. And although it had an explicit mandate to monitor democratic institutions, pro-

8 Cf. Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 836, Establishment of an OSCE Office in Zagreb, PC.DEC/836, 21 December 2007.

9 The mission's original title of "OSCE Mission to the Federal Republic of Yugoslavia" needed to be changed in deference to political reality several times – in February 2003 to the "OSCE Mission to Serbia and Montenegro" and in June 2006 to the "OSCE Mission to Serbia". For simplicity's sake, all references in this contribution shall be to the shortest, most recent form.

10 Cf. Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 401, Establishment of the OSCE Mission to the Federal Republic of Yugoslavia, PC.DEC/401, 11 January 2001.

11 In comparison to the other missions, however, the mission to Serbia employed an extremely high proportion of local staff, engaging additional international personnel (e.g. police instructors) for various projects. Furthermore, the work of the mission depended upon extra-budgetary contributions from external donors to fund specific projects, which accounted for nearly 50 per cent of total spending.

cesses, and mechanisms, watchdog activities were not a core element of its democratization strategy,¹² as this quote from a mission member illustrates: “We need to stop monitoring; it only leads to criticism”. Creating political pressure and advising on legislation only became priorities in 2003, when weaknesses in the democratization process and the inadequacy of the mission’s reaction became obvious. All in all, however, the mission to Serbia was more of a project manager than a promoter of democracy.

The Effectiveness of the OSCE Long-Term Missions: A Topic-by-Topic Comparison

The following section is concerned with the effects of the OSCE’s long-term missions and their contribution to the reform process at the mesopolitical level, illustrated with reference to several central policy fields. It is followed by a summary of the OSCE’s overall contribution to the democratization process and the effectiveness of varying intervention strategies.

Refugee Return

A comparative consideration of the OSCE’s effectiveness on the question of refugee return may be very illuminating given the completely different approaches it took to almost identical problems in different countries. While the OSCE failed in its attempts to persuade the Croatian government to adopt a policy of non-discrimination, in Bosnia and Herzegovina, despite a lack of co-operation, it was able to establish a highly credible threat of sanctions with the support of other international partners, including, most drastically, the power the OHR has had to dismiss obstructive politicians since 1997. The focus here was not so much on the actual physical return of the refugees, but rather on creating the preconditions that would allow refugees and displaced persons to decide freely whether they wish to return, central to which was the restoration of their property rights.

The OSCE’s efforts between 1995 and 1998, which focused primarily on mediation and co-operation, failed to bear fruit in either country. Ethnic minorities continued to flee from their homes in Eastern Slavonia (Croatia) and parts of Bosnia and Herzegovina. While, however, from 1998-1999, the OHR in Bosnia and Herzegovina was at least able to use its Bonn powers – following OSCE guidance – to pass progressive national legislation and to bring an end to the tactical games of the authorities (such as administrative delays), the OSCE in Croatia was fighting a losing battle and despite hard-fought negotiations, could only bring about incremental change. There were

12 Country-wide observation, of the kind practised by the missions in Croatia and Bosnia and Herzegovina, was simply impossible for structural reasons in the absence of field offices.

thus major differences between the basic legal environment and administrative procedures in each country: “With regard to the actual differences between Croatia and Bosnia and Herzegovina, it is a fact that the general situation in the two countries is very different, because the international community in Bosnia and Herzegovina is in the position to impose solutions, while in Croatia, we work through the political system and recommend solutions which have to be adopted through the domestic political institutions”.¹³ Only when the EU was able to offer Croatia the incentive of membership in return for a non-discriminatory return policy did some slow progress begin to be made. During the Račan era (2000-2003), the OSCE mission and other international actors ensured that a number of laws were passed and various programmes implemented, although they still did not succeed in closing all the legal loopholes that existed.

A comparison of the actual practice of property return also reveals major differences. In Bosnia and Herzegovina, the Property Law Implementation Plan (PLIP) process was already in place in 1999,¹⁴ but even though the OSCE’s role was broadly similar in both countries, consisting of continually observing local authorities and identifying deficits in both regulation and implementation, there has been no equivalent process in Croatia. In Bosnia and Herzegovina, the OSCE was able to exert political pressure on the housing commissions when they proved uncooperative. The replacement of members of the commissions by the OHR was often decisive for progress. In Croatia, the implementation of the programmes and laws – which were in any case deeply flawed – proceeded only piecemeal or hesitantly in the face of proliferating administrative obstacles, because all the OSCE could do was to repeat its admonishments. Only since 2003, thanks to the pressure from parliamentarians of the Independent Democratic Serbian Party (SDSS) of Croatia, has Prime Minister Ivo Sanader announced that he wanted to make a genuine effort to definitively address the problem. However, the new government did little in practice to ease the return of Serbian refugees, which created an unjust situation if we consider the region as a whole. Croatian Serbs, for instance, who as refugees had no right to temporary accommodation in Bosnia and Herzegovina, were also unable to return to their houses in Croatia. By contrast, Bosnian Croat refugees, thanks to the return of their property in Bosnia and a protected right to temporary accommodation in Croatia, often occupied two residencies.

The effects of the property return process on the flow of returnees were equally disappointing in both countries. In Bosnia and Herzegovina as a whole, only half of all refugees returned to regions where they were a minority. In Croatia, the proportion was even lower: Estimates suggest that only a

13 Interview with Peter Semneby, Head of the OSCE Mission to Croatia, Glas, 2 August 2002.

14 The implementation of the property laws in Bosnia and Herzegovina was one of the few examples of successful co-operation between the international organizations on the ground. With its field presence, the OSCE was one of the key actors.

third of Serbs returned to areas with a Croatian majority. Although it cannot be considered an objective means of measuring the success of efforts to promote return, as individuals that have been traumatized in a civil war often deliberately opt not to return to the place they have fled from afterwards, a comparison of the two countries can give a sense of the effectiveness of various democratization strategies. While the OSCE had succeeded in returning almost 93 per cent of occupied properties to their legal owners in Bosnia and Herzegovina by the end of 2003, only around 75 per cent had been returned in Croatia (July 2003). The repossession process was not completed in Croatia until the end of 2006. The operational implementation in Bosnia and Herzegovina therefore proved significantly more effective than the persuasion-based strategy the OSCE employed in Croatia.

Elections

The holding of regular elections in Bosnia and Herzegovina, which were increasingly free and fair, can be directly attributed to the OSCE's activity. It used its regulatory authority between 1996 and 2000 to organize a wave of elections in municipalities, cantons, entities, and at state level, which had a lasting effect. The OSCE made a positive contribution to democratization, above all by means of capacity building in local institutions, including the establishment of a permanent election commission, and the seamless hand-over of the entire administrative apparatus to national actors in 2001. Thus, at least in purely procedural terms, elections held in Bosnia and Herzegovina since 2000 at the latest have shown significantly more evidence of progress than those held in Croatia and Serbia. Yet all that glitters is not gold. These successes brought with them a significant number of unintentional side effects, and provoked counterproductive reactions, direct and indirect, which diminished the OSCE's positive contribution to the democratization process (see below). The most serious of these problems is the fact that these elections established new institutions and legitimized their representatives, who then turned their considerable powers against the very institutions they represent. The OSCE thus created a democracy whose very nature left it vulnerable to nationalists.

Media

Media sector reform and the protection of freedom of the press and freedom of speech were two of the Organization's priorities in all three countries (in Bosnia and Herzegovina only until 2001). The OSCE was able to achieve gradual improvements and generate positive momentum. The degree of press freedom and freedom of speech would probably have been significantly lower without the Organization. While the OSCE's strategy of co-operative dialogue in Croatia and Serbia meant that it was only able to achieve half-

hearted changes that always left leeway for political manipulation, in Bosnia and Herzegovina, it was able to lay the foundation for lasting progress by using the strongly interventionist measures available thanks to the OHR's Bonn powers. This remains true despite the government's current attempts to restrict journalistic activities in the Republika Srpska.¹⁵

Under the Tuđman regime, the work of the OSCE Mission to Croatia, which was based on a combination of naming and shaming and the provision of expertise, initially had no success. The positive effects of small reforms were mostly counterbalanced by negative measures. The media, and particularly the state broadcaster, HRT, were sources of power for Tuđman, which he absolutely did not want to relinquish. Nonetheless, all the criticism from abroad (the OSCE's social punishment, political pressure from countries such as the US) at least encouraged the leadership and – far more significantly for the future reform process – the democratic opposition of the time – to express some sort of rhetorical commitment to reform. Despite joint consultations with the OSCE and the Council of Europe, the major reform projects that followed the change of government (HRT reform and the Telecommunications Act) were not such major breakthroughs as had been hoped. Only the EU's increasing pressure on Croatia to fulfil the political criteria for membership led to the passing of a raft of new, improved media legislation in 2003, which was, however, substantially based on consultations with the OSCE. The OSCE had continually and critically reminded the government of its rhetorical commitments and had forged winning coalitions with local associations and NGOs. It was thus able to exert pressure on the government from both the top down and the bottom up. On the negative side of the balance sheet, however, the OSCE could not stop the government from leaving legal loopholes open (whether deliberately or through incompetence) and even strengthening restrictions in some areas. It is precisely these loopholes that have enabled Sanader's government to increase its influence on the Broadcasting Council since 2004, while contributing to the sharp increase in the number of legal actions brought against journalists. Despite many improvements, therefore, the legal framework in Croatia has proven to be far from perfect.

A strategy combining consensus-based persuasion politics and local projects produced no significant positive changes in Bosnia and Herzegovina until 1997. There was one chink of light in the form of Radio FERN (Free Elections Radio Network), which was operated by the OSCE and was the only radio station in the country that truly broadcasted to the whole country in the early years. Only after 1997, when the OSCE began to intervene much more robustly in the media sector, was it successful in reducing incidences of

15 The numbers make this abundantly clear: Bosnia and Herzegovina was positioned near the top of the Reporters Without Borders press freedom index in 2005 (21st of 167 countries) and even finished ahead of Germany in 2006. Croatia (54th) and Serbia and Montenegro (77th) could only reach the upper-mid section of the table. Cf. http://www.rsf.org/rubrique.php?id_rubrique=639.

hate speech, creating balance in media coverage, and thereby significantly improving the chances for free and fair elections. The OSCE's approach of effectively drafting laws for the protection of journalists and freedom of information and then having them enacted by the OHR led to the creation of a progressive legal framework (e.g. the abolition of imprisonment for libel in 1999). By contrast, the provision of structural support for microprojects at grass-roots level brought hardly any benefits, but rather contributed to the fragmentation of the media sector. The OSCE mission finally ended its involvement in the media sector in 2001, by which time it had, all in all, initiated and implemented a number of measures that significantly raised the level of press freedom in the country, placing it far ahead of Croatia and Serbia at this point in time.

The OSCE Mission to Serbia took a different tack. Superficially, the pattern was the same as in Croatia: positive draft laws were developed in consultation with the OSCE and the Council of Europe, but these were rejected in parliament, which forced the government to make compromises (or provided it with an alibi). However, instead of criticizing as in the case of Croatia, the mission to Serbia stressed co-operation; instead of forging a powerful alliance with local stakeholders and publicly shaming the government, it pleaded the cases of threatened journalists in confidential meetings with government officials – an approach that achieved little, at least in terms of promoting freedom of the press and freedom of speech. The mission could or would not intervene in one key aspect – the appointment of the Broadcasting Council. This, however, set back the reform of the media sector by years. It also led to the failure of the structural measures the mission enacted to increase the capacity of the state broadcaster, RTS. These did not show any kind of positive dividend until 2005, with the appointment of the Broadcasting Council. The mission's strategy of subordinating everything to partnership with the government – an approach that was questionable, at least with regard to the media sector – was clearly of limited effectiveness.

Human and Minority Rights

The OSCE's contribution to the protection of human rights and national minorities produced a mixed bag of results. The continuous monitoring of human rights by the OSCE missions certainly contributed to a steady improvement, but yielded only limited tangible results. On the other hand, interesting conclusions may be drawn from a consideration of the OSCE's engagement in establishing the ombudsman institution: In all three countries, the ombudsmen became important means of supporting the systems designed to protect human rights, but were not essential to them (as were the constitutional courts). Their effectiveness and the extent of their influence, however, remained generally limited, as state organs co-operated too little and the government did not provide them with adequate funding. There were however,

small but vital differences between the countries. In Bosnia and Herzegovina, in 1995, the OSCE appointed the staff of the institution and guaranteed their functional effectiveness until 2003. Ultimately, it handed Bosnia and Herzegovina a fully functioning institution for the protection of civil and human rights. In contrast, the OSCE Mission to Croatia was able to encourage the ombudsman in that country to better understand his role and to become more responsive to citizens. However, neither the OSCE's shaming and the criticisms of the EU, nor the recommendations of a parliamentary committee (i.e. a domestic actor) could help to counteract ongoing state restrictions on finances and personnel. In Serbia, the OSCE and the government already argued over the draft of a law to establish an ombudsman, which was only passed in 2005, although the OSCE mission had been lobbying for years.

The OSCE was also able to make a major contribution in the area of minority protection, even though it was unable to significantly accelerate the pace of reform. Croatia was required to passing a constitutional act for the protection of national minorities as a condition for joining the Council of Europe in 1996, but it was only in 2002 that the Croatian parliament finally fulfilled its obligation. In the run-up to the passage of the relevant legislation, the OSCE had played an important advisory and mediating role alongside the Council of Europe. In Serbia, too, OSCE expertise helped to ensure that two progressive minority protection laws were passed in 2002-2003. However, there, as in Croatia, there were shortfalls when it came to implementation. Both missions were able to generate a strong momentum for the establishment of organs for the political representation of minorities but failed to overcome the obstacles set by national employment policies in the civil service and the judiciary.

The reform of the education system in Bosnia and Herzegovina as part of the mission's efforts in the area of human rights revealed more about the OSCE's weaknesses than its strengths. Measures planned in the late 1990s as pragmatic solutions for returnee children became permanent and acted as gateways for nationalistic policies (two schools under one roof, see below). From around 2002, a strategy based on dialogue, co-operation, and mediation worked to shape opinion and raise the profile of the issue. However, the nationalists skilfully used the resulting debate for purposes of polarization and politicization. The more confrontational strategy pursued by the international community in response to this led to some legislative changes but also produced a sense of social solidarity, as many citizens saw their cultural identity attacked from outside. We must nonetheless not overlook the fact that there were improvements and enhanced integration of minorities in the majority of municipalities. In the most sensitive parts of the country, however, the steps taken tended to harden positions. The education system in Bosnia and Herzegovina thus remained in a precarious state; the schools, instruments for the propagation of stereotypes.

Rule of Law

The OSCE missions were able to create momentum in several niche areas and to initiate positive changes in the process of judicial reform, although this changed relatively little in the overall machinery of state power. In monitoring domestic war-crime processes, all three missions were united by their shared effort to depoliticize the way the courts deal with the past. In particular, the mission to Croatia achieved noteworthy successes with the monitoring report it issued in 2004-2005. The Ministry of Justice, which wanted its readiness to assume control of cases from the Hague-based International Criminal Tribunal for the Former Yugoslavia (ICTY) confirmed, initiated a number of changes to this end on the mission's recommendation. In addition, the OSCE contributed to the improved exchange of information between the three countries, which was necessary for the execution of various smaller and generally local processes that took place away from the headline-grabbing trials.

In struggling to establish the rule of law and the necessary radical reshaping of the judicial system, the OSCE came up against limits. The greatest influence was enjoyed by the mission to Bosnia and Herzegovina, which was able to use its regulatory authority and active on-site intervention to make a major contribution to the replacement of all the country's judges and prosecutors in 2001 and the implementation of the new code of criminal procedure in the years since 2003. The capacity-building and institutional measures taken in Serbia (e.g. prison reform and the training of lawyers) bore less fruit, as the mission there lacked the macropolitical and legal support that the OHR had created in Bosnia and Herzegovina by means of his authority to issue decrees. All told, the mission to Croatia had no way of opposing Tudman's arbitrary power and the undermining of rule-of-law principles before 2000. Its positive influence increased following the change of government in 2000, but it remained insufficient to enable comprehensive reforms.

Police Reform

The activities of the OSCE to reform the law-enforcement agencies in Croatia and Serbia, and the police in particular, were very similar. One supporting pillar consisted of operational measures restricted to a single region (the Police Monitoring Group in Eastern Slavonia, the Multiethnic Police Element in southern Serbia), which proved to be effective in achieving a relatively rapid stabilization of the security situation and aided in the professionalization of police conduct. In both countries, however, this instrument reached its limits when it attempted to solve structural problems. The responsibilities of the police did not stretch to bringing an end to interethnic hatred and property conflicts in Eastern Slavonia, and these ongoing problems led to fear among the Serbian minority, damaging the fragile relationship of trust between the

population and the police. In southern Serbia, the mission had hardly any influence on the way individuals were recruited to the multiethnic police units and could not stop the government from continuing to entrust key tasks to the gendarmerie, even though this security force was feared by the Albanian population.

At the central level in Belgrade, the OSCE Mission to Serbia made an honest attempt to bring about a comprehensive reform of the personnel system, particularly with regard to training. It was able to make a number of important small changes (e.g. the creation of the position of an Inspector General), as well as improving curricula and training programmes. However, the positive changes in the behaviour of some individual police officers did little to affect institutional failings such as politicization and centralization. In Croatia, by contrast, after the 2000 change of government, the OSCE's capacity-building measures fitted better within the overall package of reforms agreed with the interior minister, thus underpinning the general reform process in specific ways. Interestingly, projects and training courses at the mesopolitical level proved to be essential in ensuring that reforms became permanent during the critical phase of the change of government in 2003, as they continued uninterrupted once they had been initiated from above. A deliberate decision on the part of the interior minister would have been necessary to stop the process, but this was not possible or desirable against the background of Croatia's overall foreign-policy orientation towards EU accession. As a result, Croatia found itself well and truly locked in to a path of reform.

Southern Serbia

The OSCE played a consistently positive role in southern Serbia between 2001 and 2003, where it found itself in the right place at the right time with the right strategy. Mostly by means of confidence-building and mediation, it was able to improve the local situation incrementally as long as it neither upset Belgrade's power base (e.g. by calling for the withdrawal of the army and gendarmerie) nor lost the support of the highest office holders in the capital, which it enjoyed as long as the region's underlying instability was high on the agenda in Belgrade. By rapidly establishing multiethnic police patrols, the mission succeeded in significantly raising the population's sense of security. Initial institutional reforms in the media sector, such as the start of Albanian-language broadcasting, signalled a genuine willingness to reform on the part of the authorities. The work of mediating between the two ethnic communities bore fruit in the form of an agreement on election rules, which established a procedure for local elections that would promote integration. However, despite these early successes, in the medium term, structural reforms were very slow to emerge. The ability of the mission's confidence-building and training activities to spur on the democratization process seemed to de-

cline. But nor did it succeed in applying an approach that was more strongly focused on structures and/or institutions. The stagnation that set in after 2003 can thus be explained better in terms of a failure to adapt the OSCE's instruments than as a reaction to measures put in place during the early years.

Unintended Consequences: Counterproductive and Dysfunctional?

Comparing the range of impacts of the OSCE missions in terms of their various areas of activity reveals a paradox: Why was the OSCE able to achieve so much more in so many categories of reform in Bosnia and Herzegovina than in Croatia and Serbia, although the latter two countries are now generally considered to be more democratic – or at least more stable? The key to explaining this discrepancy lies in the counterproductive reactions and side effects triggered by the actions of the OSCE mission and other external actors in Bosnia and Herzegovina: “Ninety-five per cent of the international community’s activities were good, but the remaining five per cent caused real problems in the country.” (statement of an OSCE mission member). An entire essay could be written on these counterproductive effects, which can therefore only be touched up on here.

Bosnia and Herzegovina provides a perfect example of how, right from the start, a lack of progress in the protection of fundamental human rights and the guarantee of free and balanced media coverage counteracted the positive momentum that should have been generated by the first free post-war elections. The dispiriting victory of the nationalists went on to hamper reform in virtually every other area. The heated campaign atmosphere that returned with every round of elections led to an increase of human rights violations and attacks on journalists. A vicious circle was created, whose long-term negative effects have seriously obstructed the democratization process to this day. Further major problems emerged wherever the international community, including the OSCE, tried to realize their “political project” by deliberately influencing the political process and its results in order to strengthen multi-ethnic parties and groups. This was particularly evident in the media sector, where accusations of paternalism and censorship were rapidly raised, and the honourable motives of the international community were called into question, partly with justification. Ever since, the international community and its programmes, however positive these are, have been accompanied by mistrust and criticism.

The OHR became a firmly established extra-constitutional institution, which had a number of negative consequences. Although the OSCE had no influence over this institution’s creation, it often made use of the OHR’s instruments, which gave it a certain co-responsibility for these consequences. The OHR infringed basic democratic principles, particularly the separation of powers, the rule of law, and democratic responsibility, and thereby became

an obstacle to genuine democratic progress in the country. The lack of a sense of ownership over the laws decreed by the OHR, i.e. the identification of local opinion-leaders with the reforms, led to failings in implementation, which in turn necessitated further intervention by the international community. Restrictive measures that targeted specific parties or politicians only created a feeling of solidarity and increased the aggressiveness of those targeted. Because the international community, constrained by its mandate, could only influence official agencies, undemocratic practices and informal processes were free to thrive in other parts of society. The consequences were a genuine deficit of democracy and legitimacy in the country.

Which is not to say that the missions to Croatia and Serbia acted without making errors. This allows us to gain an initial insight of causal patterns between particular democratization strategies practised by the three missions and their unintended effects.

First, while operational democratization strategies generated pragmatic solutions in the short term, these same solutions could become written in stone in the medium- to long-term, thus blocking further reforms. Examples include the teaching of schoolchildren from different ethnic groups in separate groups “under one roof” in Bosnia and Herzegovina, which had initially been intended to ensure that returning children received local schooling, but later functioned as a means of ethnic segregation and the propagation of stereotypes, something that had been largely avoided by the creation of ethnically mixed classes in the former Yugoslavia. Equally, the recruitment of poorly trained Albanian police was initially unavoidable if a multiethnic police force was to be established. But when they failed to perform to the required standards and the training system stagnated, this led to a rapid loss of confidence in the medium term.

Second, co-operative democratization strategies relying on well-intentioned dialogue and the persuasive power of arguments, which are often seen as a panacea, also had unintended negative consequences: By becoming involved, the OSCE signalled that it would guarantee that rights and laws would be upheld, but it was unable to achieve this. The arbitrary application by state officials of laws that were in themselves good had the effect – at least temporarily – of contributing to a situation that was worse than if the laws in question had not been in place at all. For instance, some Croatian Serbs who returned to Croatia in expectation of an amnesty were immediately arrested, because the government did not feel itself to be bound by the relevant law. The failure to fully implement measures with which the OSCE had been involved also weakened the credibility of subsequent steps and led to a loss of trust in the international community. One finding from Bosnia and Herzegovina is also interesting: There it was precisely the public discussion and the attempt to initiate an exchange of opinions that contributed to the politicization of the topic of education. Nationalistic propaganda received the space it needed to flourish, which led to the polarization of positions and

turned the debate into a far more emotional affair than it needed to be, hampering in the process once more the search for pragmatic solutions. At times, the mission to Serbia also acted in a dysfunctional manner with its policy of giving priority to establishing close and co-operative relations with the government: Despite obvious legislative deficits and the violation of key norms, the mission remained conciliatory in order to avoid offending Belgrade with criticism. Quite aside from the lack of positive results, such a strategy of conciliation discredited precisely the local civil-society actors that needed foreign support, reduced the OSCE's moral authority, and signalled that international norms were open for negotiation.

Yet, third, neither were political pressure and a policy of conditionality always conducive to the OSCE's goals. The more strongly the international community, including the OSCE, pressed for the return of refugees to Croatia and Bosnia and Herzegovina, the more polarized was the reaction of people in the communities in which conditions were supposed to be established that would promote the integration of the returnees. The resulting tensions hit precisely those people who were supposed to benefit from external actors' pressure for refugee return. In Croatia, the OSCE's engagement was perceived as one-sidedly supporting a single ethnic group. The same perception hampered the creation of a strong basis for co-operation with official agencies. Reforms instigated and pushed strongly by external actors also revealed themselves as a Pyrrhic victory at the national level when the government ostensibly implemented change but used loopholes to stick to its previous practices by means of informal procedures. All in all, external pressure for reform produced ambivalent results in areas where there was some degree of contention in society.

Conclusion: No Perfect Democratization Strategy, but Many Small Victories

Which democratization strategies delivered the OSCE successes that the Organization could build upon in the future? In the light of negative experiences, what sort of measures should it steer away from? The starting point must be the OSCE's sobering overall record of success: None of the democratization strategies used by the OSCE proved effective over the entire period of the Organization's engagement. But this is no reason for despondency – the OSCE has enjoyed many small victories.

In geographically restricted regional contexts (southern Serbia, Eastern Slavonia), confidence- and security-building measures proved to be an effective intervention strategy that could bring about rapid change, open lines of communication, and facilitate agreements between opposed parties that laid the foundation for further democratization. The contrast is provided by the years 1996-1997 in Bosnia and Herzegovina, during which period the OSCE failed almost across the board. Improvements only came with the change of

strategy brought about by the introduction of instruments for direct implementation that was enabled by the Bonn powers of the OHR, which steadily raised the effectiveness of reforms in key sectors such as freedom of the press and of speech and refugee return. Only once this regulatory authority had been established was the OSCE in Bosnia and Herzegovina able to make lasting changes at the macropolitical level. However, it was also precisely the same measures that resulted in seriously counterproductive side-effects. They were thus both a blessing and a curse. The OSCE's effect can be compared to that of a good red wine: In moderate amounts, it has an invigorating effect, but overuse can lead to serious damage.

Capacity-building measures and projects were one of the cornerstones of democratization in Serbia, with which, however, the OSCE achieved only substandard results, as it was unable to have its reform intentions implemented at the macropolitical level and thus to achieve lasting changes. On the whole, therefore, the OSCE's concentration on actors and relationships was only capable of influencing things for the better in small ways, and these generally short- to medium-term improvements were usually unable to change the fundamental problems of the legal environment.

Exactly the opposite was true in Croatia, where the mission, with its rule-of-law-based approach, insisted to a far greater extent on securing a legal basis for democratic values and standards, while refraining from training measures focused entirely on behavioural change. But even here, while the OSCE was able to influence the results of the reform process, it could not initiate it or accelerate it by very much. The Organization's effectiveness depended critically upon the motivation of national actors, which, for example in Croatia, it only proved possible to systematically increase following 2000 by offering incentives (the promise of EU membership). This also had its positive aspects, as the OSCE was still occasionally able to "boost" the democratization process without running the danger of slowing it down by triggering hostile reactions. It was only in 2004-2005, with the transformation process already well advanced, that the Organization's activities began to produce genuine direct effects and to promote democracy in the country with any sort of effectiveness. This naturally raises the question of whether co-operative democratization strategies can only really succeed when they are no longer necessary, but remain ineffective when external efforts to force the pace of reform are urgently required.

Weighing up the pros and cons, we can note that the balance between co-operation and criticism in all three countries was one of the hardest things to get right when it came to choosing appropriate democratization strategies, and that errors of judgement at times produced negative effects with extreme rapidity. All in all, however, while negative reactions and side effects may be relatively easily dismissed in the cases of Serbia and Croatia, they played a major role in Bosnia and Herzegovina's problematic development and ex-

plain the discrepancy between the generally positive results achieved at the issue-oriented, mesopolitical level and the serious macropolitical failings.

The Closure and Restructuring of OSCE Field Operations: The Case of the OSCE Mission to Croatia¹

Introduction

The closure of the OSCE Mission to Croatia, the first large OSCE post-conflict field operation in the Western Balkans to come to an end, and the establishment of its successor, the OSCE Office in Zagreb, deserve to be studied carefully because of the various challenges that were met during the process. Key aspects include setting standards for evaluating whether a mission's mandate has been fulfilled, the creation of political forums to facilitate dialogue with the host country on the implementation of its commitments and, in operational terms, a well co-ordinated closure and restructuring implementation plan and after-action review process to help ensure that lessons were learned and fed into institutional memory.

It is difficult to define exactly when the work of downsizing and closing the Mission began given the many phases of its transformation since being created in 1996 (from the withdrawal of the Police Monitoring Group in Eastern Slavonia in 2000 to the closing of co-ordination centres in the field in 2002). The Croatian authorities began advocating the Mission's closure as early as the beginning of 2000, following parliamentary and presidential elections that represented a shift from the previous Croatian Democratic Union (HDZ) dominated government. If a single trend needs to be identified, it can be said that Croatia's move towards European integration influenced the progressive transformation of the Mission and its gradual downsizing. A critical phase definitely occurred in the autumn of 2004, when Croatia was granted candidate status by the European Commission and consequently started negotiations for European Union accession.

One could contend that the Mission's gradual closure was intimately linked to the start of negotiations for EU accession, as this implied the fulfilment of certain political criteria, such as the establishment of a stable and mature democracy and respect for fundamental human and minority rights. In fact, the OSCE Mission to Croatia, with its broad human-dimension mandate, had always promoted the fulfilment of OSCE standards and commitments in the field of minority rights, election legislation, war-crimes prosecution, refu-

¹ The views presented here are those of the authors and do not necessarily reflect those of the OSCE Secretariat or OSCE participating States. The authors would like to thank their colleagues John Crosby, Operational Support Officer, CPC/OS, for his valuable input on operational planning, and Pascal Heyman, CPC Deputy Director/Policy Support Service, for his comments, as well as other colleagues in the OSCE Secretariat for their assistance with this contribution.

gee return, and policing, as well as the strengthening of civil society. Most of the values and commitments supported by the Mission's work in assisting the host country coincided with the Copenhagen criteria.² This, however, does not mean that the OSCE Mission was merely a service provider working on behalf of the EU. Rather, it was an actor that pragmatically built a solid partnership with EU institutions over the years, mainly on the basis of its comparative advantages, such as its extensive field presence and institutional expertise on post-conflict issues.

On 21 December 2007, the OSCE Permanent Council decided to close the OSCE Mission to Croatia and to establish the OSCE Office in Zagreb. The following section explores, from the Mission's perspective, the various phases that can be identified in its progressive downsizing and some of the instruments and procedures that were used to ensure that the assessment of the mandate's completion was carried out properly. These included the creation of "Platforms" – political forums for meetings between the Mission and the host government (as well as other relevant international actors) to discuss and agree on specific benchmarks for completing programmatic activities as determined in the Mission's mandate. Verification of the implementation of agreed benchmarks was also a feature of the downsizing and closure process. In operational terms, the closure of the OSCE Mission to Croatia and its restructuring as the OSCE Office in Zagreb was a well co-ordinated and collaborative effort between the Mission and the OSCE Secretariat.³

Progressive Downsizing of Thematic Activities

Following the example set in 2001, when the first mid-term review of the OSCE Mission to Croatia was produced, the Mission embarked on a similar exercise in 2006 by outlining the progress made in all its six programmatic areas: political affairs/electoral reform, strengthening of civil society, media reform, police reform, rule of law, and refugee return and integration. The 2006 mid-term review formulated joint objectives that were agreed by the Mission with the host government. The review also listed specific tasks still to be fulfilled by the government and gave timelines for their completion.

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- 2 The Copenhagen criteria are the core requirements that need to be met by any country wishing to join the EU. First outlined by the Copenhagen European Council in 1993 and reinforced by the Madrid European Council in 1995, they cover the following areas: political – stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities; economic – existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union; acceptance of the Community *acquis* (the ability to take on the obligations of membership, including adherence to the aims of political, economic, and monetary union).
 - 3 Additional information on the closure of the OSCE Mission to Croatia and the establishment of the OSCE Office in Zagreb can also be found in the *OSCE Magazine*, June-July 2008 (see for example the article by former Deputy Head of Mission Todd Becker, Closure and Completion, Mission to Croatia, 1996-2007); and in *The Courier: Newsletter of the OSCE Office in Zagreb*, January 2008.

These agreed objectives and tasks were the first steps in the development of the benchmarks that needed to be fulfilled for the completion of the Mission's mandate.

The benchmarks were the result of close working-level consultations between the Mission and the host country. They were subsequently endorsed in the Platform meetings between ministers and their representatives and the head of the OSCE Mission. The form and content of the benchmarks varied greatly from case to case. Some required the adoption of specific legislation, while others concerned the implementation of existing legislation through the adoption of action plans and specific instructions, or the earmarking of specific funds to improve the functioning of domestic institutions. To address outstanding refugee return and integration issues, one benchmark required the resolution of a specific number of housing-care cases for former occupancy/tenancy rights (OTR) holders⁴ through the allocation of apartments. Benchmarks in the field of war-crimes prosecution involved a complex mix of legislative changes, reviews of proceedings, and capacity-building activities.

The Mission's extensive network of field offices was utilized to verify that the agreed benchmarks had been fully achieved at municipal and local levels. Local and municipal implementation of benchmarks was the primary challenge that the Mission faced, since progress reached at the national level was not necessarily translated into action in the country's smaller subdivisions. By mid-2007, however, the Platform model was also being applied in the field, with the involvement of local officials to ensure proper implementation at municipal and county levels.

The 2006 mid-term review, which was presented to the OSCE Permanent Council in June of that year, outlined the substantial progress that had been achieved towards meeting benchmarks in four out of six fields, where only a few additional corrective efforts by the government were required. Activities in these areas were hence considered to be completed from the point of view of the Mission and the participating States. The first concrete steps towards downsizing the OSCE Mission to Croatia were taken at the end of 2006, when, in consultation with the OSCE Secretariat and the Belgian Chairmanship, it was decided to close four of the six programmatic areas of activity: political affairs/electoral reform, strengthening of civil society, media reform, and police reform.

4 Occupancy Tenancy Rights (OTR) refers to a former Yugoslav legal procedure governing the tenure of socially-owned property (apartments) by tenants, who were known as occupancy-tenancy rights holders. OTR holders enjoyed more rights than lessees (with regard, for example, to the exchange of apartments and the delegation of their tenancy rights to a successor) but they could not be characterized as property owners. Croatian Serbs who left Croatia – whether voluntarily or involuntarily – at the start of the armed conflict had this right cancelled in court proceedings in light of allegedly “unjustified” six-month absences from their apartments. Serbia claims compensation for former OTR holders on an individual basis, while Croatia offers a housing care programme.

The decision to close these four areas was not only taken on the basis of progress achieved in general, but also specifically because they were the most advanced in terms of adopting corrective legislation. The Croatian government had made a special effort to meet the benchmarks that would enable the closure of these programmatic units.

These benchmarks had been agreed upon in the course of further Platform meetings, this time with the Croatian Ministry of Foreign Affairs. They dealt with the following in particular: establishment of a stable electoral system with a permanent supervision body; the adoption and implementation of a set of laws and strategies relating to civil society and the development of this sector and its co-operation with the government; the adoption of amendments to the Law on Croatian Radio Television and the Law on Electronic Media, combined with the decriminalization of libel for journalists and the resolution of the conflict-of-interest issue concerning the ownership or co-ownership of local print and electronic media by local authorities; and the institutionalization of an efficient, modern police system through the introduction of community policing and the streamlining of procedures for handling interethnic incidents.

Although the Mission had closed the relevant units and drastically reduced the number of staff working on these issues in the field by the end of 2006, questions related to electoral reform, freedom of the media, and the conduct of the police in minority return areas continued to be scrutinized on an *ad hoc* basis in order to verify the sustainability of the commitments agreed to by the Croatian government.

Enduring Post-Conflict Challenges: Refugee Return and Rule of Law

As can be evinced from the mandate of the OSCE Mission to Croatia, issues related to the return of Croatian Serb refugees and internally displaced persons (IDPs), the legal framework for the protection of national minorities, and the entrenchment of the rule of law (including the establishment of an impartial and accountable system for the prosecution of war crimes, regardless of the ethnicity of the perpetrators) have always been at the core of the activities of the OSCE field presence in the country. The complexity of these issues and their regional ramifications in terms of post-conflict rehabilitation and reconciliation made the identification of benchmarks and the verification of implementation more difficult.

Nonetheless, the 2006 mid-term review also defined benchmarks and joint tasks in these areas, specifically in reference to the housing of refugees, the infrastructure of minority-return areas, the implementation of the Constitutional Law on National Minorities (CLNM), the strengthening of domestic human-rights institutions, the prosecution of war crimes, and the transfer of

ICTY Rule 11 *bis* cases.⁵ The review anticipated that the Croatian government would need to make a major effort to fulfil the mandate of the OSCE Mission in the areas of refugee return and rule of law during 2007.

It was in these two areas that the OSCE Mission to Croatia had established a solid reputation and built its own institutional memory. With regard to refugee return, the Mission's activities focused on the provision of adequate housing to the returning minority population (including repossession of private properties, reconstruction of war-damaged residential properties, and the implementation of the housing care programme for former occupancy/tenancy rights holders), the restoration of citizenship and social protection rights to returnees, and the improvement of the communal infrastructure in minority-return areas (electrification, water supply, and roads).

For many years, the Mission's activities in the area of rule of law focused on the adoption and implementation of the CLNM, monitoring all war-crimes proceedings taking place in the country (including the Rule 11 *bis* cases), and monitoring civil and criminal proceedings involving basic rights of persons belonging to national minorities, and refugees and IDPs. It also carried out extensive work to strengthen domestic human rights institutions (constitutional court and the ombudsman's office).

In both these remaining areas, the Platforms had given a certain impetus to the dialogue taking place between the Mission and the Croatian government. Nonetheless, the slow pace at which corrective legislation was adopted and the even slower implementation of regulations at the local level (which was diligently and constantly verified by OSCE staff) were preventing further progress. In addition, the wide variety of different interlocutors, ministries, state offices, and local self-government agencies involved in these areas complicated the dialogue between the Mission and the government. For example, in its effort to ensure the adequate representation of national minorities in the public administration, judiciary, police, and local self-government agencies, the Mission had to work with a highly diverse pool of institutional actors at ministerial, county, and municipal levels, primarily in the context of already existing complex internal arrangements within the Croatian public administration.

The Concept of "Platforms" to Facilitate Dialogue on Commitments

The concept of the "Platform", as discussed above, did not grow out of a blueprint. It rather emerged pragmatically and under a different name in the course of 2003 when the Mission felt the need to organize ministerial-level

5 Rule 11 *bis* of the ICTY Rules of Procedure and Evidence governs the transfer of war-crimes cases in which the ICTY issued an indictment, but the case had to be passed to the domestic judiciary in accordance with the ICTY completion strategy. An OSCE/ICTY agreement of 2005 mandates the OSCE to monitor those proceedings.

meetings to enhance its dialogue with Croatia's then centre-left government. The OSCE Mission therefore took the initiative to organize *ad hoc* meetings with the then Minister of Public Works and Reconstruction, Radimir Čačić, on issues pertaining to the refugee-return portfolio.

In addition to the OSCE Head of Mission, Peter Semneby, participation in the meetings was also extended to the Head of the European Commission Delegation, the US Ambassador, and the UNHCR Resident Representative. These meetings thus provided an opportunity for the international community principals to speak with one voice, articulating their views and requests in a coherent manner and according to their respective mandates and strategic interests (the European Commission with regard to EU accession conditionality; the US in connection with NATO political conditionality; the UNHCR with respect to its operational mandate on refugee return; and the OSCE Mission with regard to the fulfilment of its mandate by the host country). While these meetings were *ad hoc* at first and conformed to no more than a general agenda agreed by the participants, they eventually became more structured with the introduction of annotated agendas and talking points agreed jointly between the international community principals.

When the meetings started in 2003, their main topic was the legal and administrative design of the housing care programme, which had been adopted by the Croatian government in June that year. They were extended to cover other issues of particular interest to the international community representatives, such as property repossession, reconstruction, re-electrification, and the Sarajevo process on refugee return. Over the years, the Platform also gained a more complex structure, with preparatory working groups focusing on the analysis of inputs coming from the field and their articulation in the form of requests to the central government. The Platform concept thus emerged as a forum that the international community could utilize to deliver technical and political *démarches* to the host country. It was, in particular, a crucial mechanism with regard to delicate technical issues that could not easily be solved at the working level.

As of mid-2005, following a proposal from Ambassador Jorge Fuentes, the newly appointed Head of Mission, these meetings were convened on a monthly basis. The aim of this was to keep a closer eye on the implementation of various programmes in the area of refugee return.

At the beginning of 2006, two additional Platform formats were created – one at the Ministry of Foreign Affairs (MFA), regrouping all six thematic areas – and one at the Ministry of Justice (MoJ), specifically devoted to war-crimes prosecution, where the OSCE was joined by the Delegation of the European Commission and the ICTY Liaison Office. These two additional Platforms also had their pros and cons: The MFA Platform brought together such a large and varied team of local interlocutors on various issues that its meetings could become bogged down. While the Platform at the MoJ had the advantage of being more focused, it suffered from the fact that it could only

advocate and articulate demands to the Ministry of Justice and to the chief state prosecutor. This meant it had no influence on the work of local and county courts, where most of the problems with regard to war-crimes prosecution were observed by OSCE monitors.

Regional Initiatives and Mission Closure

Croatia has been a partner in the two OSCE facilitated regional initiatives – the Sarajevo Process⁶ on refugee return, which was launched in January 2005, and the Palić Process,⁷ which started at the end of 2004 to facilitate inter-state co-operation at the level of practitioners and eliminate the remaining legal barriers to inter-state judicial co-operation on war-crimes trials.

While these two initiatives added a regional dimension to the Mission's mandate, the nature of the mandate itself remained unchanged. However, the creation of these multilateral forums in which regional co-operation was supposed to stimulate the adoption of certain measures in the field of refugee return and war-crimes prosecution increased the number of activities the Mission staff were required to perform at a time when the debate over the downsizing and closing of the Mission had already achieved a certain momentum.

In addition, the Sarajevo Process, which was a more political and probably more controversial initiative for Croatia, as it is the country of origin of most refugees in the region, was considered a test of Croatia's ability to fulfil its commitments in the field of refugee return. While co-operation on refugee return within the context of the Sarajevo Process was expected to be completed by the end of 2007, its first phase – the adoption of the road maps (with agreed benchmarks and commitments regarding the removal of the remaining obstacles to refugee return) by the various signatory states – has still not been finalized. However, it has to be stressed that Croatia has progressively met most of the requests made by the international community and

6 The Sarajevo Process stems from the January 2005 Sarajevo Declaration, in which Bosnia and Herzegovina, Croatia, and Serbia (joined by Montenegro in 2006) agreed to remove remaining obstacles to regional refugee return through the compilation of national road maps and a regional matrix. Two issues remain to be resolved before the road maps are adopted: lost occupancy/tenancy rights in Croatia and the so-called convalidation issue. The Sarajevo Process is facilitated by the OSCE, the UNHCR, and the European Commission.

7 The Palić Process promotes inter-state judicial co-operation in war-crimes proceedings between Bosnia and Herzegovina, Croatia, and Montenegro, focusing in particular on issues such as the extradition of nationals and the transfer of judicial proceedings. It originally stemmed from expert-level meetings facilitated by the OSCE's Conflict Prevention Centre in 2004 and progressively gained a political dimension through the convening of ministerial meetings. The Palić Process has so far functioned successfully at the expert level, pending a political summit that should facilitate the removal of the remaining legal barriers. It is facilitated only by the OSCE but enjoys the external support of the EU and the ICTY.

other signatory states, the one major exception being the issue of compensation for former OTR holders who do not wish to return to Croatia.

Similarly, the Palić Process, conceived as a technical forum for experts to discuss inter-state judicial co-operation on war-crimes trials, was a partial success. In particular, it succeeded in catalysing co-operation among prosecutors from all the signatory states. Nevertheless, it has not come close to bringing about the necessary legislative changes that would result in the removal of barriers to the extradition of each signatory's nationals and the transfer of proceedings. However, on the whole, Croatia can be said to have played an active role in the Palić Process. The absence of political progress can be ascribed to the lack of adequate mutual trust between political elites in the signatory states.

The Sarajevo and Palić processes had an impact on the consultations over the closing of the Mission, as some OSCE participating States regarded progress in these processes as a test of the authenticity of the commitments and pledges made by the Croatian government. A number of participating States also used a lack of progress, particularly in the Sarajevo Process, to insist that the closure of the Mission would only be possible under conditions of full mandate completion. Since the Palić Process was seen as less polarizing, its impact on the negotiations on mission closure was more limited.

Negotiations on the Closure of the Mission and the Opening of the OSCE Office in Zagreb

Negotiations on the closure of the OSCE Mission to Croatia and its possible restructuring began following a visit by the OSCE Chairman-in-Office, Spanish Foreign Minister Miguel Angel Moratinos to Dubrovnik on 6-8 July 2007. During his participation in the Croatia Summit 2007 on "Europe's New South", and in talks with Prime Minister Ivo Sanader and Foreign Minister Kolinda Grabar-Kitarović, the Chairman-in-Office announced his support for the closure of the Mission by the end of 2007. At the same time, he also called on the authorities to work closely with the Mission to fulfil the remaining obligations and responsibilities.

The process that resulted in the adoption of OSCE Permanent Council Decision No. 836 stipulating the closure of the OSCE Mission to Croatia and the opening of an OSCE Office in Zagreb lasted until the end of 2007. The Mission started by setting concrete benchmarks that the Croatian government had to fulfil by the end of the year, thereby demonstrating considerable progress on the two remaining mandate-related areas – refugee return and the monitoring of war-crime proceedings. With regard to refugee return, the Mission developed concrete and verifiable benchmarks, such as the physical allo-

cation of 1,400 apartments to former OTR holders who had applied for the housing care programme.⁸

An innovation introduced in 2007 was the transfer of the Platform format to the field in Benkovac, Sisak, Vukovar, Gospić, and Knin, which aimed to ensure that local authorities there would also have knowledge of commitments taken on by the central government with regard to the outstanding refugee-return and rule-of-law issues. The Platforms, organized in the form of information sessions, took place in some of the most sensitive areas affected by the war with the participation of ministers and state secretaries and several representatives of the Zagreb-based diplomatic community.

It is difficult to assess the impact of these Platform meetings in the field. Even if they did not add anything new to the debate over the outstanding issues, they assisted in crystallizing and reinforcing local authorities' understandings of the political commitments agreed on at national level, particularly with regard to refugee return and minority issues.

During the first few months of 2007, the OSCE Conflict Prevention Centre (CPC) had already begun to draft background papers on several possible options for the follow-up to the OSCE Mission to Croatia. These reflected the different views that existed among participating States, which, on the one hand, were concerned with ensuring mandate completion, particularly with regard to the two outstanding areas, but, on the other, also favoured a considerable reduction in the Mission's size. The options proposed ranged from the creation of a follow-on office to the establishment of a mixed body of national and international legal experts to oversee the monitoring of war-crimes proceedings on an *ad hoc* basis.

Negotiations on closure and a successor office were conducted by the Spanish Chairmanship following the Ministerial Council Meeting in Madrid in late November. The most contentious issue in the discussion among participating States was whether to include refugee return within the mandate of the Office in Zagreb, which was something the host country opposed but was considered essential by a number of delegations. Consensus on the final text of Permanent Council Decision No. 836 was reached in the Permanent Council session of 21 December 2007, at which participating States agreed on a "housing care formula" that allowed the OSCE to retain a significant part of the refugee-return portfolio without the regional aspect of the Sarajevo Process. The new Office would be based in Zagreb and would have no field offices.

On the monitoring of war-crimes proceedings, Permanent Council Decision No. 836 stipulated that the Office would continue to perform this func-

⁸ According to the road map drafted in the context of the Sarajevo Process, Croatia is to construct 7,000 apartments for former OTR holders who have applied for housing care by 2009. Croatia committed itself to building 1,400 apartments in 2007, and the remaining 5,600 in the two years to follow.

tion with regard to cases that were under domestic judicial authority, those initiated by the ICTY and transferred to Croatia, pursuant to Rule 11 *bis*, and “Category II” cases.⁹ The Office also retained its mandate over aspects of inter-state judicial co-operation on war-crimes prosecution related to the Palić Process. This issue was particularly crucial to address, as it is anticipated that it will take at least five years to deal with the remaining war-crimes cases outside the ICTY referral context.¹⁰

Operational Aspects of Mission Closure and Restructuring

On 21 December 2007, the Permanent Council decided to close the OSCE Mission to Croatia and establish an OSCE Office in Zagreb with a focus on issues related to war-crimes monitoring and reporting on the residual aspects of the implementation of the housing care programmes in Croatia. The Office’s duration was one year (until 31 December 2008), with extensions and possible changes of its mandate subject to new decisions of the Permanent Council, as is the case for all OSCE field operations.

As a consequence of being restructured and downsized several times over a number of years, at the time of its closure in 2007, the OSCE Mission to Croatia comprised a Mission headquarters (in Zagreb) and five field offices (in Sisak, Knin, Zadar, Vukovar, Osijek) with a total staff of 108. A revised 2008 unified budget proposal that reflected the financial implications of the establishment of the OSCE Office was also presented to the participating States by the Secretary General at the end of 2007. Collaborative planning between the Mission and the Secretariat began informally in the summer of 2007, including a visit to Croatia by representatives from the CPC Operations Service, and the Secretariat’s Departments of Human Resources and Management and Finance. Following the Permanent Council decision on 21 December, formal planning commenced with the publication of a joint OSCE Office and Secretariat implementation plan on 18 January 2008.

The participating States discussed the size, staff composition, and budget of the Office in the Advisory Committee on Management and Finance (ACMF) in the context of the discussion on the 2008 unified budget. The Office’s total staff, which was one of the more difficult issues to negotiate, was finally set at 34.

Within the Secretariat, the CPC’s Operation Service acted as the main coordinator of closure and restructuring activities involving the Mission/Office,

9 “Category II and III” war-crimes cases are those that the ICTY fully (Category II) or partially (Category III) investigated but is not able to bring to prosecution due to its completion strategy. These cases have been transferred to local judicial authorities as a result.

10 The monitoring of war-crimes proceedings refers to the single ICTY-referred war-crimes case and the numerous other cases the Mission has been following for over six years. The monitoring of war-crimes trials by the Mission, and now the Office, occurs within the framework of the OSCE-ICTY 2005 Co-operation Agreement.

the CPC's Policy Support Service, and other departments of the Secretariat (Management and Finance and Human Resources). An "Implementation Plan for the Closure of the OSCE Mission to Croatia and the Establishment of an OSCE Office in Zagreb" was drafted collectively. The implementation plan foresaw two phases, considering the closure of the OSCE Mission and the subsequent establishment of the OSCE Office as distinct events. However, the two events were linked in terms of administrative arrangements to enable the smooth evolution of the OSCE's presence in Croatia.

Phase 1 started immediately following the Permanent Council decision of 21 December, although some informal preparations had already commenced in anticipation. Phase 2, the establishment of the OSCE Office in Zagreb, started on 1 January 2008, when the Office became an entity with a formal status. Both phases dealt with an array of issues related to the closure and the establishment of a different type of field presence – including staffing requirements, contracts, severance pay, archiving of files, assets, and ICT-related matters. An after-action report on the implementation of the closure and the establishment of the new Office was also produced in mid-summer 2008, co-ordinated by the CPC's Operations Service. The after-action report assessed the planning, preparation, and execution of the closure and restructuring. Both the implementation plan and the after-action report were key elements in the operational planning of the closure.

Concluding Thoughts: Lessons Learned and Best Practices

The closure of the OSCE Mission and its subsequent establishment as an Office has been significant in terms of lessons learned and best practices, both at the political level and in terms of the administrative, operational, and technical dimensions.

Politically, there was general agreement that closing down an OSCE field operation must be a success for both the host state and the Organization. Setting conditions for the closure by means of dialogue and the transparent exchange of information with the host government and other international interlocutors was crucial. Creating appropriate mechanisms for assessing the completion of the Mission's mandate – such as the Platforms – both at national and local levels, and setting concrete benchmarks were also important, as was the monitoring of implementation, in particular from the field.

In the decision-making process, the excellent relations between the Chairman-in-Office, the host government, other participating States, the Secretariat, and the Mission, which were based on openness, mutual consultation, and close co-operation, also contributed to a successful closure and restructuring process that included so many political and administrative challenges – from staffing composition, to the content of a new mandate, to budgetary and technical issues.

Operationally, the implementation plan and the after-action report provided a well thought-out and much appreciated road map for the Mission/Office and the Secretariat. They ensured that joint action was co-ordinated and planned inclusively and that Mission members were kept informed and involved to the greatest extent possible given the uncertainties surrounding the entire process. They also constituted a major endeavour on the part of the OSCE Secretariat toward identifying lessons learned and best practices that cover the entire spectrum of operations involved in the closure of a field operation and its establishment as a new structure. Thus, from the perspective of institutional memory, the change-management practices adopted in Croatia in late 2007 and early 2008 are truly a benchmark for similar operational activities elsewhere within the OSCE area.

Macedonia and Its OSCE Mission 2006-2008: Trouble Making the Grade¹

Forming the 2006 Government: New Faces, New Style?

When Macedonia's prime minister, Nikola Gruevski, and his ruling VMRO-DPMNE² party sought to renew their popular mandate on 1 June 2008 in an early election, they were able to look back on just under two years of an administration full of highs and lows.

In the summer of 2006, Gruevski's party had convincingly won the parliamentary elections in a coalition with several smaller centre-right parties, relegating then serving prime minister, Vlado Bučkovski, and his Social Democratic Union of Macedonia (SDSM) party to opposition. This was just the second electoral success that the VMRO-DPMNE had achieved in Macedonia's 17 years of independence.

The new government contained a large number of new, young politicians, whose profiles had previously been low or who had been recruited from positions abroad.³ The average age of ministers lay around the mid-thirties.⁴

Despite initial criticism of the government's alleged lack of experience, Gruevski remained true to the direction of his campaign, which had promised not only a new politics, but also fresh faces to help him implement his electoral programme for "rebirth in one hundred steps". This was evident not only in the selection of ministers from the VMRO-DPMNE, most of whom came from among his inner circle, but also in the decision on ministers from the coalition partners, all of whom had to be approved by the new prime minister. This already demonstrated Gruevski's future style of government, which was to be characterized by the concentration of power at the highest level and the reservation of ultimate decision-making authority for Gruevski alone, who was therefore very much the dominant force within the coalition. He also reached an agreement with his coalition partners, the New Social Demo-

1 The current contribution reflects the personal views of the author and not those of the OSCE, the government of any participating State, or the OSCE Spillover Monitor Mission to Skopje.

2 Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity.

3 Before being called to join the government, deputy prime ministers Gabriela Konevska and Zoran Stavrevski had held positions at the Stability Pact for South Eastern Europe and the World Bank. Vele Samak, Gligor Tasković, and Ivo Ivanovski, ministers without portfolio whose responsibilities include attracting foreign investment, had previously worked for multinational companies.

4 At 36 years of age, the prime minister was average for the government.

cratic Party (NSDP) and the Democratic Party of the Albanians (DPA),⁵ as well as with a number of smaller parties, to make the VMRO-DPMNE manifesto the basis of the programme of government. This left the other partners little chance of implementing their own programmes, to the extent that they had any. There was a shared expectation that the programme, heavily focused on economic issues, would also solve the country's other problems. This went so far that even the DPA agreed to a moratorium on the discussion of ethnic issues and legislative change based on the Ohrid Agreement for the first six months of government, thereby distancing itself from its key goals as a party, which were entirely concerned with ethnic Albanian issues. This was motivated by the desire to participate in the government at all costs, and the threat of political extinction that the DPA faced were the Democratic Union for Integration (DUI) to join the government.

The first decisions taken by the cabinet demonstrated a continuity of political direction: Taxes on agricultural products were reduced, which was intended as a sign of support for the dominant agriculture sector of the Macedonian economy. In early 2007, the government agreed to gradually introduce a flat income tax of ten per cent. Public sector wages were also raised, in order to increase the spending power of state employees.⁶

In December 2006, when the new government had been in power for one hundred days, a cabinet session was shown live on prime time television in which each minister reported their department's success to the people and to the prime minister. On closer examination, however, this slickly organized media spectacle is revealed to have contained little of substance, being rather an attempt to have the largest possible effect on public opinion. This attitude has continued to be evident in virtually all the decisions made by the prime minister and his cabinet, and foreign public-relations consultants have been engaged to provide ministers with professional advice. In no time at all, this succeeded in driving the popularity of the prime minister and his government to unprecedented heights, leading to a change of mood among the populace and a general feeling of a new beginning.⁷ The professional marketing of even the least significant decisions made by the government or the prime minister lent the leadership the appearance of having opened a new chapter in

5 The NSDP had split from the SDSM in 2005. It is led by the co-founder of the SDSM, Tito Petkovski. The DPA had been a coalition partner of the VMRO-DPMNE from 1998 to 2002. In the 2006 elections, it had lost the election among ethnic Albanian voters to the DUI, but was chosen as a coalition partner on the basis of its greater ideological compatibility. The DUI protested against this by boycotting the parliament and taking to the barricades, believing that because it had won a majority of the Albanian vote, it was the legitimate coalition partner. However, coalition negotiations between the DUI and the VMRO-DPMNE collapsed after a few meetings, as arguably neither side was seriously interested in co-operation.

6 Macedonia has around 120,000 public-sector employees.

7 Cf. the *UNDP Early Warning Report Macedonia*, published in December 2006.

the eventful history of the country, which would very soon lead to undreamt-of success.⁸

Albanian Power Struggles and the Badinter Majority

For the ethnic Albanian partner in the coalition, the DPA, which had suffered politically and financially during its four years in opposition, government above all represented an opportunity to consolidate its position. This led, in the first few months of the government, to a bitter struggle between the DPA and the DUI for predominance in the Albanian camp. As is usual when power changes hands in Macedonia, public-sector employees and individuals in key positions that were loyal to the DUI were quickly replaced by members of the DPA.⁹ One of the clearest examples of this process concerned the rector of the State University of Tetovo, which had only been legalized in 2004. Known to be a DUI sympathizer, he was summarily removed from office by the education minister on charges of corruption and mismanagement.¹⁰ As well as the Albanian parties' "jewel in the crown", the University of Tetovo, the policy of replacing key personnel affected above all high-ranking members of the police – a not inconsiderable means of ensuring predominance in all areas of life. The replacements, although they were officially justified in terms of lack of qualifications or mismanagement, were in reality made for tactical reasons: to strengthen and consolidate the position of the DPA relative to the DUI.

This policy was also intended to achieve another goal: The DPA's concern was to increase the size of its smaller parliamentary group by attracting disaffected former DUI representatives. This would not only deprive the DUI of its main argument in favour of participation in government – its claim that it represented the majority of the ethnic Albanian population – it also had practical consequences for the governing coalition's attempts to secure a majority among members of parliament representing minorities. The coalition lacked the double "Badinter majority", as the bulk of the minority representatives belonged to the opposition.¹¹

8 The concentration largely on VMRO-DPMNE topics in the government programme meant that it was mainly the senior party in the coalition and its leader, Prime Minister Nikola Gruevski, that benefited from the increasingly favourable views of the electorate.

9 This process also applies, in a slightly weakened form, to the VMRO-DPMNE and the NSDP, which replaced staff members who were loyal to the SDSM with their own party members in many instances. This can be explained by the complex interconnectedness of all areas of public life and party political interests.

10 Although this was against the law and the statutes that guarantee the autonomy of universities, and although the DUI was up in arms about the decision, the DUI ultimately had to back down, partly because the evidence brought against the rector was overwhelming.

11 The double majority, also known as the Badinter majority, is a constitutional provision that requires not just the votes of the majority of parliamentarians to be taken into account, but also those of the majority of representatives belonging to ethnic minorities. It was introduced following the conflict in 2001 and applies to all decisions relating to ethnic

Even though the coalition had agreed – perhaps for the very reasons just outlined – to table only legislation relating to economic matters during the first six months and to postpone all ethnic issues for the time being, the Badinter majority would need to be secured some time or another.

Despite attempts aimed at “winning over” DUI parliamentarians – who vociferously complained of attempts at intimidation or bribery – the DPA was unsuccessful in attracting any further members of parliament to its side. This is where the DUI’s junior partner, the Party for Democratic Prosperity (PDP),¹² came in. Before the election, it had drawn up a joint list of candidates with the DUI, and was represented by three members in parliament. The DPA set to work here, too, offering the PDP an immediate role in the government – a genuinely tempting offer, considering that the PDP had only entered into its alliance with the DUI before the election on the expectation that the latter would be certain to have a part in the ruling coalition. After considerable toing and froing, the PDP leadership decided to join the governing coalition and the party’s chairman announced the change of sides in June 2007. However, two of the PDP’s three members of parliament went against their party’s leadership and remained with the DUI. This led to the unique situation of one party being simultaneously a member of both the government and the opposition.

Under continued pressure from the DPA, the DUI decided to boycott parliament once again in early 2007. It had chosen a convenient time to do this, as parliament was due to vote on a number of important reforms within the process of overhauling the judiciary – a key prerequisite for Macedonia’s integration with the EU. A vital aspect of this reform package, the reappointment of the State Judicial Council, which should be responsible for protecting the independence of the judiciary as well as for appointing and dismissing judges, needed a Badinter majority to approve a candidate list consisting of suggestions made by the president and by the governing coalition. Feeling that its views were not being taken seriously enough, the DUI withdrew its members from the parliament, thereby blocking the vote.

Given the importance of these reforms for Macedonia’s integration in the Euro-Atlantic community, which can only be achieved on the basis of the largest possible consensus among the political elite, locally based representatives of the international community intervened and offered their services as mediators.¹³

minority issues. It is named after the French jurist and politician Robert Badinter, who introduced the concept of the double majority, and who, alongside the former German president Roman Herzog, played a major role in framing the Macedonian constitution.

12 The PDP is the oldest ethnic Albanian party in Macedonia.

13 Since the 2001 conflict and the subsequent signing of the Ohrid Framework Agreement, the EU and the USA, who co-signed the agreement, have been seen as guarantors of the treaty and have participated in its implementation as mediators on several occasions. Because the EU and NATO have made the implementation of Ohrid a precondition for membership of those organizations, they have once more been involved in mediating activities in this case.

Even though the precarious situation had largely been created by the DUI, their boycott of the parliament was taken as an opportunity to bring the leaders of all the major parties together to find a common way to approach the most important reforms. In the subsequent meetings between the VMRO-DPMNE and the DPA, on the government side, and the SDSM and the DUI, on the side of the opposition, it soon became clear that the need to negotiate was greatest on the part of the DUI, which wanted to use the situation to once again support its claim that it should participate in the government by stressing its ability to block proceedings. However, with the sides remaining deadlocked over this question, the government and the DUI agreed to hold a dialogue on a number of issues that the DUI named as preconditions for supporting the reform legislation in parliament. These included the use of the Albanian language throughout the entire territory of Macedonia, reparations for former National Liberation Army (UÇK/NLA) veterans, and the way the government should be formed in the future, which, according to the DUI, should require a Badinter majority. This last demand was vehemently rejected by the VMRO-DPMNE, which had been nominated by its coalition partners to lead negotiations with the DUI, but working groups were formed to deal with the first two topics. By the end of May, under EU and the US mediation, all sides agreed to steps that could contribute to a solution to the language issue and the payment of reparations to all the victims of the 2001 conflict.¹⁴ Subsequently, the DUI decided to return to the parliament after a four-month absence, and to give its formal support to the reform legislation. The DPA, by contrast, threatened to withdraw from the government if these topics were to continue to be discussed with parties outside the governing coalition, and claimed that it was the only party with the right to take part in discussions regarding the language and reparations issues. However, it was thereafter unable to come up with any noteworthy proposals. Nor did the discussions between the VMRO-DPMNE and the DUI make any meaningful headway.

Nonetheless, the DUI's actions had led to two achievements: First, it had shown that, despite being in opposition, it was capable of blocking important parliamentary decisions, and second, it had embarrassed its main competitor, the DPA, in the eyes of the public by taking over the topic that the latter had made its main priority for its work in government, which showed up the weakness of the ethnic Albanian coalition partner. This debacle was one of the factors in the collapse of the coalition in February 2008, and the subsequent dissolution of the parliament.

Nonetheless, the DPA continued to work to damage the DUI's image, accusing it publicly of being responsible for incidents in which several

14 The DPA did not participate, even though the negotiations dealt with key themes upon which it had often campaigned. Within the party, there was speculation that the talks would collapse sooner or later anyway, which would then give the DPA its chance.

people died.¹⁵ Although there was some evidence of the involvement of criminals with DUI connections, this could not be proved beyond doubt in the inquiries that followed. An exchange of fire in the mountains north of Skopje between security forces and an Albanian gang known throughout the country, in which a police commander and two gang members were killed, and the still unexplained explosion of two grenades near the government building in Skopje in early summer 2007 not only caused concern within Macedonia, but brought about a rare bout of international press interest in the country, which saw Macedonia's general stability and its fitness to join the EU and NATO rather hastily called into question.

The appearance of an armed group near the border to Kosovo in the summer of 2007 was a cause for concern for many in Macedonia, especially because at first it was unclear who this group was and what it had to do with the armed groups that were turning up in Kosovo at the same time. This occurrence, in the village of Tanusevci, to the north of Skopje, not only awakened for many people traumatic memories of the 2001 crisis,¹⁶ but also placed the forthcoming decision on the future legal status of the neighbouring province on the agenda – with all the negative consequences for Macedonia that had previously been suppressed. Even if it soon became clear that the group belonged to a former UÇK/NLA commander and member of parliament who had taken up fortified positions in his home village when it appeared that the Macedonian authorities were about to arrest him, and thus had nothing to do with the Kosovo question, the unpleasant feeling remained that trouble could be expected from the north once again.

The Collapse of the SDSM

In the autumn of 2006, the main opposition party, SDSM, which had been part of the government only a few months previously, began a months-long process of self-destructive infighting, which had a disastrous effect on its position in the polls. The party that had previously dominated Macedonian politics, that had governed the country with only one interruption since inde-

15 In making this accusation stick, it was helpful that many DUI supporters and officials had previously been armed guerrillas and had pasts that were sometimes shady. The reference by a high-ranking DUI member to the fact that many of his party's members had been armed fighters, who, if their demands were not met, could be reactivated at any time, helped to associate the party with armed bands rather than constructive politics in many people's minds.

16 Tanusevci, which lies on the border of Kosovo, was where the Albanian guerrilla group UÇK/NLA first came to prominence, after being filmed by a Macedonian TV crew. This is the reason why, for many Macedonians, the village is synonymous with the start of the 2001 crisis.

pendence and had provided two of its three presidents was in danger of sinking into political insignificance.¹⁷

A change of party leadership following the elections was unable to reverse this trend. On the contrary, the SDSM has been locked in an internal power struggle since its extraordinary party conference in October 2006, during which the incumbent leader, Vlado Bučkovski, was replaced by his deputy, Radmila Šekerinska, in a run-off election. This damaged not only the internal unity of the party, but also its ability to function as the main opposition party in the Macedonian parliament. A decline in popularity was thus a logical consequence. However, this only led to further factional battles among a party leadership that had been so far been spoiled in terms of power. Šekerinska, until 2006 the highly praised deputy prime minister for European integration, only scraped through against the challenge of her rival, Bučkovski. In doing so, she received active support from her long-time mentor, Branko Crvenkovski, with, however, only limited success. He did, however, attempt to make up for the weaknesses of the SDSM, which he had led from its foundation until his election as president in 2004, by opposing Prime Minister Gruevski. Crvenkovski, who as president should have remained above party politics, soon appeared to many to be the true leader of the opposition. Gruevski, who had not recognized Crvenkovski's election in 2004, was happy to give as good as he got, and, as a consequence, the two sides became ensnared in ever new disputes and personal attacks, which many in Skopje considered were inappropriate for the holders of such offices. At the same time, Crvenkovski was said to have worked feverishly behind the scenes to restore the internal unity of the SDSM.¹⁸

Although the increasingly polarized wings of the SDSM agreed to cooperate for the time being, rumours obstinately persisted in political circles in Skopje that Bučkovski and his followers in the party were preparing to establish a new party and hence to put a further nail in the coffin of what had been Macedonia's strongest political force. The party leadership reacted to these reports by reshaping the party structure in the hope that this would counter the influence of the internal opposition.

The suspension of Bučkovski's parliamentary immunity in the course of a legal investigation into a 2003 case of misappropriation of state funds in the defence ministry, which Bučkovski had headed at the time, brought the various factions of the SDSM closer together. The impending threat of legal action against former SDSM ministers by Macedonian legal authorities for al-

17 Representative surveys by the International Republican Institute (IRI) and the Macedonian Brima/Gallup polling agency had the SDSM receiving at times as little as one quarter of the support of the VMRO-DPMNE. Cf. also *UNDP Early Warning Reports Macedonia* from December 2006 and June 2007.

18 His announcement that he would refrain from seeking a second term in the 2009 presidential elections and would instead again run for SDSM leader shows that he never gave up meddling with the party's activities. At the same time, the depth of the SDSM's internal crisis is demonstrated by the fact that it took the return to office of its long-time and most successful leader to overcome it.

leged offences and the removal of their parliamentary immunity caused the SDSM to close ranks in order to defend itself against further investigations, which it considered to be politically motivated acts of revenge instigated by the VMRO-DPMNE and the NSDP. Although Bučkovski was unable to stop his immunity from being suspended even with the aid of his party colleagues, he rejoined the party hierarchy and publicly declared all deliberations about founding a new party to be over. Even if he were to be convicted of a criminal offence by a court and a penalty became unavoidable, the former prime minister did not want to burn his bridges with his party, which was still widely considered to be well connected. However, a small number of his former comrades did not heed his call and, in the autumn of 2007, joined together to establish the Party of Free Democrats, in the early stages of whose founding Bučkovski had allegedly been involved. As this party is said to enjoy little influence, however, a significant split in the SDSM was averted for the time being. Nonetheless, the party was unable to improve its worst-ever poll figures.

The Work of the OSCE Mission: Focus Remains on Democratic Governance

During the period covered by this contribution, the OSCE Mission remained true to the existing strategy of providing targeted support to the national authorities for the establishment and reform of democratic institutions according to international standards of good governance. Accordingly, the Mission's work prioritized the provision of support for the rule of law and police reform. This went hand-in-hand with further confidence-building measures in the former crisis areas in the north-west and west of the country, and the continuation of support for the implementation of the Ohrid Framework Agreement, particularly with respect to decentralization.

The latter entered its second phase in the summer of 2007. This involved financial control for the responsibilities that had been handed over in the previous year passing from the central government to local authorities. The OSCE Mission provided a range of training measures to all 84 local authorities to help them prepare to run a tight budgetary and financial policy. The Mission also continued to work for the improvement of interethnic relations and the participation of minorities in decision-making processes at a local level by supporting the establishment of "Committees for Inter-Community Relations" (CICRs). This required the working methods and responsibilities of these committees to be entered into local government statutes – a project that has also raised interest abroad and which was presented by representatives of the Mission and local politicians at an OSCE regional conference.

The concept of community policing, which has been practised and further developed in Macedonia over the years, has also set an example that has

been adopted and applied throughout the region, as well as in OSCE participating States in Central Asia and the Caucasus. The Mission's work here is to support not just the ongoing development of the concept, but also the process of exchange with other countries, which has included training units run by OSCE police experts and the Macedonian police.

A regional conference and a number of training events were held in order to integrate the recommendations on policing in multiethnic societies made by the OSCE High Commissioner on National Minorities into the day-to-day work of the police in Macedonia. In this context, the Mission provided senior police officers with cultural-awareness training in dealing with members of national and ethnic minorities. There had previously been a number of cases of assault committed by police, particularly on members of the Roma community. The training provided by the OSCE Mission aimed to help ensure that no more such incidents occur.

In the area of judicial reform, the Mission supported the Macedonian authorities in implementing the national strategy for reform of the judiciary. A key aspect of this was the creation of the national Judicial Academy for the training of judges, which opened in the autumn of 2007. The OSCE Mission supported the academy not only in getting teaching activities off the ground but also in developing curricula. In the future, international standards are to be used to prepare prospective judges to perform their duties. The academy is therefore a milestone in the implementation of Macedonia's judicial reform strategy and should ensure that the legal system is not only more professional but also more independent of political influence in the future.

Another key activity in the area of training was the preparation of judges and prosecutors for potential war-crime trials arising from the 2001 crisis. The International Criminal Tribunal for the former Yugoslavia (ICTY) had started to investigate five cases that emerged from the events of that year. Four of them concern former members of the UÇK/NLA and their alleged acts, which were explicitly excluded from the 2001 amnesty law. The fifth case concerned the former interior minister Ljube Boškoski, and a high-ranking police officer. While the ICTY started proceedings against Boškoski in 2007 – which resulted in the acquittal of the former minister in July 2008 due to lack of evidence – the other four cases were prepared for return to the national courts.¹⁹ However, the precondition for this was that the national courts were in a position to carry out complex war-crime trials in line with international standards. The OSCE Mission was therefore involved, alongside the ICTY, in training judges in international humanitarian law, to prepare them for the cases that may soon come before them. Besides the legal aspects, the return of cases and their potential hearing in the national courts provoked strong opposition among former UÇK/NLA fighters. In their view, the passing of the amnesty law had placed limits on the prosecution of acts

19 With its mandate due to end soon, the ICTY cannot bring all cases to trial. It has therefore introduced this practice for less prominent cases.

committed during the conflict that they considered to be applicable to these four cases. Furthermore, they doubted the neutrality and capabilities of the Macedonian courts, which they accused of ethnic bias, revanchism, and being in thrall to party-political interests. Although the adoption of the national strategy for judicial reform acknowledged that there was a need for renewal and additional training of judges and prosecutors, the allegations made by the former UÇK/NLA fighters were still motivated above all by their personal desire to avoid trial. However, because at least two of the four cases concerned high-ranking DUI members – former ministers and members of parliament – the discussion of the best moment to hand them over to the Macedonian courts did not exactly contribute to improving the generally difficult political situation. Against this background, the OSCE restricted its activities to the provision of training and declared – in consultation with national and international partners – that it was willing to observe any cases that did come to court to ensure that international standards were upheld. This role was formalized in the law on co-operation between the Macedonian authorities and the ICTY. After several postponements, responsibility for the further pursuit of the cases was handed over by the ICTY to the Macedonian prosecution service in early 2008. The investigations have continued, but without causing any further furore.

The OSCE Mission also pushed for the further adaptation of Macedonia's election law in line with international standards, and worked together with representatives of the relevant ministries and civil society to develop a catalogue of amendments aimed at remedying the shortfalls criticized by the ODIHR election observation mission in 2006.²⁰ The central aspects here were prosecuting those who interfere with the electoral process, strengthening the powers of the state election commission, and creating legal guidelines for transparent campaign financing.

The ability of the media to report the news in an unhindered and objective fashion was a further focus of the OSCE Mission's work. Support was provided for the restructuring and modernization of Macedonia's public radio and television organization (MRT), which aided it in becoming more competitive with private broadcasters. MRT is the only broadcaster that provides programmes in all the languages spoken by Macedonia's ethnic communities. Furthermore, all the other major television companies have the reputation of enjoying close links with political parties and allowing this to influence their reporting. The OSCE also gave active support to MRT in establishing a dedicated parliamentary channel, which is intended to broadcast sessions of the parliament and its committees live to every household. This effort to encour-

20 The Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE observes elections on invitation of the participating State concerned according to a standardized methodology and examines compliance with international standards for democratic elections. After every observed election, ODIHR makes recommendations on how the election process may be improved.

age transparent political decision-making processes illustrates the principle of democratic governance particularly well.

By closing the field office in Kumanovo in the north-east of the country, the OSCE Mission continued in its transformation from an organization whose task was to carry out observation in the field of the consequences of the 2001 conflict, alleviating them by means of confidence-building measures, into a partner whose job is to provide systematic support for the country's reform efforts. Even if some observers considered that the withdrawal was premature on the basis that it was impossible to predict the long-term effects of Kosovo's declaration of independence on Macedonia, it was at least an expression of the international community's recognition of the improved security situation in the country.²¹ With its new priorities, the Mission can contribute to the country's progress more effectively and with fewer staff. It is also more suited to Macedonia's interests.

The Second Year of Gruevski's Government: Bitter Setbacks on the Way to the EU and NATO

In June 2007, one of the region's foremost Albanian politicians left the stage. Arben Xhaferi, the leader of the DPA since its founding in 1997 and one of the key negotiating partners and signatories of the Ohrid Framework Agreement, handed over the leadership of the party to his deputy, Menduh Thaçi. Xhaferi had been a major player in ethnic Albanian affairs in Macedonia and Kosovo for over a decade, earning an excellent reputation in the region and beyond. However, his sometimes radical views on the future of Macedonia as a multiethnic state also drew criticism. In recent years, his poor health had made it increasingly likely that he would stand down from the leadership of the DPA. Now that his party once more had a secure grip on the reins of power as part of the governing coalition, he could make the change officially. In any case, ever since the DPA had joined the coalition, Thaçi had been controlling the affairs of the party with a heavy hand. Now he promised to continue Xhaferi's policies and to continue to act as a reliable partner to ensure the success of the government.²²

21 Since the 2001 crisis, Macedonia's internal stability has continually improved and the presence of international observers has been reduced bit by bit. As a result of developments elsewhere in the region, the decision was made not to pull all OSCE observers out of the field. The OSCE field office in Tetovo is to remain open, initially until the end of 2008.

22 The change of party leadership was the result of an internal power struggle in which Menduh Thaçi had had to contend with the second strong man within the DPA, Bardhyl Mahmuti, for the succession. The latter – formerly Kosovo's "foreign minister" and an official of the Democratic Party of Kosovo (PDK) – had joined the DPA before the 2006 elections and, thanks to his good relations with the Albanian community in the region, had helped the party to recover its strength and attract new members and high-profile supporters. Mahmuti's attempts to strengthen his position within the DPA and to further his

During this period, the work of the government continued to be hampered by the lack of a Badinter majority in the parliament. A second attempt to appoint the State Judicial Council in summer 2007 also failed because, despite the arrangement made in May, the DUI was not willing to give the government assurances that it would support whichever candidates were nominated. This appeared to be an impasse, which led the government to seek the support of the five members of parliament belonging to the smaller ethnic minority parties (Turks, Roma, Serbs, and Bosniaks), who were also part of the opposition. These five had already agreed on a list of demands, including the creation of reserved parliamentary seats for the smaller minorities, the establishment of a ministry for minority issues, and the adoption of a law on ethnic minority affairs. After initial hesitation, the government accepted these demands, and negotiations began on how the various conditions could be put into practice. In the face of the impending publication of the report on Macedonia's progress in implementing the EU *acquis communautaire* in November 2007, the minority members of parliament declared they were ready to support the government in passing all the reform laws that required a Badinter majority, though the conditions imposed in return for this support remained unfulfilled. Although a number of key laws relevant to EU integration were passed at the last minute, and despite the government's positive economic record, Macedonia's political tensions meant that the European Commission was unwilling to recommend to the Council of Ministers that accession negotiations be started in 2008, as the government had hoped. While the Commission praised Macedonia's progress in economic affairs, it was critical of the political situation, which continued to be tense, and the poor state of relations between government and opposition, which had led to the postponement of key reforms or had blocked them entirely. After the signing of the Stabilization and Association Agreement (SAA) with the EU in 2001 and the granting of candidate status in 2005, this development was a major setback to Macedonian efforts towards Euro-Atlantic integration. Exhibiting just the same sort of behaviour they had been criticized for, the government and the opposition blamed each other heavily for this turn of events.

While many were disappointed by the Commission's decision, it did not have much of an effect on the popularity of the government, which gave the impression of continuing to work to ensure economic prosperity that would solve all political questions sooner or later. However, an advertising campaign costing millions of euros that encouraged foreign investors to "Invest in Macedonia" met with a poor response among the international business community. Partially responsible for this were the negative stories in the international media that had their roots in the tense relations between the parties. Nevertheless, there was one area in which the government could demon-

political goals were very effectively thwarted by Menduh Thaçi. Bardhyl Mahmuti left the DPA and founded his own party, the Albanian Democratic Union, in September 2007.

strate concrete progress: Macedonia has improved more than 20 places in Transparency International's corruption index.²³

Within the coalition, relations between the VMRO-DPMNE and its coalition partners, the NSDP and the DPA, continued to deteriorate. Up to this point, the two junior partners had been suppressing their own policy preferences in favour of those of the VMRO-DPMNE, partly because of the upcoming assessment by the EU and NATO. In the case of the EU, however, this strategy did not have the desired effect. Moreover, the VMRO-DPMNE had negotiated key political questions with partners outside the coalition. While this was a course born of the necessity of seeing certain key reforms made into law, it did not exactly improve the mood within the coalition. Although the NSDP and the DPA now began to increasingly stress their own key concerns – reform of pensions and social security, in the case of the NSDP; the legal rights of Albanians, on the part of the DPA – they remained within the government, even if the DPA threatened on several occasions to leave.²⁴

Once again, it was only the VMRO-DPMNE that benefited from the government's ongoing popularity, while its coalition partners lost support. The DPA's losses were particularly heavy, and it began increasingly to lose ground to its main competitor, the DUI, something it tried to compensate for by making ever more radical demands. In this way, the DPA increasingly became a burden for the coalition.

Within the VMRO-DPMNE, there was thus increasing talk of calling early elections, which the party, thanks to its unbroken popularity, was considered to have a good chance of winning with a large majority, thus making it independent of the interests of other parties.

2008: Macedonia at the Crossroads

While the thought of Kosovo's separation from Serbia had caused many Macedonians concern at the negative repercussions it might have for their country, the unilateral declaration of independence, when it actually arrived on 17 February 2008, had no immediate effects on Macedonia. Calls by ethnic Albanians for Macedonia to immediately recognize the new state were not

23 Cf. *Transparency International Corruption Perceptions Indexes 2006 and 2007*.

24 The vote of no confidence initiated by the opposition in June 2007, however, made the extent of the deteriorating climate within the governing coalition obvious. Before the parliamentary vote, there was much speculation on the voting intentions of the two minor coalition partners, who were said to support the motion and thus the fall of the government. However, while some within the NSDP and the DPA had certainly wanted to express their dissatisfaction by taking such a step, in the end, the decision was taken to remain loyal and so to reject the opposition's motion. At this point it was finally clear that the differences within Gruevski's government would increasingly threaten to break the coalition.

heeded, however, owing to the disunity in the EU and concern that doing so would spoil relations with Serbia.²⁵

Shortly before the NATO summit held in Bucharest in April 2008, at which Macedonia, together with Croatia and Albania, expected to be granted membership of the alliance, there was a desire to avoid making any hasty or one-sided decisions that could have damaged Macedonia's regional relations.²⁶

Another long unresolved dispute became an urgent problem once again in relation to Macedonia's prospective membership of NATO: the conflict with Greece over the name "Macedonia". Although the 1996 interim agreement specified that, in return for Skopje's adoption of the name "the former Yugoslav Republic of Macedonia" in international contexts, Greece would not interfere in its attempts to join international organizations, the Hellenic Republic suddenly insisted that the name issue needed to be cleared up before Macedonia could be admitted to NATO. Failing this, Greece threatened to vote against Macedonian membership at the next NATO summit. Negotiations between Athens and Skopje were hurriedly set up and began at the start of 2008 under UN mediation. In fact, the Greek demands met with little approval abroad, and wide sections of the European media even described them as bizarre, especially since they were made at a time that was inconvenient for the entire region. Nonetheless, the name controversy is a highly emotive issue for both sides, and, in Macedonia's case, is at the heart of a national identity that is called into question by most of the country's neighbours. Consequently, in responding to the many suggestions made by Matthew Niemitz, the UN special envoy, both parties displayed such inflexibility that it was not possible to reach an agreement by the time of the summit.

Even though Macedonia's application to become a NATO member was accepted by all the alliance's other 25 members, and the USA and key European states spoke up in favour of Macedonia's application on several occasions, Greece applied its veto as promised, blocking its northern neighbour's attempt to join the transatlantic alliance. This was not only based on the rather dubious allegation that Macedonia laid claim to the Greek territory of the same name but was also a clear breach of the 1996 interim accord.²⁷

The Greek refusal to compromise shocked politicians in Skopje and the Macedonian population as a whole. In protest, the Macedonian delegation

25 The actual recognition of Kosovo's independence by Macedonia and Montenegro in October 2008 caused the usual negative reactions from Belgrade, but did not lead to severe consequences in inter-state relations.

26 In Skopje, it was also noted that before Kosovo could be recognized, it was necessary to demarcate its border with Macedonia to the satisfaction of both parties. The proposals made in the Ahtisaari plan were taken as the basis for all further steps in this regard.

27 The oft-repeated argument that Macedonia has territorial claims on the northern Greek province and should therefore change its name is unlikely to be true in view of Skopje's limited military means alone. In any case, were Macedonia to become a member of NATO, it would have to give up any territorial claims it possessed.

withdrew early from the NATO summit. Not even the promise of immediate accession to the alliance as soon as the name issue was sorted out could be of any comfort.

Shortly before the summit, the DPA had once more threatened to withdraw from the government if Kosovo's independence was not immediately recognized and the issues of reparations for the victims of the 2001 conflict and the official use of the Albanian language were not resolved.

The combination of foreign-policy setbacks and the power struggle within the coalition led Prime Minister Gruevski to now openly seek an early election. On 11 April 2008, after a heated debate, the parliament agreed for the first time in the history of the country to dissolve before its allotted term was up. The governing coalition justified this step in terms of the need for a broad and stable new majority to deal with emerging problems. The opposition pointed out that early elections would only delay the start of negotiations with Greece and further efforts to ensure Macedonia's rapid entry to the EU. Consequently, the SDSM left the plenary session of parliament before the vote, while the ethnic Albanian DUI voted for dissolution in the knowledge that it continued to lead the DPA in the polls. The latter had not even been able to make up this deficit despite heavily stressing ethnic Albanian issues in the previous months. Following the parliamentary vote, the speaker of the Parliament, Ljubisa Georgievski, set the new elections for 1 June 2008.

Despite election legislation and administration reforms and assurances from all parties, the 2008 parliamentary elections can be counted among the worst ever conducted in Macedonia. An election campaign marred by many acts of violence had shown already that in both camps the only thing that really mattered was the struggle for supremacy. Among Macedonians, this struggle has taken more subtle forms, while in Albanian circles the means used to intimidate the populace have also included brutality and violence. These activities were of course to the detriment of the country's best interests, as all efforts went into fulfilling clan and party interests. Subsequently, election day saw a high number of violent incidents and violations against election proceedings, even leaving one activist of the opposition DUI dead after a shoot-out with security forces. The OSCE-ODIHR Election Observation Mission noted with regret that "expectations of progress were not realized because of a failure to prevent violent acts in ethnic Albanian areas and the limited and selective enforcement of laws. Organized efforts to violently disrupt the process early on election day made it impossible for voters in many places to freely express their will."²⁸ Three reruns involving up to ten

28 OSCE/ODIHR/OSCE Parliamentary Assembly/Parliamentary Assembly of the Council of Europe (eds), International Election Observation Mission, Early Parliamentary Elections, The Former Yugoslav Republic of Macedonia, 1 June 2008, *Statement of Preliminary Findings and Conclusions*, Skopje, 2 June 2008, page 1, at: http://www.osce.org/documents/odihr/2008/06/31445_en.pdf.

per cent of the country's polling stations were required to determine the final results.

The ruling VMRO-DPMNE achieved the expected landslide victory, winning an absolute majority of 63 of the 120 seats in parliament. Confronted with the worst result ever, opposition leader Radmila Šekerinska stepped down from her position, acknowledging political responsibility for the painful defeat.

Just as in 2006, Prime Minister Gruevski presented his new government to parliament extremely quickly – only six weeks after polling day. In contrast to 2006, this time the ethnic Albanian party that had expanded its supremacy at the elections, the DUI, was part of the government. Both sides claimed they had learned from the past and wanted to replace past confrontations with constructive co-operation for the sake of the country's stability and reform processes. While the first part appears true, the real reason for this deal between two parties that had previously opposed each other fiercely seems to be a partnership of convenience and a mutual guarantee to enjoy the advantages of political rule for the next four years.

In fact, the DUI was quick to reverse all replacements of its personnel by the DPA within the public administration and re-establish its power in the ethnic Albanian camp. Of course, political goals were also part of the coalition deal. While the DUI accepted the VMRO-DPMNE's economic platform, the Macedonian side agreed to implement the issues both sides had already discussed in 2007: the official use of the Albanian language and reparations for former UÇK/NLA veterans. By 26 July 2008, the parliament approved Prime Minister Gruevski's new cabinet by a two-thirds majority of its 81 members of parliament.²⁹

Conclusions

While the elections brought the desired result for Prime Minister Gruevski – a stable majority in parliament that will guarantee unhampered rule for the coming four years – the manner in which the polls were conducted overshadow his victory. In its 2008 Progress Report, the European Commission stated that it regarded the conduct of the election as the main proof that Macedonia was still lacking the capacity to achieve the political criteria of the EU *acquis communautaire*. As a result of this, it was recommended that accession negotiations not be started in 2009.³⁰

29 Alongside the new ethnic Albanian coalition partner, the majority of members of parliament belonging to the smaller ethnic communities (Turks, Roma, Serbs, Bosniaks, Vlachs) are also part of the ruling coalition this time. This has, as mentioned above, had a significant impact on the government's ability to pass reform legislation requiring the so-called Badinter majority.

30 Cf. Commission of the European Communities, *The former Yugoslav Republic of Macedonia 2006 Progress Report*, Brussels, 10 November 2008.

Macedonia finds itself at a crossroads: Following the setbacks in its attempts to join the EU and NATO, the country is in danger of veering off its chosen path. The Greek veto and the emotional reaction among the ethnic Macedonian population demonstrated that the country is facing major challenges and needs to solve some old problems that it has long ignored before it can take the next step to hopefully secure a better future. The name dispute and the associated crisis of Macedonian identity currently appear to be the main obstacles to further progress. Neither Macedonia nor its neighbour Greece can afford to leave this issue unresolved for much longer if they wish to avoid putting regional stability at risk.³¹

Euro-Atlantic integration has so far been the only topic that has united all sections of Macedonia's population irrespective of ethnic background. It has been capable of making all sides suppress their differences of opinion and interest, at least ostensibly. The prospect of EU and NATO membership has therefore made a major contribution to the domestic stability of the country, and to interethnic reconciliation. Now that Euro-Atlantic integration appears to be on hold, Macedonia is running the risk of more divisive factors again playing a larger role. The EU and NATO, and above all Greece – a member of both – need to be aware of the possible consequences of their actions, and to use all their resources to ensure that there is no return in the Balkans to the “bad old days”. Growing nationalism and a tendency towards political isolationism in the aftermath of the Greek veto bring back bad memories and could gain prevalence should Macedonia's prospects of Euro-Atlantic integration fade.

The holders of power in Athens and Skopje should cease to provoke each other and to adopt postures of stubborn defiance in order to gain a cheap boost in popularity and satisfy personal or party vanity. The Macedonian leadership should realize the responsibility it holds for the fate of the country, especially after receiving such a clear mandate, and needs to continue unflinchingly down the path already set out on towards Brussels. Partners such as the OSCE can only offer their sincere assistance to help Skopje make the grade. Successfully coping with the challenges ahead, however, is the duty of the holders of political responsibility.

31 As well as withdrawing one of its representatives for the negotiations on the name issue, Macedonia brought charges against Greece at the International Court of Justice (ICJ) in November 2008 based on the violation of the interim accord in connection with the Greek veto of Macedonia's NATO accession. The matter of enforcement notwithstanding, it remains questionable whether a ruling of the court is suitable to contribute to a sustainable solution of the name issue.

Tajikistan and the Organization for Security and Co-operation in Europe: Global Problems through the Prism of a Single Country¹

By accepting the states of Central Asia into its ranks in 1992, the Organization for Security and Co-operation in Europe took on significant responsibility for supporting stability and peace in the region as a whole and in each of the Central Asian countries.

This was particularly relevant in Tajikistan, a country where civil war had raged for many years following the collapse of the USSR. The OSCE, in conjunction with the United Nations, undertook appropriate efforts to re-establish civil peace in the country, to support refugee return, and to help the fledgling independent Tajik state come into being. With the signing of the General Agreement on the Establishment of Peace and National Accord on 27 June 1997, the country entered a new phase of development in which reconstructing the economy, eradicating poverty, setting up regional co-operation, and building the institutions of a democratic, secular state were of paramount importance.

Key Priorities of the OSCE Office in Tajikistan

Above all, the country needed assistance to clear up the consequences of the civil war. In 2004, the government of Tajikistan requested the OSCE's assistance in destroying *small arms and light weapons (SALW)* and *conventional ammunition*, as well as in improving the country's stockpile security and management systems. Through the OSCE Office in Tajikistan,² the OSCE drew up a comprehensive programme for destroying surpluses, upgrading storage conditions, and reducing the risk that dangerous materials could be stolen.

In August 2005, the OSCE Office in Tajikistan started implementation of a programme to destroy 34 tonnes of surplus ammunition and 26,000 small arms and light weapons. As part of the programme, training was provided to nine national experts in explosive ordnance disposal, and a SALW destruction facility was constructed. In addition, the Office helped to repair or construct seven new storage sites to ensure safe and secure storage of SALW and ammunition. Generous donations were made by Finland, France, the Nether-

1 Translated from the Russian by Peter Morley.

2 Up to 19 June 2008, the Office was known as the OSCE Centre in Dushanbe. For simplicity's sake, it shall be referred to throughout by its current name.

lands, Norway, Slovenia, Sweden, and the United States, as well as Tajikistan.

After the first phase of the programme was completed in November 2006, the government of Tajikistan requested OSCE assistance in developing a second phase to resolve regional aspects of the problem across the entire country, including along the Tajik-Afghan border. The second phase of the programme started in 2006 and aimed to destroy surplus rocket boosters and to build 32 storage facilities across Tajikistan for the country's law-enforcement agencies. The group of donors at this stage expanded to include Andorra.

An equally menacing consequence of the civil war are the *mines and unexploded ordnance* that were strewn plentifully across 25,000 square kilometres of the country's territory, which claim seven or eight victims a year – with the total number of fatalities approaching 300.

From 2003, at the request of the government of Tajikistan, the OSCE, through the Office in Tajikistan, helped the country to deal with the humanitarian threat posed by the anti-personnel mines. Mine-clearing contributes to economic and environmental security, since more land becomes available for agriculture and reforestation. It also helps to improve cross-border co-operation.

The OSCE Office is carrying out the first mine-clearing operation in the Organization's history. The programme is run in close collaboration with the Swiss Foundation for Mine Action (FSD). Since September 2004, the programme has

- cleared mines from a total of 1.1 million square meters of land;
- cleared mines from roads totalling 214 square kilometres;
- returned 18 square kilometres of minefields to agricultural usage; and
- destroyed some 4,500 anti-personnel mines and 1,400 pieces of unexploded ordnance.

With assistance from the donor states, the Office in Tajikistan created and continues to support a centre that trains mine-detecting dogs. The dogs are used by mine-clearing teams in the Rasht Valley and the Panj District in southern Tajikistan.

As part of the demining programme, the Office has supported activities to allow access to a canal in the Panj District. The canal was previously used to irrigate farmed land in this poverty-blighted area on the border with Afghanistan. During the civil war of 1992-1997, one part of the canal was mined, and the waterway inevitably became silted up. This led to agricultural land becoming waterlogged and subsequently to serious humanitarian, economic, and environmental losses.

In March 2007, with assistance from the FSD, the Office launched a project to clear the mines from the canal. The significance of the project is

attested to by the fact that even before it finished in May 2007, many local residents who had moved away announced that they would return to their native villages once the mines were removed and the canal was back in operation.

One characteristic of Tajikistan is that many of the problems the country has encountered in its development are global in nature and cannot be solved without the assistance of the international community and, in particular, the OSCE.

Such problems would include, first and foremost, that of *drug trafficking* through Tajikistan. Opiates have been transported from Afghanistan to Europe for two decades, crossing the border between the two countries.

In 2007 alone, Tajik law-enforcement agencies seized and confiscated 5,270 kilogrammes of illicit drugs, including 1,549 kilogrammes of heroin, 2,546 of opium, and 1,174 of marijuana. That is ten per cent more than the amount seized in 2006.³

It is therefore no accident that one of the most important priorities for the OSCE in Tajikistan should be assistance in strengthening *border management*.

In July and August 2006, following a request from the Tajik side, the OSCE Secretariat's Border Team carried out an on-site assessment of the needs and capabilities of the Tajik authorities to deal with the country's substantial problems. Based on this assessment, a group of experts made a number of suggestions, of which three were approved by the Tajik government in 2007. March 2008 saw the start of extrabudgetary projects supported financially by the governments of Finland and Norway.

These projects include assistance for the Tajik government in drafting a national border management strategy; strengthening the border regime by providing instructors with skills and knowledge in training border-control personnel; and establishing a modern customs clearance facility at Murghab in the east of the country.

Strengthening border security and combating drugs trafficking requires the development of close co-operation with *Afghanistan*. At its Madrid meeting in 2007, the OSCE Ministerial Council adopted a special decision on Afghanistan that strengthens the hand of the OSCE Office in Tajikistan in supporting the development of cross-border trade and contacts between the two countries' business communities.

With this aim in mind, the OSCE Office in Tajikistan provides assistance to help create permanent business forums for the businesspeople of both countries, to help develop trade in the border regions, and to establish business relations. Of importance here are the border-region markets organized with OSCE assistance near five new suspension bridges crossing the Panj river at the most densely populated points.

3 Cf. Country Report from the Mini-Dublin Group on Tajikistan.

Solving Tajikistan's *transportation* problems is of particular significance, as the country has no access to the sea and suffers from being landlocked in the middle of the Eurasian landmass.

Historically, the great states of the region – including the prominent Tajik Samanid empire – owed their greatness to their location on the most important transport route of past ages: the Silk Road. When this route's importance declined, the region began to stagnate economically.

At present, Tajikistan is playing an increasing role in developing Central Asia's transport infrastructure, both east-west and, in particular, north-south. The opening in August 2007 of a new bridge over the Panj river in the district of Dusti at the Tajik-Afghan border was of particular significance, as it allows more than 1,000 vehicles to cross the border every day, a capacity that means most central Asian states can make positive alterations to their transport strategies as they gain new, cheap access routes to the global economy through ports on the Indian Ocean.

No less problematic for Tajikistan and the region is *water consumption*. The country is a net exporter of water to consumers across an enormous region. Yet its own reservoirs, canals, and irrigation and purification facilities are close to complete collapse. To restore and maintain them in good condition also requires co-ordinated efforts, both at the regional level and more broadly.

Problems of water supplies are closely tied to conservation of an extremely vulnerable *environment*. Glaciers have begun to melt as a result of global warming and rising average annual temperatures, thereby reducing the region's water reserves. This is fraught with serious consequences for regional agriculture, which needs a constant flow of water to irrigate cotton fields and to grow other agricultural crops.

A shortage of water also entails an *energy deficit*. In the harsh winter of 2007/2008, Tajikistan received less than half of the energy it usually gets from the Nurek Hydroelectric Station due to a water shortage. This caused a serious energy crisis and a dramatic drop in both industrial and agricultural production.

The OSCE Office in Tajikistan also has several projects within the Organization's human dimension. Tajikistan is unique among the countries of the international community in that it is building the foundations of a democratic, secular, multiconfessional state on the front line of the struggle against *religious extremism* and irrationalism, both of which are fertile soil for the weeds of *international terrorism*.

Unfortunately, this struggle is frequently conducted using technical means and prohibitions. Yet ideological influence is also of great significance. The huge cultural heritage of the peoples of the Orient in general, and of Tajikistan in particular, is not being exploited properly against the primitive propaganda of racial and religious hatred. Yet it was precisely in the village of Balkh, at the base of the Pamir Mountains, that the poet Jalaluddin

Rumi (1207-1273), also known as Mowlana Balkhi – a great proponent of religious tolerance and a major figure in Persian and world literature – was born 800 years ago.

Rumi's universality can be seen in his beliefs, which, although born in the heart of the Muslim world, cannot necessarily be tied down to one religion in particular – they are closely bound up with any sincere faith in a single universal god.

Eyewitness accounts state that representatives of all religions and social classes mourned Rumi's death on 17 December 1273 – testimony to the universal nature of his ideas. When news of his death reached Constantinople, crowds many thousands strong – including women, children, senior artisans and their journeymen, servants, merchants, and peasants – thronged the streets. Turks, Armenians, Greeks, Muslims, Jews, and Christians read the Koran and the Talmud and chanted psalms; all of them wanted to pay Rumi their last respects.

The OSCE Office in Tajikistan assists the Tajik government in meeting its OSCE commitments in human rights, the rule of law, and democratization. The Office monitors and supports respect for human rights and fundamental freedoms in the country, and also promotes gender awareness and gender equality and the development of a free media.

The OSCE is providing active assistance to bring the country's legislation into line with European standards as well as international human-rights norms and practices. The OSCE Office has financed the work of non-governmental organizations in monitoring and analysing how well court proceedings across the country adhere to international fair-trial standards.

Throughout 2008, the Office plans to support a study on the *judicial reform* index for Tajikistan (JRI). The results of this research will be presented to the government and civil society, and will in future serve as an instrument to assess the development of the country's judicial system. In 2007, the Office began a project on property rights that focuses in particular on cases of potential confiscation of private property by local authorities. In 2008, a round table is planned to discuss the results of this project.

The OSCE also plans to be involved in a project to support a *human-rights ombudsman*, in close contact and collaboration with the government and civil society. This involves setting up a national institution that Tajikistan is obliged to create and to use in order to uncover violations of human rights as well as to resolve private complaints from the country's citizens.

Since 2000, the OSCE Office has been helping Tajikistan to carry out *prison reform*. This is a government programme that has unfortunately not been implemented in a satisfactory manner: There have been numerous instances of human-rights violations, including non-observance of judicial norms and cases of torture and mistreatment of prisoners. Since 2006, the OSCE Office has been part of the penitentiary reform working group, which also includes international organizations concerned at the conditions in which

temporary detainees and prisoners are held in Tajikistan. The Office hopes that the Tajik government will also delegate representatives to the working group and will allow access to penitential institutions for independent parties, including the International Committee of the Red Cross (ICRC).

Free and fair elections are a foundation of democracy. The OSCE has devoted significant attention to helping the Tajik government modernize its electoral law and election procedures in accordance with European standards and with its own commitments. In the run-up to the parliamentary elections in February 2005, the Office worked with the Office for Democratic Institutions and Human Rights (ODIHR) to help the Tajik government organize and hold a conference on election issues that led to the drafting of two alternative laws on parliamentary elections. In co-operation with the Tajik government, the OSCE Office helped hundreds of ODIHR observers to monitor elections to the country's parliament in February 2005 and the presidency in November 2006.

Recommendations were drawn up for the Tajik government based on the results of election monitoring done by the OSCE/ODIHR election observation missions in 2005 and 2006. In 2008, the OSCE Office in Tajikistan plans to fund seminars and round-table talks with the aim of discussing recommended reforms that will enable free and fair elections to be held in future. To transfer practical knowledge to Tajik citizens and to guarantee their contribution to democratization in OSCE participating States, the Office intends to provide help in delegating representatives of government and civil society as observers to elections in OSCE participating States that are holding parliamentary or presidential elections during 2008.

Since it began operating in Tajikistan, the OSCE Office has fulfilled the role of an organization that collects and distributes *information for civil society, the general public, and for state bodies*. Special training courses run with OSCE support have enabled future Tajik leaders to become familiar with international standards and obligations in the area of human rights.

In 2007, the Office provided assistance in carrying out a specialized training course on human rights and international law involving 40 university students, split equally between legal students and those studying other subjects.

Course participants undertook two weeks of theoretical and practical training in the application of human-rights principles. In 2008, the Office intends to repeat the training courses and to increase the number of participants. In co-operation with the Office of the UN High Commissioner for Human Rights (UNHCHR), support was provided in 2007 for the implementation of Resolution No. 272 of the Parliament of the Republic of Tajikistan, under which secondary schools introduce pupils in years 10 and 11 to the topic of human rights.

As part of the project, two textbooks and methodological guidelines for teachers of human rights were drafted; school-teachers and education minis-

try employees took part in two round-table discussions on the results of the project.

The year 2007 also saw the Preliminary Meeting to Assess Social Transformation in Tajikistan. This intensive, one-day discussion took place a few weeks before the main annual OSCE Human Dimension Implementation Meeting, traditionally held in Poland, which discusses issues of social transformation. The Office was able to finance the trip to Poland for more than ten representatives of government and civil society to take part in the annual meeting. Other events planned for 2008 include commemorating the 60th anniversary of the signing of the Universal Declaration of Human Rights. This will be marked by celebrations and charitable events in Dushanbe and suburbs of the capital. Also planned are round-table discussions of human-rights issues and current problems facing Tajikistan.

Gender projects are especially important for the OSCE's work in Tajikistan. The OSCE Office in Tajikistan supports nine women's resource centres across the country that provide free legal, medical, and psychological consultations, and help women to get a basic education and to develop professional skills. Since 2006, more than 24,000 people have benefited from the centres' work. With financial backing from the United States, the Office has supported the first shelter for victims of domestic violence – in Khujand, northern Tajikistan. Since 2006, the shelter has provided psychological and legal support to about 3,000 women, and provided a home for 41 of them.

The Office has also helped introduce gender aspects into education through a pilot project in conjunction with the Teachers Training Institute in Dushanbe. A curriculum was developed to meet the needs of secondary school teachers, and 16 instructors took a course that enabled them to become trainers. Supported by the OSCE, the gender magazine *Ravzana ba Jahon* ("Window on the World") and the website www.ravzana.tj have helped to raise awareness of gender issues among local authorities, community leaders, and non-governmental organizations.

Since 2006, the OSCE Office in Tajikistan has helped to train more than 350 civil servants across the country to implement gender-equality policies. To build capacity among women's non-governmental organizations, the Office sponsored a forum to explore the role of Tajik women in development issues.

The OSCE Office also supported a group of NGO experts in preparing a shadow report on implementation of the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The report, given to the UN Committee on the Elimination of Discrimination against Women in New York, provided valuable information and basic data for the UN recommendations to the government of Tajikistan.

The OSCE Office has worked with the parliamentary committee on social, gender, and ecological issues and the government committee on women and family to raise awareness among members of parliament of *gender*

equality and to promote *gender mainstreaming* in the drafting and reviewing of relevant laws and regulations. The Office also promotes the idea of holding public hearings to discuss implementation of the gender equality law. Several concrete proposals were made to improve this law and to introduce mechanisms for its implementation through norms and regulations.

Work to combat *trafficking in human beings* constitutes an important part of the OSCE's activity in Tajikistan. In particular, the OSCE Office in Tajikistan has supported the provision of professional training to journalists to improve coverage of anti-trafficking cases; it has backed information campaigns, it has helped to identify weaknesses in national legislation; and it has acted as a consultant to devise a national action plan to combat trafficking in human beings.

The Office assisted the Tajik government in implementing projects aimed at preventing trafficking in human beings by means of a number of informational and educational measures designed to raise children's and young people's awareness of trafficking, risks and consequences associated with it, and methods used to ensnare victims for future sexual exploitation. Some 3,216 people have participated in these educational programmes, mainly young people and students. The Office also provides assistance in building the capacity of the Commission on Combating Trafficking in Human Beings by supporting its participation in regional and international anti-trafficking events and conferences.

One of the most important ways of establishing a democratic society is through the formation of an independent and professionally competent *mass media*, an area in which Tajikistan currently has many problems. Public information and the general level of media development in the country leave much to be desired. There is a need to build trust between state bodies and the independent media. Journalists do not possess up-to-date skills in presenting material, and lack shared professional standards. The media-support programme being implemented by the OSCE Office in Tajikistan aims to help solve these problems.

This primarily involves forming the necessary legal basis to guarantee freedom of the media assuming the existence of the requisite journalistic responsibility for the authenticity and quality of the information they distribute. As for electronic media, the OSCE Office has worked with international and local partners to organize a conference and several round-table sessions to identify problems encountered by electronic media, in particular regarding the obtaining of broadcasting licences.

In 2008, the OSCE Office in Tajikistan established a dialogue on current media-related political issues as part of the media-support programme. It aims to enable the Tajik media to become more active and will strengthen trust between the government and the independent media based on democratic principles and professional and ethical standards. The Office has initiated a number of case studies of the media business in the country. Serious study of

press development will include analysis of newspaper and magazine distribution, factors affecting pricing, and business opportunities in the Tajik media.

Technical support for print media aims to increase circulation and to provide the rural population with local publications. To support independent print publications, a project has been initiated that aims to improve their profitability.

In order to improve *access to information* in Tajikistan, the OSCE Office provides assistance to a media resource centre in Dushanbe that has provided free internet access and professional literature to journalists and journalism students since 2004. Work is also being carried out to assist in drafting a new law on access to information.

Ensuring media freedom is inseparable from improving the professional training of journalists and creating reliable self-regulation mechanisms, including by drafting a code of ethics.

In accordance with its mandate and the desire of the Tajik authorities, the OSCE Office regularly carries out monitoring and analyses and reports back on developments in the economic and environmental spheres. Specifically, it supports the development of *small and medium-sized enterprises* (SME), and assists government efforts to carry out land reform and to prevent land deterioration, radioactive contamination, and illegal labour migration. The Office also helps implement the OSCE's regional economic and environmental activity.

To assist with the state poverty-reduction programme, the OSCE has financed projects in Tajikistan to develop SMEs in regions with promising prospects. Since 2006, several permanent resource and training centres have been opened in all the country's regions, with the goal of supporting the government's anti-poverty campaign. In addition to providing training courses on the key aspects of starting and running a business, these centres also offer their clients legal advice. Most of the centres' clients are women whose husbands have gone abroad to work. However, the centres also attract emigrants who have come back home and who want to put their earnings into starting their own business so that they can stay in Tajikistan.

In 1996, Tajikistan started to reorganize large state (*sovkhos*) and collective (*kolkhoz*) farms into co-operatives and private farms. To help the Tajik government implement *land reform*, in 2004 the OSCE started a project to train farmers and increase awareness of their rights and the possibilities of land tenure.

The Office has opened information centres for agricultural enterprises and farms in Khatlon region and the Rasht Valley as the next stage in the development of agriculture. Since Tajikistan's economy is predominantly agricultural, in 2008 the centres assisting SMEs were combined into a single network with the farmers' support centres. In predominantly agricultural districts, they will help to propagate information and skills needed to improve the quality of livestock and crops and to raise productivity. The centres pro-

vide consulting services for entrepreneurs on how to obtain and best use bank loans, and on how to put into practice their new right to independently plan crop rotation and choose which crops to grow on their land.

About one million Tajik citizens leave the country every year in search of work, mostly in Russia and Kazakhstan. Many of them are insufficiently aware of immigration and registration requirements, and become *irregular migrants*.

Since 2004, the OSCE Office and the International Organization for Migration (IOM) have financed information-resource centres for potential migrants. To help the government reduce the number of migrants contravening immigration and registration regulations in the countries of destination, centres were also opened in the regional towns of Khujand, Kulyab, Kurgan-Tyube, and Shaartuz in 2006.

To boost the government's capacity in the field of labour migration, the Office has also assisted the Tajik Foreign Employment Service in expanding and repairing its premises, acquiring computer equipment, and signing agreements with potential foreign employers of Tajik labour migrants. In 2007, the Employment Service assisted the OSCE migrant-support centres in studying the possibility of establishing contacts necessary to arrange employment beforehand so that migrants leaving Tajikistan would know what work they would be doing in their countries of destination.

Since 2004, the OSCE has actively aided the development of *trade between Tajikistan and Afghanistan*. An international conference on developing trade between countries bordering the Pamir region was held in 2005 in Khorogh, the administrative centre of the Gorno-Badakhshan autonomous oblast. The conference facilitated a number of cross-border commercial deals.

In 2007, four centres to promote cross-border trade between Tajikistan and Afghanistan were opened: two in Gorno-Badakhshan, one in the southern part of Khatlon region, and one in the Rasht Valley. The aim of opening these centres was to give entrepreneurs on both sides of the border information on customs rules, markets, and business-training opportunities. Most attention is directed to small enterprises involved in cross-border transit trade. The first three centres are based on the Tajik-Afghan border, while the fourth supports border-regions trade with southern Kyrgyzstan.

The OSCE Office in Tajikistan has helped Tajikistan to develop a *national environmental strategy* for 2005-2020, as well as several specific strategies in the areas of water management and environmental monitoring. The strategies aim to improve legislation, train staff, and set priorities for dealing with environmental problems. The Office also supported the drafting of a Law on Environmental Protection and five by-laws for adoption by parliament in 2008. With support from the OSCE, a movement for implementation of the Aarhus Convention has formed in Tajikistan and is developing successfully.

One of Tajikistan's environmental priorities is *soil degradation and erosion*, which affects 97 per cent of Tajikistan's arable land. Awareness-raising work in this area through the Office in Tajikistan and its field offices in Khujand, Kulyab, Kurgan-Tyube, and Shaartuz has reached more than one million people in the Khatlon and Sughd regions. Residents of the Rasht Valley and Khatlon region in southern and eastern Tajikistan have planted some 600,000 seedlings to stop land degradation and soil erosion as part of OSCE training and awareness-raising programmes. State television regularly broadcasts educational material on environmental issues such as water, land degradation, and air pollution.

During the Soviet era, Tajikistan was one of the most important producers of uranium for the nuclear industry. Massive mining has left behind it a malignant "tail" that presents a threat of *radioactive contamination* for about ten million people living in Tajikistan itself and in Uzbekistan, Kyrgyzstan, and Turkmenistan in the Syr Darya River basin.

The OSCE has supported the health protection of residents of Taboshar in northern Tajikistan, where more than 7.7 million tonnes of radioactive waste are stored, by providing financial aid to restore mudslide defences and damaged irrigation pipes and ditches in and around the town, thereby protecting drinking water from becoming contaminated by radioactive nuclides.

A co-ordination meeting was held in 2007 in Dushanbe at which all participants agreed on the importance of the problem of radioactive waste. The OSCE Office proposed financial support for a project to draft the requisite documents for donors, with the aim of attracting foreign investment into storage of radioactive waste in northern Tajikistan.

Conclusions

Unfortunately, Central Asia has, since time immemorial, been a bone of contention between international powers and the object of geopolitical great games between states as they attempt to secure their strategic military and economic interests. The new challenges and threats of the 21st century have forced the international community to look afresh at the region, including Tajikistan. The country will become less an object of rivalry than a platform for mutually beneficial co-operation between states and peoples in the interests of solving global problems together in a way that benefits everyone.

International co-operation to assist Tajikistan to solve global problems speaks to the need to develop a new ideology that encompasses all humanity: an ideology that unites all people, regardless of their racial, ethnic, religious, or social affiliations.

Global problems, though numerous, have a common root: the pace of technological progress far outstripping the ability of the international community to respond to it. This lag explains global warming and the unre-

strained widening of the wealth gap between rich and poor countries, as well as energy, food and other crises of our era. Scientists have warned that if the international community does not take decisive action to combat these problems, then human civilization will face critical problems of survival before 2030.

The OSCE must play a special role in forming this ideology of international co-operation to solve global problems. It is an organization with a unique mandate and set of participants. Together with its Partners for Co-operation, it brings together the world's most industrially and technologically advanced countries – countries that bear a significant part of humankind's cultural heritage

In the 20th century, the OSCE States put forward a unique formula of human rights to the international community that enabled nuclear self-destruction to be avoided without a single shot being fired. In the 21st century, it must propose to global civilization an alternative to universal self-destruction by thoughtless and insane use of the resources given to us by God.

The Human Dimension and
Democratic Development

The OSCE – a Club of “Dyed-in-the-Wool Democrats”?

In 2004, former German Chancellor Gerhard Schröder described Vladimir Putin as a “dyed-in-the-wool democrat”.¹ In Germany, this expression has since become a cliché that is wheeled out whenever anyone wants to criticize Moscow.² The debate over Russia’s democratic deficits reached new heights on 2 March 2008, when the OSCE reacted to Russia’s late invitation by refusing to send election observers to the presidential election.³ The highly tense relationship between the OSCE and Russia – one of the most important OSCE participating States – is a good reason to examine the extent to which modern public international law obliges states to respect democratic norms, and the role that international organizations play in this connection.

Universal Public International Law and Democracy

According to modern public international law, all peoples have a right to self-determination. The exercise of this right by a people is the basic source of legitimacy of a state.⁴ The freedom of a people to choose its political status and the proscription of interference in this decision-making process means that other states must refrain from judging it. The preamble to the UN Charter expressly calls for the peoples “to practice tolerance and live together in peace with one another as good neighbours”, which takes account of the fact that the peoples live in states with different social and value systems. Accordingly, in the case of *Nicaragua v. United States*, the International Court of Justice (ICJ) ruled that the choice of a political system is a domestic matter and that public international law makes no prescription in this area.⁵

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- 1 Cf. *FT.com*, Schröder and Putin’s “cosy” relationship under scrutiny, 2 December 2004, at: http://www.ft.com/cms/s/0/b685e688-4408-11d9-a5eb-00000e2511c8.html?nlick_check=1.
 - 2 Just how arbitrarily politicians deal with the “undemocratic” behaviour of their opponents is clear from the way they are willing to alter pro-democracy speeches at short notice when it appears opportune to do so. An example is the article in the *Frankfurter Allgemeine Zeitung* of 6 March 2008 with the headline: “Steinmeier zog Kritik an Russland zurück” [Steinmeier withdraws Criticism of Russia].
 - 3 Cf. OSCE Office for Democratic Institutions and Human Rights, Press Release, *OSCE/ODIHR regrets that restrictions force cancellation of election observation mission to Russian Federation*, Warsaw, 7 February 2008 at: http://www.osce.org/odihr-elections/item_1_29599.html.
 - 4 Cf. Daniel Thürer, Self-Determination, in: Rudolf Bernhardt (ed.), *Encyclopedia of Public International Law*, Vol. IV, Amsterdam 2000, p. 372.
 - 5 ICJ, *Military Activities in and against Nicaragua (Nicaragua v. USA)*, ICJ Reports, The Hague 1986, p. 133

Instead, it merely insists upon certain standards of behaviour. Article 4 para. 1 of the UN Charter thus requires of new members that they be “peace-loving”. The demand that UN member states be democratic was already rejected during the drafting of the Charter in San Francisco as interference in domestic affairs.⁶ Public international law makes an exception to its “blindness” regarding state form in the cases of Nazi and fascist regimes. Their ideologies were expressly condemned by General Assembly Resolution 36/162 on 16 December 1981. Public international law also outlaws racist regimes, as the many resolutions against the South African Apartheid regime show.⁷

From the right to internal self-determination, we can derive the right of peoples to play an active role in organizing the affairs of their societies under conditions of freedom and equality. This is as much a democratic moment as the common origin of human rights and democracy. This is particularly evident if we reflect that every significant advance in human rights depends upon the free self-determination that can only be achieved under democratic conditions. This is also the only way that the rights to democratic participation contained in Article 25 of the 1966 International Covenant on Civil and Political Rights can be realized.⁸ In any case, these rights operate at the domestic level, and no definition of democracy in terms of public international law, which would be a prerequisite for the international enforcement of any such standard, can be derived from them. The 1993 Vienna World Conference on Human Rights decided not to attempt a comprehensive definition of democracy, instead characterizing it as “full participation of people in all aspects of their lives”.⁹

A universal definition of democracy would also appear difficult to achieve because of the different sets of values prevailing in the various states. Furthermore, states such as Saudi Arabia explicitly take the position that democracy is not a state form that they consider sustainable for their country.¹⁰ In the UN Sub-Commission for the Prevention of Discrimination and the Protection of Minorities, the question of the influence of democracy on

6 Cf. Konrad Ginther, Art. 4. In: Bruno Simma (ed.), *The Charter of the United Nations*, 2nd edition, Oxford 2002, p. 182, margin number 21.

7 Jean Salmon, Internal Aspects of the Right to Self-Determination: towards a Democratic Legitimacy Principle? In: Christian Tomuschat (ed.), *Modern Law of Self-Determination*, Dordrecht 1993, p. 260.

8 Cf. Sarah Joseph/Jenny Schultz/Melissa Castan, *The International Covenant on Civil and Political Rights*, Oxford 2000, pp. 495ff.

9 United Nations General Assembly, World Conference on Human Rights, Vienna, 14-25 June 1993, *Vienna Declaration and Programme of Action*, A/CONF.157/23, 12 July 1993, at: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En); also in: *International Legal Materials*, 1993, No. 984, p. 1661.

10 Cf. Tom Farer, The Future of International Law Enforcement under Chapter VII: Is There Room for “New Scenarios”? In: Jost Delbrück (ed.), *The Future of International Law Enforcement*, Berlin 1993, p. 53.

the realization of human rights was seen above all as a problem of legal culture and the rule of law.¹¹

In its Millennium Declaration, the UN asserted that its members would “spare no effort to promote democracy and strengthen the rule of law”.¹² The member states committed themselves to implementing democratic practices and “genuine participation by all citizens”.¹³ Democracy is understood here above all as a universal human right.¹⁴ Also noteworthy are the many measures adopted by the United Nations with the aim of furthering democratization and development of states and “post-conflict” societies.¹⁵ In order to coordinate and guide these activities, the Security Council adopted Resolution 1645 on 20 December 2005, which created the UN Peacebuilding Commission, which is also responsible for democratization and hence the implementation of the right to self-determination.¹⁶

The Central Importance of Elections

A central element of democratization is the holding of elections, which have been called the “synthesis of all human rights”.¹⁷ The UN General Assembly first called for elections and the appointment of a government representative of the will of the people as early as 1946. In Resolution 39 (I) of 12 December 1946 on the Spanish question, the UN Security Council was called upon to take further measures “if, within a reasonable time, there is not established a government which derives its authority from the consent of the governed, committed to respect freedom of speech, religion and assembly and to the prompt holding of an election in which the Spanish people, free from force and intimidation and regardless of party, may express their will.”¹⁸ However, because of the Cold War, this demand was not followed up.

11 Cf. Osman El-Hajjé, *Working paper on the promotion and protection of human rights by the exercise of democracy and the establishment of a democratic society*, UN Doc. E/CN.4/Sub.2/1997/30, 5 June 1997, para. 15.

12 United Nations Millennium Declaration, A/RES/55/2, 13 September 2000, para. 24, at: <http://www.un.org/millennium/declaration/ares552e.htm>.

13 *Ibid.*, para. 25.

14 Cf. Henning Melber/Edward Newman/Roland Rich, Die andere Art der Intervention [The Other Kind of Intervention], in: *Vereinte Nationen 5/2003*, pp. 161ff., pp. 161-162.

15 Cf. Samuel H. Barnes, *The Contribution of Democracy to Rebuilding Postconflict Societies*, AJIL 2001, pp. 86ff.

16 Cf. Hans-Joachim Heintze, Die Vereinten Nationen und der Wiederaufbau von Nachkriegsgesellschaften [The United Nations and the Reconstruction of Post-War Societies], in: Sabine von Schorlemer (ed.), *Globale Probleme und Zukunftsaufgaben der Vereinten Nationen* [Global Problems and the Future Tasks of the United Nations], 2006, pp. 66ff.

17 Karel Vasak, Democracy, Political Parties and International Human Rights Law, *Israel Yearbook of Human Rights*, Dordrecht 1996, p. 21.

18 United Nations General Assembly, Resolution 39 (I), *Relations of Members of the United Nations with Spain*, 12 December 1946, at: <http://www.un.org/documents/ga/res/1/ares1.htm>.

State practice shows that the will of the people is articulated particularly convincingly in democratic elections. In Resolution 45/150 of 18 December 1990, the UN General Assembly stated explicitly that “periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that, as a matter of practical experience, the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of a wide range of other human rights and fundamental freedoms, embracing political, economic, social and cultural rights.”¹⁹ Given the emphasis placed on elections here, it would seem only consistent for the United Nations to see guaranteeing and observing free elections as among its central tasks. On 17 December 1991, the General Assembly adopted Resolution 46/137, establishing guidelines for election observation missions. To support the monitoring of elections by the UN, in April 1992, the Electoral Assistance Division was established within the UN Secretariat.²⁰ This service offered by the United Nations has been taken up by many states.²¹ The General Assembly underlines the importance of election assistance each year, most recently in Resolution 62/150 of 4 March 2008.

However, opinion on this is not undivided. A dissenting view was expressed in Resolution 60/164 of 2 March 2006, entitled “Respect for the principles of national sovereignty and diversity of democratic systems in electoral processes as an important element for the promotion and protection of human rights.” With reference to the rights to self-determination of peoples, this document underlines, in particular, that all peoples must be able to decide on their own fate without external interference, which means that, among other things, they should be able to choose the electoral procedures and relevant institutions themselves. The preamble stresses “the richness and diversity of democratic political systems and models of free and fair electoral processes in the world, based on national and regional particularities and various backgrounds”.²²

In practice, election observation remains free of consequences, as, for the United Nations, electoral fraud and non-acceptance of the correct result on the part of the loser do not establish an option – let alone a requirement – to intervene. Nevertheless, the UN Secretary General’s reports on election observation²³ create an impressive picture of the UN’s extensive activities,

19 United Nations General Assembly, Resolution 45/150, *Enhancing the effectiveness of the principle of periodic and genuine elections*, A/RES/45/150, 18 December 1990, at: <http://www.un.org/documents/ga/res/45/a45r150.htm>.

20 Its website can be found here: <http://www.un.org/Depts/dpa/ead/index.shtml>.

21 For the full list of states that have received assistance, see: <http://www.un.org/Depts/dpa/ead/eadhome.htm>.

22 United Nations General Assembly, Resolution 60/164, *Respect for the principles of national sovereignty and diversity of democratic systems in electoral processes as an important element for the promotion and protection of human rights*, A/RES/60/164, 2 March 2006, at: <http://www.undemocracy.com/A-RES-60-164.pdf>.

23 See e.g. United Nations General Assembly, *Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the*

and are certainly capable of influencing people in power who do not accept the results of elections by “blaming and shaming” them.

Regional Organizations Have a Clearer Conception of Democracy

A consensus on the content of democracy is easier to find within regional organizations, as the states that are members of these organizations generally possess common values and traditions. This is particularly true of the Organization of American States (OAS), whose charter explicitly states that “the solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy.”²⁴ After all, it was in relation to this requirement that Cuba was suspended from the organization by the Eighth Meeting of Consultation of the Ministers of Foreign Affairs of the OAS in 1962, because Marxism-Leninism was incompatible with the inter-American system.

The case of Haiti shows, however, how complex it is to enforce OAS commitments, even with the full support of the international community. The OAS became involved in defending democracy there following the expulsion of the legally elected president, Jean-Bertrand Aristide, in 1991. In 1993, both the OAS and the UN Security Council unanimously imposed an oil and arms embargo on Haiti and froze Haitian assets.²⁵ Because these resolutions were approved under Chapter VII of the UN Charter, the Security Council assumed that “the continuation of this situation threatens international peace and security in the region” without detailing more closely what the actual threat to peace was. In Resolution 862 (1993) of 31 August 1993, the Security Council additionally spoke of “the international community’s commitment to a resolution of the crisis in Haiti, including a restoration of democracy.”²⁶

The then US Ambassador to the UN, Madeleine Albright, justified the necessity of the international community intervening in Haiti in terms of the violation of the right to self-determination of peoples. From this, it has been

promotion of democratization, Report of the Secretary General, A/60/431, 15 October 2005.

24 Organization of American States, *Charter of the Organization of American States*, Article 3 lit d, at: <http://www.oas.org/juridico/english/charter.html>; also in: *International Legal Materials*, 1994, No. 985, p. 1009.

25 Cf. United Nations Security Council, Resolution 841 (1993), S/RES/841 (1993), 16 June 1993, at: <http://www.un.org/Docs/scres/1993/scres93.htm>.

26 United Nations Security Council, Resolution 862 (1993), S/RES/841 (1993), 31 August 1993, at: <http://www.un.org/Docs/scres/1993/scres93.htm>. For more details, cf. Hans-Joachim Heintze, *Völkerrecht und demokratische Staatsordnung, Anmerkungen anlässlich des internationalen Engagements zur Wiederherstellung der Demokratie in Haiti* [International Public Law and Democratic Polity. Remarks on the Occasion of the International Intervention to Restore Democracy in Haiti], in: *Verfassung und Recht in Übersee* 1996, pp. 6ff.

concluded “that the right to self-determination has become a legal title that justifies the intervention – using violent means if necessary – in the jurisdictions of national states”.²⁷ However, this very far-reaching judgement was not shared by Security Council Resolution 940 (1994), which empowered the international community to use all means necessary to overthrow the military regime. Instead, the intervention was justified by the deterioration of the humanitarian situation, the systematic violation of basic rights, the desperate plight of Haitian refugees, and the expulsion of a civilian monitoring mission.²⁸ The only call for the restoration of democracy is contained in the “Governors Island Agreement”, concluded between President Aristide and Haiti’s military leaders.²⁹ From the text of the resolution, it is clear that the disregarding of the Governors Island Agreement was the reason for the UN’s threat of violence. However, the return of the democratically elected government did not lead to stability, so that Haiti, as a “failed state”, was deemed in Security Council Resolution 1529 (2004) to require further international assistance in the form of a UN stabilization mission.

The OSCE Sets the Pace

The OSCE’s turn to democratic values is one of the most remarkable developments within this regional organization. The engagement of the CSCE/OSCE is based on the Final Act of Helsinki of 1 August 1975,³⁰ which states that “all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development”.³¹ As the 1989 revolutions and the collapse of the socialist states showed, the democratic demands contained in the Helsinki Final Act had developed an explosive power capable of sweeping away dictatorial regimes. This new development was formalized and carried forward in CSCE documents after 1989. The Charter of Paris for a New Europe of 21 November 1990³² imposed detailed new commitments on the CSCE States with regard to the form of democratic governance: “Democratic government is based on the will of the people, expressed regularly through free

27 Udo Fink, *Legalität und Legitimität von Staatsgewalt im Lichte neuerer Entwicklungen im Völkerrecht* [The Legality and Legitimacy of State Power in the Light of New Developments in Public International Law], *Juristen Zeitung*, 1998, pp. 330ff., p. 337 (author’s translation).

28 Cf. United Nations Security Council, Resolution 940 (1994), S/RES/940 (1994), 31 July 1994, at: <http://www.un.org/docs/scres/1994/scres94.htm>.

29 Cf. UN Doc. S/26063 of 12 July 1993.

30 Cf. the comments by Arie Bloed, *Two Decades of the CSCE Process: From Confrontation to Co-operation. An Introduction*, in: Arie Bloed (ed.), *The Conference on Security and Co-Operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 1ff., here: pp. 46ff. The text of the Final Act is also reproduced there, pp. 141ff.

31 *Ibid.* p. 147.

32 The text of the Charter of Paris is also reproduced in: *ibid.*, pp. 537ff.

and fair elections. Democracy has as its foundation respect for the human person and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person.

Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law.”³³

Although the Charter of Paris is not a treaty under international law, the literature increasingly speaks of the fact that the democratic legitimation of governments today has become a “normative rule of the international system”.³⁴ This view is supported by the use that has been made of key OSCE norms. For instance, the Europe Communities (EC) made the granting of recognition to the new states that emerged from the ruins of the Soviet Union dependent upon – among other things – their respecting the UN Charter, the CSCE Helsinki Final Act, and the CSCE Charter of Paris. In this way, democratic government was made a *de facto* precondition for the international recognition of new states. The fulfilment of this requirement was examined by the Arbitration Commission under Robert Badinter.³⁵

In the light of the OSCE’s activities, the literature increasingly speaks of an emerging duty to observe democratic standards as a matter of customary public international law.³⁶ There is much talk of “common value systems”, based upon the fundamental values of stable interstate relations and peace, and the protection of human rights and natural resources.³⁷

A Club of Dyed-in-the-Wool Democrats?

An international organization will always be involved in trying to ensure that its principles and norms are widely accepted. Like any other social entity, it will constantly have to struggle with challenges to its rules and breaches thereof. There will thus never be a club of dyed-in-the-wool democrats. Not even within the EU, which, unlike the OSCE, includes strong elements of supranationalism, can it automatically be assumed that all the fundamental principles of democracy are observed all the time. In 2000, for instance, the

33 Ibid. pp. 537-538.

34 Thomas M. Franck, The Emerging Right to Democratic Governance, *American Journal of International Law* 1992, p. 46.

35 For more details, cf. Danilo Türk, Recognition of States, in: *European Journal of International Law* 1993, p. 70.

36 Cf. Juliane Kokott, Souveräne Gleichheit und Demokratie im Völkerrecht [Sovereign Equality and Democracy in Public International Law], *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (ZaöRV)* 2004, p. 517ff., here: p. 517.

37 Cf. Matthias Herdegen, Asymmetrien in der Staatenwelt und die Herausforderungen des „konstruktiven Völkerrechts“ [Assymetries in the World of States and Challenges to “Constructive International Law”], in: *ZaöRV* 2004, pp. 571ff., here: p. 574.

EU was prepared to impose sanctions on Austria, a member state.³⁸ This was justified with reference to the participation in government of Jörg Haider, then chairman of the far-right Austrian Freedom Party (FPÖ), and a holder of racist views. The EU has been said to have applied the concept of “fortified democracy” (“*streitbare Demokratie*”) in relation to this case. This concept “stands for the attempt to create a synthesis between the principle of tolerance towards all political views and the commitment to inalienable fundamental values of a collective body.”³⁹ In plain language, this means that the majority may not call into question the basic consensus of a democratic order, the rule of law, and the protection of human rights.

This concept of fortified democracy must also apply at a basic level to the OSCE, as the 1990 Charter of Paris, in particular, obliged the participating States to establish democratic societies. Even earlier, the Copenhagen Document identified 21 elements that are indispensable to respect for inherent dignity and inalienable human rights.⁴⁰

However, the OSCE possesses no institutional mechanisms that can be compared to those of the EU. This should come as no surprise inasmuch as the OSCE understands itself to be foremost an instrument for promoting democratic change in states that were formerly ruled as dictatorships. It is therefore necessary to bring governments and civil societies together in ways that cross national frontiers to take part in a constructive dialogue on good governance. A key role here is played by the rule of law, which should be encouraged by supporting legislation in the participating States. This can be considered a matter of fine-tuning a culture of democracy, which must not be restricted to the holding of elections, but is characterized by institutions that – transparently and openly – exercise the mandate they have been granted by a majority in an election.

It is important to stress that this is a process, for although considerable progress has been made in promoting democracy in recent years, problems are still associated with the institutionalization of these developments. In particular, there have been problems with ensuring broad popular participation in politics and creating mechanisms for popular consultation. This is closely related to the activity of political parties. These fields of activity have always been at the heart of the work of the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR). Experience shows that ODIHR’s work is not precisely delineated, but can be adapted flexibly to meet new

38 Cf. Gregory Fox/Georg Nolte, Intolerant democracies, in: Gregory Fox/Brad Roth (eds), *Democratic Governance and International Law*, Cambridge 2000, pp. 389ff.

39 Frank Schorkopf, *Die Maßnahmen der XIV EU-Mitgliedsstaaten gegen Österreich* [The Measures Taken by the XIV EU Member States against Austria], Berlin 2002, p. 123 (author’s translation).

40 Cf. Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Bloed (ed.), cited above (Note 30), pp. 439ff., paras 5.1-5.21. These elements include: free elections, a form of government that is representative in character, and human rights and fundamental freedoms guaranteed by law.

challenges.⁴¹ It therefore cannot be surprising that the topics of migration and human trafficking, which are closely related to human rights and democratization, have taken up ever more capacities in recent years.

Outlook

The OSCE is not a club of dyed-in-the-wool democrats. Nor can it be the Organization's goal to become one. It is far more important to support the participating States in establishing and consolidating democratic structures – including by giving critical advice – and to provide them with help in word and deed. In this regard, the OSCE is an instrument of co-operation. Randolph Oberschmidt was right to conclude in 2001 that the OSCE will achieve nothing if it criticizes states for human rights violations while offering neither coherent ideas nor concrete assistance with establishing institutions to support the rule of law and economic development.⁴² The OSCE's broad approach goes beyond the pro-democracy measures taken by the Council of Europe. Thanks to the latter's reporting system, which picks up on concrete issues,⁴³ it is the organization geared more towards the production of dyed-in-the-wool democrats than the OSCE. That is why it is right for the OSCE to react to deficiencies in the Russian parliamentary elections by refusing to send election observers. However, this act of abstention must be combined with the offer to provide Russia with further support in developing a functioning democracy.

41 Cf. Randolph Oberschmidt, Ten Years of the Office for Democratic Institutions and Human Rights – An Interim Assessment, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2001*, Baden-Baden 2002, pp. 387ff.

42 Cf. *ibid.* p. 400.

43 Cf. e.g. the report: *State of human rights and democracy in Europe*, Council of Europe Publishing, Strasbourg 2007.

The OSCE's Efforts to Combat Trafficking in Human Beings

Introduction

The purpose of this article is to share the perspective of the OSCE Special Representative for Combating Trafficking in Human Beings and analyse the added value the OSCE has brought as a leading organization in the fight against trafficking in human beings during the past two years.

This article does not make an effort to duplicate the annual report that the Special Representative is mandated to give the Permanent Council on progress in the OSCE region, even if the period described overlaps the reports of 2007 and 2008. Rather, it makes an effort to capture the political environment of working against trafficking in human beings in the OSCE and the OSCE region.

The OSCE approach is human-rights based; it puts the victim – the human being – and the consequences for him or her at the centre. All responses must be considered, first of all, in terms of their ability to protect the rights of the victim. For this purpose, it is imperative to tell the stories of the various victims – the girl and the boy who are sold and bought to be sex slaves or to perform petty crimes; the young woman who is moved from one sex-club to another and sees dozens of clients every day, who is isolated and forbidden to speak to anyone or to leave, who is held hostage under threats to her family back home; the man who is lured to a good job in a restaurant or a farm and finds himself without pay, without a passport, being treated inhumanely with no possibility of leaving; or the Chinese women working in restaurants during the day and providing sexual services to clients at night, who are thus the victims of multiple exploitation. We believe it is important to show that trafficking is a modern day form of slavery; it is violence; it is torture; it is rape; it is deprivation of freedom; it is fraud and many other serious crimes all tied together by one criminal activity. NGOs who work with the victims locally bring us invaluable information and experience worth sharing.

In the OSCE area, the victims of trafficking in human beings – those that have been identified – tend to be women and girls, particularly with regard to trafficking for sexual exploitation. Women also constitute a significant fraction of victims of trafficking for labour exploitation. Frequently, the victims are foreigners, members of minority ethnic groups, or extremely vulnerable in other ways. Half are estimated to be children.

It should come as no surprise that few hard facts are known about trafficking: The low level of prosecutions and even lower level of convictions means that there are very few verifiable victims. Still, there is a deep preju-

dice in our societies that holds that prostituted women have themselves to blame for their misfortune, and that this somehow reduces the responsibility their exploiters are seen to have for the harm (including violence) they inflict upon their victims. Furthermore, intolerant and xenophobic attitudes create a barrier to empathy with exploited and ill-treated migrant workers.

Trafficking in Human Beings – High on the OSCE Political Agenda

Since the adoption of the OSCE Action Plan to Combat Trafficking in Human Beings (hereafter “Action Plan”) in 2003, the participating States have made efforts to accomplish many of its recommendations. States have developed national action plans, established national co-ordinating structures, and ratified relevant international conventions. They have also begun harmonizing national legislation to reflect the provisions of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children and its parent convention, the Convention against Transnational Organized Crime.

In its reference guide to the OSCE human dimension commitments, The Office for Democratic Institutions and Human Rights (ODIHR) advises on the binding nature of the decisions unanimously taken by the OSCE Ministerial Council. These decisions, though they do not create legally binding norms that could be enforceable in a court as such, are by no means simply non-binding. The OSCE commitments are politically binding on the participating States; they are “more than a simple declaration of will or good intentions; rather, they are a political promise to comply with these standards”.¹ Furthermore, older decisions are not replaced by later ones but are built upon, and the whole must be implemented – as the OSCE *acquis*.

Ideally, this gives the OSCE an opportunity to serve as the organization that can keep pace with the genuine challenges that new human rights problems pose, bringing them rapidly into the political discourse between governments at the highest level. The necessity of reform, whether of legal norms or national practices, can be discussed and developed in dialogue before final compromises are reached that are agreeable to all. At its best, the discourse of the OSCE has significantly contributed to the formation of legally binding international instruments by other organizations. These include the Council of Europe Convention on Action against Trafficking in Human Beings (in force since 1 February 2008), the most modern and most comprehensive European legal instrument in this field.

However, the political climate in the OSCE has undergone a remarkable transformation since 2003. In the run-up to the adoption of the Action Plan, there was a strong spirit of political determination to move forward in a

1 OSCE Office for Democratic Institutions and Human Rights, *OSCE Human Dimension Commitments*, Volume 1, Warsaw 2005, p. xviii.

multilateral format and a conviction that that OSCE could be a pioneer in this area. This turned out to be the case, and the participating States clearly consider it important that the topic of human trafficking be raised higher up the OSCE agenda, as demonstrated by the fact that it has been the subject of a Ministerial Council decision every year since 2000. It would, however, be pompous to simply declare this a demonstration of the political priorities of the participating States. After all, it is also true to say that trafficking in human beings is one of the few issues in the OSCE where consensus has been feasible – though even here it has not been easy to achieve. Regrettably, the spirit that prevailed a few years ago, when it was believed that working through solutions would bring about new and further-reaching OSCE multilateral commitments and would in fact require legislative reform or changed practises at national level, has been absent during this period.

The Brussels Ministerial Council Decision of 2006 to reform the anti-trafficking mechanism established in 2003 under the aegis of the Permanent Council made the mechanism an integral part of the Secretariat. Following on from the approval of the 2003 Action Plan, this decision once more stepped up the Organization's political engagement in fighting trafficking as an inherent part of the comprehensive security of the OSCE region.

The Brussels Ministerial Meeting took two further decisions related to trafficking in human beings. For the first time, trafficking for labour exploitation was specifically identified as an increasing threat and a specific form of trafficking in Europe that needed to be addressed appropriately. The Permanent Council was tasked with considering ways to further strengthen the OSCE's efforts in this respect. Apart from being more focused of this type of trafficking, however, this decision did not go much beyond the Action Plan. Nonetheless, it provided a solid basis for working towards a further decision on labour exploitation, which could be expected to contain more ambitious commitments. The Office of the Special Representative published an occasional paper on *Legal Challenges Facing Responses to Human Trafficking for Labour Exploitation in the OSCE Region* to facilitate the process. The other decision, on combating the sexual exploitation of children, encouraged the participating States to criminalize extraterritorial offences against children, and tasked the executive structures with ensuring that OSCE staff were trained to keep in mind the Code of Conduct for OSCE Officials and Staff Instruction 11 addressing trafficking in human beings.

The 2007 Spanish Chairmanship requested the assistance of the Office of the Special Representative and its expertise in preparing the draft decision for the Madrid Ministerial on trafficking for labour exploitation. The Special Representative invested a considerable amount of time preparing background materials, and ODIHR wrote a thorough food-for-thought paper with input from the Office of the Special Representative to be discussed in the Human Dimension Committee and to assist the Chairman-in-Office in negotiations.

The discourse in the run-up to the Madrid Ministerial tended to be two-sided: On the one hand, there was a strong consensus that such a decision was needed and would benefit the Organization and the OSCE countries. On the other, it was frequently stated that the decision should not include any commitment to changes in national legislation. A perception among some of the participating States was that their existing legislation constituted some kind of a limit, even if the scope of trafficking in human beings could by no means be understood as declining. The other interpretation of this somewhat contradictory approach is that these countries largely agree on substance, but considered that the international framework of the OSCE was not right for proceeding on this particular issue. Even at this technical level, the topic of migration was clearly able to touch a nerve, and efforts were made to isolate trafficking in human beings from its complex real root causes and consequences and from the need to respond in a comprehensive and cross-dimensional way.

To illustrate this, I can give an example of the Human Dimension Committee discussion on visa, residence, and job permit practices. It is easy to show how dependent a worker becomes on one employer when it is only this particular employer who can reapply for the various permits the worker needs to stay in the country of destination. When an employer is abusive or has a trafficked worker under his control, the chances of escape are slim enough as it is. Nevertheless, some delegations considered the idea of giving workers themselves the right to apply for permits and select their employers to conflict too much with current regulations. It is not political considerations that stand in the way of changing the harmful practices. The resistance stems rather from a basic reluctance to accept any changes in the way things are done.

The 2007 Madrid Ministerial Council therefore did adopt a decision on trafficking for labour exploitation, the second of its kind. This once again demonstrated that OSCE governments consider trafficking in human beings to be a serious issue. Nevertheless, they failed to raise the level of political commitment beyond the existing OSCE *acquis*, which shows that they do not treasure our pioneering role in fighting trafficking in human beings. Improving the international structures aimed at protecting victims, preventing this crime, and prosecuting perpetrators more successfully would require participating States to be willing to revalue existing norms and practices, especially related to migration, the social security of victims, and tackling demand for trafficked labour. This is the reality they need to address if they are serious about eradicating human trafficking.

The 2008 Finnish Chairmanship has, together with the forthcoming chairmanships for 2009, 2010, and 2011 (Greece, Kazakhstan, Lithuania), announced that human trafficking is to be kept as a priority on the long-term OSCE agenda. This announcement promises that there will continue to be a political platform for developing the agenda on trafficking in human beings

towards more substantial commitments in coming Ministerial Councils and, naturally, also for better implementation of existing recommendations and commitments in the participating States.

The Challenges of Implementation

Challenges remain in almost all areas of our activities. They are not the same as in the late 1990s, when none of the authorities were ready to recognize the existence of this modern form of slavery in their countries. But they still keep us from breaking the back of organized crime and tearing the chain of trafficking apart.

The participating States identified many of these challenges in the areas of prevention, protection, and prosecution in their responses to a questionnaire distributed in 2006 by the Office of the Special Representative. Other challenges have been pointed out by international organizations and representatives of civil society, who make up the bulk of service providers for the victims of this crime.

One of the biggest hurdles that has been discussed in the OSCE Human Dimension Committee is the inability to identify cases of trafficking (and hence the victims of trafficking) due to a shortage of professional capacity and a lack of awareness. For example, a failure to differentiate between human trafficking and the smuggling of migrants leads to neglect and mistreatment of trafficking victims, and ensures that offenders are not punished.

The lack of effective protection schemes and funding for non-governmental service-providers causes difficulties in obtaining testimony from the victims, who are often fearful of retaliation. This situation prevails in all countries, despite the fact that there is sufficient evidence to indicate a strong correlation between the degree of protection and assistance provided to victims and the rates of prosecution.

There is a widely recognized inability to collect and analyse data that would make it possible to assess the scope of the problem, partly because of the absence of national *rapporteurs* or an equivalent mechanism. Also lacking are a systematic approach, advanced and well funded national programmes or national actions plans, and sufficient funding for anti-trafficking activities to ensure sustainability and results. Anti-trafficking measures within most states are fragmented due to a lack of co-ordination mechanisms at the decision-making level and the non-involvement of relevant anti-trafficking stakeholders in the decision-making processes, including civil society and the business community.

There is little awareness of the socio-economic root causes of both the demand and supply factors that contribute to trafficking, such as social exclusion and discrimination, inadequate migration policies, and the inadequacy of social protection systems. As a result, few interventions can be made at this

level. Corruption among officials, xenophobia, gender discrimination, and indifference to maintaining respect for human dignity in destination countries make the best possible environment for traffickers.

A negative public attitude towards victims of trafficking – one that does not really recognize them as true victims of crime (and which is detrimental to the identification of victims in countries of destination and to the full re-integration of trafficked persons in their countries of origin) – is aggravated by negative views of migrants and minority ethnic groups and leads to greater tolerance of exploitation and trafficking. Furthermore, the minimal interest in addressing the demand for trafficking for sexual and labour exploitation in countries of destination demonstrates a high degree of social and political tolerance for this kind of exploitation and creates an environment favourable to traffickers and exploitation.

When legislation fails to cover all forms of trafficking, responses tend to be unfocused and simplistic, both with regard to identifying the crime and assisting the woman, child, or man who is its victim. Internal trafficking is not equally acknowledged, leading to problems in both detection and support, as well as in ensuring that adequate legal provisions and services are in place.

Finally, of course, the lack of sufficient resources – financial and human – mean that legislation and action plans remain merely symbolic. Effective use of available resources would also include the evaluation of responses and the collection of data related to trafficking in human beings in each country.

The Alliance Against Trafficking in Persons Conferences 2006-2008

The Alliance Against Trafficking in Persons conferences provide the OSCE and the Special Representative with an opportunity to engage in direct consultations with the actors responsible for policy and its execution, including NGOs; to facilitate the exchange of lessons learned in the implementation of OSCE commitments; to provide a forum for networking among officials, international organizations and NGOs; and to enable the development of strategies to support these processes.

The conference entitled “Human Trafficking for Labour Exploitation/ Forced and Bonded Labour: Prosecution of Offenders, Justice for Victims” aimed at raising political will and improving government authorities’ understanding of this complex issue. This process resulted in new Ministerial Council decisions and led to new commitments by the OSCE participating States. It also contributed to strengthening the role and visibility of the OSCE as a catalyst of knowledge and expertise.

The conference entitled “National Monitoring and Reporting Mechanism to Address Trafficking in Human Beings: The Role of National Rapporteurs” was the first ever international event dedicated to this topic. It was aimed at facilitating the exchange of information among senior governmental

officials, and also succeeded in raising the OSCE's profile as a leader in this field, specifically with regard to relevant EU recommendations. It also contributed to ongoing discussions between the OSCE and governments on the implementation of relevant commitments and potentially to the shaping of future Ministerial Council decisions.

*Human Trafficking for Labour Exploitation/Forced and Bonded Labour:
Prosecution of Offenders, Justice for Victims, 16-17 November 2006*

This conference, which brought expert speakers from various participating States together in dialogue with eminent representatives of delegations, produced recommendations arising in part from the background paper "A Summary of Challenges Facing Legal Responses to Human Trafficking for Labour Exploitation in the OSCE Region",² which was produced by the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, and in part from the ODIHR "Overview of Special Day on Trafficking 2006 OSCE Human Dimension Implementation Meeting".³ The recommendations were rooted in relevant provisions of the OSCE Action Plan to Combat Trafficking in Human Beings and other OSCE commitments.

While it is possible to debate whether international laws could be stronger, for example whether the reflection and recovery periods in the Council of Europe Convention are sufficient, given the evidence of long term mental and physical health issues suffered by the majority of trafficking victims, it should be remembered that these instruments represent only frameworks or minimal standards.

Effective measures would require practices, regulations, and above all behaviour to change significantly in ways that would benefit new citizens in our societies who are not well integrated politically and may even lack political rights. Political change is always difficult to achieve, but especially when there is no powerful pressure for change.

The experts from the OSCE participating States made many recommendations aimed at addressing trafficking in human beings for labour exploitation: Criminal legislation needs to clearly define terms such as "abuse of vulnerability" and "forced labour" if it is to be helpful; the retention of passports, work permits, and other identity documents by people other than those to whom they are issued should be criminalized; employment permits should not be tied to specific employers and it should be possible for employees to extend or renew a permit him- or herself (otherwise migrant workers are at risk); international legal co-operation in criminal matters needs to be enhanced; improving lawful channels for migration and tackling xenophobia

2 Kay Thompson, *A Summary of Challenges Facing Legal Responses to Human Trafficking for Labour Exploitation in the OSCE Region*, SEC.GAL/199/06, 14 November 2006.

3 ODIHR Anti-Trafficking Programme, *Overview of Special Day on Trafficking. 2006 OSCE Human Dimension Implementation Meeting*, Warsaw, 27 October 2006.

would also be helpful, as would raising awareness about migrants' rights and basic freedoms.

The conference also recognized the role of unions in improving workplace conditions in sectors that are particularly vulnerable to trafficking and labour exploitation, supporting the creation of ethical employment associations that adhere to codes of conduct, and public awareness campaigns that assist consumers in identifying goods and services that have been produced without exploitation. Working together with civil society, the state should move the focus from immigration control to the prevention of exploitation, the promotion of workers' rights, and the pursuit of outreach strategies to propagate information on these rights. Minimum labour standards as contained in labour laws need to be enforced for all workers, independently of their legal status, and front-line actors need to be trained to identify possible victims of trafficking.

A multi-agency, pro-active approach was recommended. Assistance, including legal counselling, legal representation, and compensation schemes, needs to be available to all victims of trafficking and should not be dependent on their willingness to act as informers or witnesses.

National Monitoring and Reporting Mechanism to Address Trafficking in Human Beings: The Role of National Rapporteurs, 21-22 May 2007

At this high-level conference, national *rapporteurs* or persons serving in an equivalent capacity from Albania, the Czech Republic, the Netherlands, Romania, Sweden, and the United States of America shared their experiences. They all demonstrated clear evidence of the impact *rapporteur* mechanisms can have as a contributing factor in combating trafficking in human beings. Some of the leading researchers on human trafficking (e.g. Kevin Bales) estimate that today there are in fact more women, men, and children held in slave-like conditions than during the height of the transatlantic slave trade. Yet we have not been very successful in gathering data on this phenomenon and know little about either the scope or the nature of trafficking. Most importantly, we are ill-informed about the forms that this criminal behaviour takes.

The fact that global estimates of the number of trafficking victims made in recent years have varied so much is indicative of our current lack of knowledge. Different estimates have their basis in different definitions and often depend on whether trafficking within countries is included. The US State Department's annual Trafficking in Persons Report estimates that there are 800,000 victims of international trafficking in human beings, rising to "millions when trafficking within borders is included". And indeed, borders do not constitute a significant obstacle for traffickers, and perhaps never have. The decisive factors seem to be the existence of a market and the opportunities provided by societies that allow trafficking operations to become

established. If too little is done by law enforcement agencies (and the media) to intervene, traffickers can operate with little risk of economical loss. It is perhaps time to analyse how the focus in responding to and preventing this crime can move away from borders.

New patterns of trafficking in children for both sexual and labour exploitation have emerged, and children are increasingly being trafficked to commit crimes such as pickpocketing and for organized begging. The clandestine and multifaceted nature of this crime makes accurate data collection difficult, and identifying victims remains a major challenge. For instance, it can be difficult to identify trafficked children among irregular migrants. National policies on human trafficking are thus based on mere perception, and tend still to focus on combating irregular immigration; they prioritize state security over human security, and focus on guarding borders rather than rescuing victims. It should be recalled that the OSCE Action Plan recommends that special attention be paid to identifying the most vulnerable segments of the population and conducting thoroughgoing analysis of the root causes of trafficking, including demand and supply factors, trafficking networks, and the economic consequences.

All major international organizations agree that effective national reporting mechanisms are of great importance. The oldest of the key international declarations and recommendations calling on states to establish a reporting mechanism is already eleven years old. The 2003 OSCE Action Plan, besides recommending the establishment of a national reporting mechanism, specifically highlighted the need to collect separate data related to female, male, and child victims of trafficking.

The 2005 EU Action Plan on trafficking in human beings also clearly states the need to increase our overall empirical knowledge and advocates systematic data collection and analysis. It calls for increased research into subjects that have largely been neglected, such as the demand side of trafficking and the risks of re-trafficking. The 2006 Brussels Ministerial Council decision also underscored the importance of appointing national *rapporteurs* or similar independent monitoring mechanisms.

Key recommendations of the 2007 conference on the role of national *rapporteurs* were as follows: Trafficking in human beings should be addressed in a comprehensive way, including all forms of exploitation; issues related to prevention and protection should be analysed without relying on figures gathered by law enforcement authorities; reporting mechanisms generally benefit from independence; reporting should be systematic and regular, preferably once a year to parliament or government and should be published, creating a platform for discussion and being open for review. It was seen as essential that the *rapporteur* have access to all relevant information and be given appropriate jurisdiction and resources. The national *rapporteur* should gather and analyse data from a variety of stakeholders, including civil society and experts, and should protect the integrity of trafficked persons.

Making recommendations of areas where improvement or amendments are needed is an integral part of the national report and of the work of the national *rapporteur* or equivalent mechanism. Recommendations should also be made to NGOs and the general public, the private sector, the media, and other actors whenever relevant to the issue at large. In addition, governments should act in accordance with the recommendations.

Assistance to Trafficked Persons: We Can Do Better, 10-11 September 2007

This conference focused on telling real stories. Sharing lessons learned and disseminating research into efforts to assist victims could make the OSCE region better at designing future policies and responses. The conference was attended by many experts from both the public sector and civil society, who shared their experiences and empirical data on issues related to victim identification, protection, and assistance. They all demonstrated clearly the importance of evidence- and research-based knowledge and how it can contribute to the creation of better policies and programmes for combating trafficking in human beings from a victim-centred approach.

We all share a common enemy, the traffickers, who unfortunately seem to be getting better at hiding their criminal activity, constantly changing the way they operate and the routes they use to avoid efforts to catch them. We still hear traffickers state that part of the “beauty” of this branch of criminal activity are the easy profits available at practically no risk. Looking at the statistics in almost any country, and the very modest numbers of convictions for trafficking in human beings, it is easy to see how true this is. Unfortunately this also has repercussions on the victims. Without convictions – and without victims appearing as witnesses and thereby helping the law enforcement agencies – victims’ rights to legal status and rehabilitation are often not upheld.

Listening to victims, it becomes clear that a number of measures that are intended to provide them with protection are inadequate, with the result that they may refuse help. And, once again, the most alarming fact of all is that officials are still often unable to identify victims. Moreover, although the problem is growing, resources are always scarce, and it is therefore vital that the resources that are available are spent much more effectively.

One of the most memorable pieces of research presented at this conference showed that the medical effects on the mind and memory of a victim of trafficking are similar to those suffered by a victim of torture. The victim often loses her memory of the most traumatic events, which means she may not be a very credible witness, her story may be inconsistent, or she may simply appear to be uncooperative. Research has shown that victims need time – at least 90 days – to recover enough to be helpful witnesses. It is thus

vital that law enforcement agencies provide them with assistance and a reflection period.

The conference called upon participating States to strengthen their efforts in the field of research with a view to assessing and evaluating measures, programmes, and policies aimed at combating trafficking, including the identification of gaps and potential areas of improvement. The conference conclusions raised a number of challenges where better implementation of anti-trafficking policies and responses could give results.

Special attention should be given to factors that expose people to risks, to the changing patterns of trafficking, to the weakness of law enforcement agencies and social services in identifying victims and providing them with services, to the complex relationships between traffickers and victims, to better victim identification and more effective referral, to the disappearance of children in protection and to providing them with protection at an earlier stage, to the discrepancies between the estimated numbers of victims and the number of victims provided with assistance, to the health impacts and involvement of health experts, and to the capacity-building needs of all kinds of authorities, to mention only a few areas.

Child Trafficking: Responses and Challenges at Local Level, 26-27 May 2008

It is well acknowledged that eradicating trafficking in human beings requires a comprehensive and cross-dimensional response. We need international cooperation, co-ordinated efforts, and trust between public authorities and civil society. But we also need local responsibility, policies, and action. The speaker from Norway put it simply: “National action plans are worth little unless they are implemented at a local level”.

This conference brought together the knowledge and experience of many local authorities and NGOs to consider the progress made in implementing the OSCE Action Plan on Trafficking in Human Beings and its Addendum on Child Trafficking through a variety of examples and practices.

There was an overwhelming acknowledgement of the sad and growing reality in many of our major cities that children on the move seeking a better life or bearing the burden of responsibility for their families are often not adequately protected, but abused, smuggled, and trafficked. This phenomenon poses a major challenge not only for national governments, but for all local public institutions on a daily basis. Once again, NGOs have helped us realize the scope, complexities, and contradictions of this problem.

There does, however, seem to be genuine progress in acknowledging the scope of this problem and the need to equip local authorities with new tools and concrete resources to strengthen child-protection services – in countries of both origin and destination. Local authorities need to budget

resources and build capacities to respond to the growing reality of children exploited for organized begging and petty crime, and in the sex industry.

The migration of their parents affects children in many ways, not only emotionally. They are especially at risk when simply left behind. It is essential that more opportunities be created for children to reunite with parents who are working abroad and that supportive networks for children who live apart from their parents for long periods of time are strengthened. This needs to be approached in a multidisciplinary, transnational, and cross-cultural way, as experiences from the Netherlands, Austria, France, Moldova, the Russian Federation, the UK, Belgium, Italy, Norway, Romania, Greece, and Albania made clear at the conference.

The local authorities have a direct and compelling responsibility to intervene and ensure that children are protected from exploitation and abuse through a process that focuses on their best interests and specific needs. To decide what action must be taken, a procedure needs to be set up that is able to determine the child's best interest, and this needs to involve a range of professional expertise as well as the participation of the child.

Child victims of trafficking are frequently not identified or are returned home without proper risk assessment having been conducted. Legislative measures must be taken to ensure that children are not criminalized, and that the right of child victims to stay in the country of destination depends neither on the traffickers being identified and convicted nor on the immigration status of the children.

Last but not least: It is absolutely essential to combat demand – whether for sex or for cheap cotton. It is in the interest of international cotton-buying companies that consumers can trust that their products are not produced with the exploitation of children.

The experiences described by participating States and NGOs at the conference point to the urgency of increasing our knowledge of what is happening to thousands of children on the move, undertaking more research on child trafficking, and implementing policies to address the demand for trafficking for sexual, labour, or other purposes. Installing national *rapporteurs*, whose tasks would include gathering local data; increasing child local protection budgets; budgeting resources for outreach work and NGO protection; and providing support services with special competence addressing children were considered essential.

Procedures urgently need to be put in place to enable the best interests of the child to be determined adequately, especially when dealing with extremely vulnerable children, such as unaccompanied asylum seekers, or when deciding whether trafficked children should be returned or allowed to stay. Co-operation between law-enforcement and child-protection authorities in countries of origin and destination need to be improved.

The Function of the Special Representative in Practice

The OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings is in a unique position to carry out political dialogue with governments of participating States, applying the lessons learned from the shared experiences of the participating States and making the most of their commitments in the multilateral framework of the OSCE on a case-by-case basis. There has been growing interest among the participating States in the kind of advice and “soft assistance” provided by the Special Representative and her Office, whether this has taken the form of high-profile country visits or a more comprehensive analysis.

In June 2006, as mentioned above, the anti-trafficking mechanism was transformed into its current form, with the Office of the Special Representative made an integral part of the Secretariat. The Special Representative’s mandate is comprehensive, cross-dimensional, and authorizes her to represent the OSCE politically by raising the public and political profile of the fight against all forms of human trafficking. The Special Representative assists participating States at their request in fulfilling the relevant OSCE commitments and the recommendations of the OSCE Action Plan, co-ordinates anti-trafficking efforts within the OSCE, and co-operates with national authorities, civil society, and relevant international actors.

The mandate is broad and leaves room for prioritizing as well as adapting to the latest changes in patterns of crime, which may pose new problems for implementation. It aims to address all parts of the OSCE area in a balanced way – targeting issues related to countries of origin, countries of transit, and countries of destination. Bearing in mind that trafficking is a problem for every country, prioritizing the activities in different countries is not always easy. Yet the false perception strongly prevails that human trafficking still is mostly a concern of countries of origin.

Many trafficking-prevention projects are targeting victims in countries of origin by focusing on raising awareness about the risks of emigrating. However, research has shown that campaigns are often simply too general to have an impact. It is also reasonable to question the ethics of allocating all the resources available for prevention activities here. The victim, after all, is the one most in need of assistance.

This situation points to the need for donor governments and others to carry out independent evaluations to review the impact of major anti-trafficking projects. It is very difficult to determine best practices or next steps without knowing whether what is already being done has been effective.

Most funding is directed at projects in nations that are considered countries of origin or transit. So far there has been no comprehensive strategy of investment to “link” the work being done in destination countries, e.g. in the EU, to efforts in origin and transit countries in a systematic way. Other ways

of fighting trafficking include creating an environment that is less attractive to traffickers, reducing the size of the market by addressing demand, and, of course, better protecting persons at risk, mostly migrants. This is why, in 2006-2008, there was a special effort to visit capitals west of Vienna – the EU countries and the USA – to focus some attention on countries of transit and destination.

The power of example is obviously not to be underestimated. The Special Representative can also be of great value here in facilitating the dissemination and promoting the adaptation of best practices and lessons learned from those countries in the OSCE region that have integrated the fight against trafficking in human beings in a more comprehensive way and have created specific mechanisms to facilitate this. This is also why the Special Representative continues to promote better implementation in countries that appear to be failing to make the necessary effort to address trafficking in human beings. After all, there is a long way to go, and it is far easier to design responses in a society where basic structures function and corruption does less to undermine your efforts.

One particular theme that runs through all our activities is the issue of child trafficking. Reports indicate a substantial number of missing children in the OSCE region. These children have often arrived as unaccompanied asylum seekers, but are considered to have been smuggled in, and are therefore not provided with adequate protection against what we believe are their traffickers. Research shows that they are likely to be on the way to be exploited in destination countries in domestic servitude or the sex trade. Experience shows that unaccompanied children usually disappear within two days after having been brought into state protection institutions. Recent experiences in countries where compulsory child-protection measures have been taken to protect unaccompanied children have shown positive results. We need to take a look at how to invest more effectively in responses to child trafficking. Children need specialized care, and their interest has to be determined with their participation and with the expertise of various professionals.

Better identification of victims is still the main challenge. This is true of labour trafficking, sex trafficking, and trafficking in children. Experience shows that the more resources are put into investigating, the more cases will be uncovered. This correlation indicates that much more could be done. For the criminal, the kind of exploitation is secondary, the victim is a commodity that will be sold for whatever purpose the market requires. Multiple exploitation is common. Because it is the profitability of this crime that keeps traffickers going, participating States have to emphasize efforts to confiscate the profits of trafficking and related activities.

The participating States have continued to welcome the visits of the Special Representative, the dialogue they enter into with her, and the advice her Office provides. There have been official requests for her to comment on national action plans or policies aimed at better addressing human trafficking.

It seems as if there is widespread acceptance that a visit of the Special Representative provides an opportunity to raise awareness of human trafficking, including public awareness via the media, and to place the topic on the political agenda at the highest level.

The most important ongoing issue on these occasions has been promoting the setting up of the OSCE, Council of Europe, EU, and UN mechanisms for combating trafficking: the Action Plan, the national referral mechanism and, particularly at present, the national *rapporteur*, which signal the existence of political engagement with the problem at national level and efforts to develop a systematic, comprehensive, and co-ordinated response.

In the OSCE region, national action plans have become the main means of organizing, planning, and co-ordinating national efforts to tackle the problem. Most countries have adopted an action plan as a framework to organize their counter-trafficking activities. Some countries' action plans detail responsibilities, timelines, and budgets for actions by the various national agencies; other countries have developed more general plans, which are perhaps less effective and definitely make it harder to measure the impact of policies and programmes.

National referral mechanisms are meant to bring together expertise, responsibilities, and all national efforts to generate a comprehensive and effective response to trafficking in human beings, involving numerous state institutions at national and local level, as well as civil-society organizations.

The OSCE Action Plan calls for the establishment of such mechanisms, and most countries in the region have set them up. The OSCE, with its commitments to establishing national referral mechanisms, recognizes the critical contribution of civil-society organizations. The national referral mechanisms also provide an indication of the importance that governments are attaching to the problem. They should be the leading expression of a country's national anti-trafficking strategy.

A key challenge for many countries is to secure adequate human and financial resources to dedicate to both the co-ordination and the implementation of their anti-trafficking response. Another challenge relates to developing systems and responses that not only comprehensively address the various types of exploitation for which human beings are trafficked, but also adequately tackle the various complex aspects of prevention, protection, and prosecution. Indeed, in many countries there are gaps in the development of comprehensive policies and programmes targeting trafficking in human beings. For instance, it is not uncommon for national action plans to address trafficking for sexual exploitation, but to leave out other forms. Sometimes, measures address only women victims, while children and men, and their specific needs, are not taken into account. Another policy area that is often underdeveloped is that of prevention: measures to address the structural social and economic factors that foster the exploitation of people in slavery-like conditions.

A pressing challenge relates to the lack of systematic and reliable data and research on trafficking in human beings, and the excessive reliance on anecdotal information, which obviously has a negative impact on the development of effective anti-trafficking policies. In response to this challenge, the Special Representative has been working with the participating States to promote the appointment of a national *rapporteur* or an equivalent monitoring and reporting mechanism. The ultimate goal of a self-monitoring and national reporting mechanism is to identify the scope of the problem at national level, assess the impact of government policies and actions to combat trafficking in human beings, and formulate actionable concrete recommendations on how policies and practices can be improved.

Visiting participating States and establishing a direct dialogue with representatives of governments is an important means of elevating the priority of combating trafficking in human beings at the national level and initiating political processes for the implementation of OSCE anti-trafficking commitments. These visits are an opportunity to engage in direct consultations with the actors responsible for policy and action, and to meet NGO representatives, who often make crucial contributions to anti-trafficking work.

In 2008, the Special Representative decided to conduct two specific country assessments, one in a country of origin and one in a related country of destination: Romania and Spain. The overall goal of these assessments is to look into the situation of trafficking in human beings and anti-trafficking policies implemented in the countries concerned. Further goals are to share knowledge and best practices, to identify challenges and possible gaps in the implementation of OSCE anti-trafficking commitments, and to promote key OSCE recommendations.

The assessment work is closely co-ordinated with the host country and its success depends critically on the host government's commitment and engagement in reviewing and improving its anti-trafficking strategy and response.

During the official visits in connection with the assessments, the Special Representative engages in direct political dialogue with high-level officials in the executive and legislative branches of government. Meetings with ministers or deputy ministers of justice, foreign affairs, the interior, labour, social affairs, and women's issues indicate the priority assigned to the problem of human trafficking. They also signal the presence of the political will to share good practices and to identify challenging areas where reform is needed to advance a country's efforts to combat this crime. For the Special Representative, these meetings provide a crucial opportunity to advocate new and more comprehensive legislative and policy measures to combat trafficking in human beings, and importantly, to call for the allocation of the necessary budgetary resources.

During official visits, the Special Representative also always holds meetings with local NGOs and international organizations. This way, she

learns directly from practitioners about the situation in each country, the critical areas of work, and the key recommendations on policy, law, and programmes.

An official visit may also generate an opportunity for the national authorities to further co-ordinate their anti-trafficking work, as well as to further familiarize themselves with each other's work, and with civil society initiatives in this field.

Hearings in parliament and meetings with parliamentarians are another important vehicle that can contribute to bringing the fight against trafficking in human beings to the top of the national political agenda. The simple fact that a parliamentary hearing is dedicated to tackling this issue is an indication to the other public authorities and to public opinion of the relevance of the problem and the need to effectively address this modern form of slavery.

When finalized, the assessments are shared with host governments for comments. The country assessments are then made public and are meant to raise awareness of the problem among the public at large, to further elevate the priority of combating trafficking in human beings at the national level, and to initiate and support political processes for the further implementation of OSCE anti-trafficking commitments.

Conclusion

Ownership and action at the national level has to be the guiding principle in work to combat trafficking in human beings with the OSCE states. Governments have agreed to assume responsibility and to be accountable for their anti-trafficking policies. Eradicating trafficking in human beings is a challenge that requires a diverse set of both immediate and long-term responses. The good news is that a wealth of successful initiatives have already been carried out within the OSCE participating States by both public authorities and civil society.

The Special Representative works to share this experience and the lessons thereby learned in a form that is as practical as possible. It is particularly important that she is able to demonstrate that specific actions in various sectors do not have to be difficult to implement. It goes without saying that all strategies and policies should be as actionable as possible and should include timely responses that are well co-ordinated and adequately funded.

Building Co-operative Security

The OSCE Forum for Security Co-operation (FSC) – Stocktaking and Outlook¹

Foundation and Tasks of the FSC

The Forum for Security Co-operation (FSC) was established at the CSCE Summit in Helsinki in 1992. It is the decision-making body in which representatives of the OSCE participating States meet weekly to negotiate and consult on concrete measures aimed at strengthening security and stability throughout Europe. Initially it consisted of the Special Committee and the Consultative Committee of the Conflict Prevention Centre (CPC), which had been established by the Supplementary Document of the 1990 Charter of Paris. Following the disbandment of the Consultative Committee, the Special Committee became the FSC proper on 11 January 1995. The Forum is – alongside the Permanent Council – one of the OSCE's two consulting and decision-making bodies, which meet on a weekly basis in Vienna. The FSC is concerned with arms control and politico-military security issues in the OSCE area. Its key responsibilities are:

- Negotiating and adopting politically binding decisions in the areas of arms control, disarmament, and confidence- and security-building measures (CSBMs).
- Implementing the commitments entered into by the participating States within the FSC context, verifying compliance, and supporting participating States in their implementation.
- Holding intensive consultations on security-relevant issues aimed at reducing the risk of conflict and managing conflicts, where necessary.

It should be noted, however, that the FSC does not hold any exclusivity in dealing with politico-military questions within the OSCE. Because the sets of signatories of the Treaty on Conventional Forces in Europe (CFE), the Treaty on Open Skies, and the Dayton Peace Agreement do not exactly match the list of OSCE participating States, each of these regimes has established a consultative and decision-making body in Vienna, consisting of representatives of the respective member states.

The 2001 OSCE Ministerial Council in Bucharest charged the FSC with addressing specific aspects of new challenges to security. The OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, adopted at the 2003 OSCE Ministerial Council in Maastricht, identified these

¹ The views expressed in this contribution are the authors' own.

new challenges. It also assigned the FSC, alongside the Permanent Council, with a major role in managing them by means of the adoption and implementation of norms and principles supported by all the participating States, upon which they are politically binding. The Security Committee, which reports to the Permanent Council, was established in 2007 to deal with non-military aspects of security. It tackles issues such as combating international terrorism, border security and management, and police-related matters, including organized crime.

Composition and Modus Operandi of the FSC

The FSC consists of the accredited delegations of the 56 OSCE participating States in Vienna, with each state generally represented by diplomats and/or military advisers. The Chair of the FSC rotates between the participating States in alphabetical order, changing hands three times every year. Spain, Estonia, and Finland chaired the FSC in 2008, while France will take the first term in 2009, followed by Georgia and the United Kingdom. The task of the Chair is to lead the work of the FSC and to represent the Forum to the outside world. The work of the FSC is supported by the FSC troika, which consists of the current Chair, and its immediate predecessor and successor. The troika determines the FSC's agenda and plays a co-ordinating role that ensures the continuity of its work. The Chair is also supported by co-ordinators chosen from among the delegations, and who are responsible for the continuity of the Forum's work in their areas of competence. At present there are co-ordinators dealing with projects on small arms and light weapons (SALW) and stockpiles of conventional ammunition, as well as a co-ordinator on the Code of Conduct on Politico-Military Aspects of Security. There is also an informal group of friends on SALW, again chaired by a member of the delegations, which is carrying out work to further develop norms relating to small arms and light weapons. The work of the FSC is also assisted by the Conflict Prevention Centre of the OSCE Secretariat (CPC), which has a dedicated support section for this purpose, the FSC Support Section. The CPC advises the Chair on procedural matters, gathers data for information exchanges agreed between participating States, and reports regularly to the FSC. The CPC also provides expertise that can be used to support the implementation of normative OSCE documents. This can be achieved by means of organizing seminars and workshops, for instance, but also via the development and execution of projects in the participating States. The CPC's FSC Support Section is also responsible for operating the OSCE Communication Network, which facilitates the exchange of information and allows notifications relating to the Vienna Document, the CFE Treaty, the Open Skies Treaty, and the Dayton Agreement between the 50 participating States that are currently connected. In addition, the FSC Support Section chairs the OSCE Communications

Group, through which experts from OSCE delegations provide input and oversight, supporting the work of the FSC.

The weekly sessions of the FSC consist of plenary and working-group meetings. The main tasks of the plenary meetings are to hold the security dialogue on current politico-military questions and to adopt FSC decisions. New proposals concerning the better implementation or adaptation of agreed measures are also presented to the plenary meeting before they are hammered out in the working groups. Working Group A is concerned with the implementation of all existing obligations. The mandate of Working Group B is the further development of the OSCE's politico-military instruments. In between, there is a not-inconsiderable grey area, as it is not always easy to explain whether a given topic serves to improve the existing *acquis*² or is an independent, new measure.

As well as ordinary sessions, the FSC holds special plenary and working-group sessions on a range of topics, frequently with the participation of experts from participating States or international organizations, NGOs, and research institutes. In 2008, special meetings were held on OSCE projects related to SALW and stockpiles of conventional ammunition, on the problem of landmines, and on the implementation of the UN programme of action on SALW. The FSC regularly meets with the Permanent Council once per chairmanship period to discuss current security issues that have politico-military and non-military aspects. The Annual Security Review Conference (ASRC), established on the basis of the Porto mandate, has a similar function, presenting the national delegations with an opportunity to discuss current issues relating to security in the OSCE area. In addition, the FSC organizes the annual meeting to assess the implementation of obligations under the Vienna Document and other documents (AIAM, Annual Implementation Assessment Meeting).

The Politico-Military Acquis of the FSC

Over the years, within the framework of the FSC – that is to say aside from the CFE and Open Skies Treaties and the Dayton Peace Accords, which are independent – the OSCE has developed a globally unique system of confidence- and security-building measures, which has created an extremely high degree of stability and security in the OSCE region through transparency and predictability.

The Vienna Document

The *Vienna Document of the Negotiations on Confidence- and Security-Building Measures* is the most comprehensive politically binding agreement

2 The totality of normative documents and politically binding decisions.

on CSBMs in Europe. This document, signed in Paris in 1990, comprises the third generation of CSBMs based on the Helsinki Final Act of 1975 and the decisions of the Stockholm Conference on Confidence- and Security-Building Measures and Disarmament in Europe of 1986. Since then, the Vienna Document has been developed further in three stages in 1992, 1994, and 1999. Its primary goal is the consolidation of confidence and security; its central element is the participating States' commitment to refrain from the threat or use of force in their mutual relations as well as their international relations in general. The Vienna Document does not cover the entire territory of the OSCE region; parts of the non-European territories of Russia and Turkey are excluded, and the US and Canada are only included with respect to their troops stationed in Europe.

The most important elements of the current version of the Vienna Document (1999) include:

- an annual information exchange on conventional land and air forces;
- an annual information exchange on defence planning and defence budgets taking into account the programme for defence planning adopted in 1993;
- a mechanism for consultation in the case of unusual military activities and hazardous incidents of a military nature;
- a comprehensive programme of military contacts and co-operation including the demonstration of new types of major weapon and equipment systems, taking account of the 1993 programme of military contacts and co-operation;
- the notification and observation of military activities of a certain magnitude;
- the limitation of the number of military activities;
- comprehensive verification of reported data on conventional armed forces and military activities; and
- the encouragement to create additional regional and bilateral agreements that can go beyond the measures and limitations contained in the Vienna Document.

Principles Governing Conventional Arms Transfers (1993)

This document contains criteria on the transparency of the conventional arms trade. Since 1997, there has been a mandatory annual reporting requirement.

Stabilizing Measures for Localized Crisis Situations (1993)

This is a catalogue of measures for OSCE crisis management, including irregular forces, non-governmental actors, and domestic conflicts. It has, however, so far never been applied by the participating States.

Global Exchange of Military Information (1994)

This is an annual exchange of information on command structures and personnel and on holdings of major weapon and equipment systems. It is the only confidence- and security-building measure that extends to naval forces and goes beyond the OSCE area.

Principles Governing Non-Proliferation (1994)

This is so far the only norm-setting OSCE document that deals with issues related to the non-proliferation of nuclear, chemical, and biological weapons and the spread of missile technology.

The Code of Conduct on Politico-Military Aspects of Security (1994)

The Code of Conduct remains one of the most important FSC documents. It was created as a direct answer to the changing role and position of armed forces in societies in transition and lays down norms in this regard. With its comprehensive range of objectives focused on the rule of law, it goes beyond the OSCE's politico-military dimension. It is also the only document within the politico-military dimension that sets domestic norms. Although its implementation is the prerogative of the participating States, the FSC is involved via the mandatory annual report that each state is required to submit and, in September 2002, it conducted the Third Follow-Up Conference on the Code of Conduct. Its key features are as follows:

- Its fundamental principle is that of democratic political control of the armed forces and other security agencies. Accordingly, the armed forces must be integrated in society and under the effective control of democratically legitimized authorities, which must also have control of related expenditure.
- The Code applies to internal as well as external conflicts.
- Members of the armed forces must be informed about the international humanitarian law of war.
- States may neither support nor tolerate forces that are not accountable to or controlled by their constitutionally established authorities.
- The participating States are obliged to co-operate closely to prevent and combat terrorism. The annual questionnaire each country is required to fill out on its progress in implementing the Code also contains a question regarding membership of international conventions on combating terrorism and on their implementation at the national level.

OSCE Document on Small Arms and Light Weapons (2000)/

OSCE Document on Stockpiles of Conventional Ammunition (2003)

Small arms and light weapons and surplus stocks of conventional ammunition – mostly stemming from the Cold War – can represent a significant danger to populations, infrastructures, and the environment. Moreover they can

become a more general security risk if they fall into the hands of terrorists. The OSCE documents on small arms and light weapons and on stockpiles of conventional ammunition concern themselves with the dangers that arise from uncontrolled proliferation and excessive stockpiles, and formulate commitments requiring the participating States to combat these dangers. At the same time, they offer them a framework for requesting and providing assistance in securing and destroying surplus SALW and conventional ammunition. On the basis of the funding mechanism adopted in the 2003 document, OSCE participating States have provided extra-budgetary contributions amounting to some 9.6 million euros for projects related to small arms and ammunition in the OSCE area since 2005.

The OSCE Document on Small Arms and Light Weapons sets down norms, principles, and concrete measures to limit the destabilizing accumulation and uncontrolled proliferation of SALW. The approach it takes is comprehensive, covering control of the manufacture of weapons, their trade and transit, and including commitments on surplus weapon stocks, safe storage, and destruction. The participating States are committed to comprehensive information exchange on their national policies and practices regarding SALW, including the import and export of such weapons. Concrete support provided by the participating States in the form of project work also plays a major role. In 2008, projects were underway in Belarus (improving the management and security of stockpiles) and Tajikistan (securing, managing, and destroying stockpiles). A further project for Moldova is planned.

The OSCE Document on Stockpiles of Conventional Ammunition also covers explosive material, rockets, mines, and the highly toxic liquid rocket fuel “*mélange*”. It defines a procedure whereby the participating States can apply for assistance with destroying and/or upgrading the management and security of stockpiles. A 2008 project undertook the decommissioning of *mélange* in Albania. A major project is also being planned to dispose of large quantities of melange in Ukraine (16,500 tonnes in total), 3,000 tonnes of which is to be destroyed in the first phase.

*OSCE Principles for Export Controls of Man-Portable Air Defence Systems (MANPADS) (2004)*³

This document details principles for the export control of MANPADS, the basic elements of which are drawn from the Wassenaar Arrangement.

OSCE Principles on the Control of Brokering in Small Arms and Light Weapons (2004)

The key elements of this document are norms for state control of arms brokering and the prevention of illicit brokering in small arms and light weapons.

3 Updated in FSC Decision No. 5/08 from 26 May 2008.

Standard Elements of End-User Certificates and Verification Procedures for SALW Exports (2004)

This document establishes a framework for state norms and procedures for the effective control of SALW exports.

The Current Position of the FSC

A neutral observer of ongoing FSC activities would miss the dynamic and effective work that characterized the Forum until around 2004. There are many reasons for this development, which regularly becomes apparent at OSCE Ministerial Council meetings and the Annual Security Review Conferences. On the one hand, the perception of the threat posed by the military forces of other states now plays only a subordinate role in many national security strategies, and the importance of arms-control measures within the comprehensive concept of security declines as a result. Furthermore, the highly detailed and extensive system that has been established since 1990 is, on the whole, functioning effectively in the area of arms control and CSBM.⁴ This also partially explains why no consensus can currently be found among the 56 participating States regarding the necessity of developing new norm-setting documents. While the initiatives introduced by some participating States (unfortunately only a few) that aim at improving the implementation of the existing *acquis* do, after intensive discussions, often lead to concrete FSC decisions, several states are unwilling to cross the line of entering into new commitments. The OSCE's drawn-out crisis over the CFE Treaty, which reached its peak so far in Russia's 2007 suspension of its treaty commitments, has contributed significantly to encouraging this attitude. The armed conflict in Georgia in August 2008 has further diminished the prospects for agreeing on new commitments, especially if they are proposed by Russia.

Many participating States can be described as indifferent, find themselves somewhere between the proponents and opponents of new commitments, and rarely contribute to discussions on new resolutions. A further reason can be seen in the fact that measures for conventional arms control and CSBMs have only a limited ability to effectively counter new threats such as terrorism, organized crime, and so on. Nor should it be forgotten that the FSC today finds itself in a fundamentally different geopolitical and security-policy environment compared to 15 years ago. The member states of the European Union and NATO are the clearly dominant group within the OSCE and agree upon collective positions to take.

Taking into account all these framework conditions, it must be observed that the weight of the OSCE has declined in comparison to other international

4 However, here it must be noted that the OSCE records the fulfilment of reporting commitments only statistically. No analysis of the reports' contents, let alone any "naming and shaming" of participating States that have failed to fulfil their commitments, takes place.

organizations active in the field of security policy within the same geographical area. The FSC has not been unaffected by this development. Furthermore, the relative importance of the politico-military dimension, and hence the FSC, is also tending to decline within the OSCE itself. The lack of interest on the part of many participating States in continuing to develop the *acquis* adds to this, as does the outsourcing of key security areas such as terrorism, border security, and police-related activities to the Permanent Council (Security Committee). As a result, the FSC now only rarely deals with these topics, although they frequently include politico-military elements.

Germany in the FSC

Germany has experienced the value of a functioning arms control and CSBM system like few other states in the OSCE area. As a result of this, Germany actively supports the enhancement of the *acquis*. In 2007, Germany's six-month Presidency of the EU Council was used to introduce new initiatives and to gain EU support for them. For instance, the FSC held a special meeting on the OSCE Code of Conduct on the urging of Germany in May 2007. The proposals generated at that meeting are likely to lead to an FSC decision on improving the implementation of the Code of Conduct before the spring of 2009. In October 2007, another special meeting, which Germany instigated together with France and Russia, discussed existing and future arms-control and CSBM measures in the OSCE area. However, here, as already in the high-level seminar on military doctrine in February 2006, the FSC's dilemma became clear: Only a few participating States are seriously interested, as Germany is, in enhancing the *acquis* and are willing to discuss this constructively. In January 2008, the FSC held a special meeting, on the initiative of Germany and France, to consider strengthening the OSCE's role in the fight against landmines. In the resulting food-for-thought paper, the co-sponsors proposed concrete measures that the OSCE could take. Germany is also concerned to strengthen the position of the FSC within the OSCE. In this way, it was possible to pass a decision at the 2007 Madrid Ministerial Meeting that charged the FSC with producing progress reports on the implementation of the OSCE documents on small arms and light weapons and stockpiles of conventional ammunition, and on measures in the area of arms control and CSBMs. The recent OSCE Ministerial Council Meeting (Helsinki, 4-5 December 2008) noted and welcomed these progress reports, thus once more concerning itself with the content of the FSC's work. Additionally, a decision was taken by the ministers to request the FSC to remain seized of matters related to SALW and stockpiles of conventional ammunition, and to organize an OSCE meeting on SALW in 2009 to review the OSCE Document on SALW and its supplementary decisions.

Germany is also involved in efforts to make the OSCE's experience of arms control and CSBMs known in other parts of the world. The League of Arab States has shown a particular interest in the OSCE *acquis* on SALW, and its representatives have held discussions with the OSCE in Vienna several times brokered by Germany. Germany was also responsible for establishing contacts with the ASEAN Regional Forum (ARF) on the issue of CSBMs.

Outlook

It will only be possible to update and enhance the *acquis* if all participating States are equally interested in seeing an improvement of pan-European security and can muster the necessary political will to enter into constructive negotiations. Nonetheless, even as things stand, there are areas in which the FSC's work is vital.

Since the signing of the Vienna Document 1999 at the OSCE's Istanbul Summit in November of that year, the FSC's work has concentrated more strongly on what are known as "new threats and challenges to security". The first major results of this were the documents on SALW (2000) and stockpiles of conventional ammunition (2003). Work in this area was driven by an understanding that the threats posed by the unrestricted spread of small arms and light weapons and sometimes massive stockpiles of ammunition created new challenges for the international community. Subsidiary documents, such as those dealing with arms brokering and MANPAD exports, have recently been added to the *acquis*. Since a further tightening of regulations in the OSCE region would serve the security interests of all OSCE participating States, this is a key area in which consensus can still be found for additional politically binding decisions. However, this would also bring with it the risk of duplicating the work of other international organizations such as the United Nations and the Wassenaar Arrangement.⁵ In the areas of export control of MANPADS and efforts to combat the trafficking of small arms by air, the OSCE States make use of the existing principles of the Wassenaar Arrangement, applying them to the 23 OSCE participating States that are not party to the Wassenaar Arrangement. In this way, the FSC – and hence the OSCE – contributes to non-proliferation. In addition, there is a broad consensus within the FSC that the implementation of the OSCE Code of Conduct on Politico-military Aspects of Security should be improved. One can therefore broadly say that, the FSC's work today concentrates on the areas of SALW, ammunition, non-proliferation, and the Code of Conduct and – in terms of the concrete results it achieves – is limited to these.

5 However, attempts to find solutions within the OSCE framework to specific issues that cannot be resolved at the level of the United Nations because of diverging particular interests, such as controls on privately held small arms, have regularly failed.

Beyond that, the escalating situation in Georgia, culminating in an armed conflict in August 2008, has demonstrated the usefulness of the FSC with regard to conflict situations. One example is the weekly security dialogue in the FSC, where the participating States can discuss current politico-military questions and address security concerns. Georgia and Russia have been using this forum for consultation and dialogue intensively in recent months. Furthermore, the FSC has recently been increasingly called upon to provide its expertise in the area of crisis management. Not long before the armed conflict in August 2008, for instance, the OSCE Chairman-in-Office requested that it deal with the shooting down of an unmanned aerial vehicle over Abkhazia (Georgia). In this connection, the FSC organized debates in the framework of the security dialogue and in joint sessions with the Permanent Council after both Georgia and Russia had invoked the mechanism for consultation and co-operation as regards unusual military activities as contained in Chapter III of the Vienna Document 1999. The review of existing OSCE conflict prevention and crisis management mechanisms in terms of their relevance and applicability that was initiated in this connection gives the FSC an opportunity to make its independent contribution to the security policy discussion, and thereby also to assume the importance within the OSCE to which it is entitled as the Organization's oldest and most venerable decision-making body. Finally, the initiative of Russia's President Dmitry Medvedev to negotiate a new, comprehensive, and legally binding treaty on European security could provide OSCE and the FSC in particular with new momentum. The proposal of French President Nicolas Sarkozy to hold an OSCE Summit on pan-European security in 2009 constitutes an important opportunity for the OSCE to strengthen its relevance for the designing of the future security architecture in the region between Vancouver and Vladivostok. This historic chance should not be missed.

Economic Transformation and the Containment of Emerging Risks

Promotion of Security and Co-operation through Water Management Activities¹

Introduction

Environmental concerns encompass an important part of the comprehensive concept of security within the OSCE and have been on its agenda from the beginning. With the understanding that environmental degradation, the unsustainable use of and unequal access to natural resources, including water resources, have security implications, the OSCE is committed to raising environmental security issues to a higher level on national and international political agendas and aims at building local capacity to adequately address such challenges.

The OSCE's involvement in promoting transboundary water co-operation and sound water management in its region has generated a number of success stories. The work in this area is also an excellent example of how the Organization operates, particularly with regard to the economic and environmental dimension. It exemplifies how rhetoric translates into practice, how needs are identified, how recommendations are formulated, and how they are implemented. It also illustrates both the OSCE's comprehensive philosophy, and the way that leads from ideas to implementation, from sometimes abstract political dialogue to the delivery of concrete activities and capacity-building projects. The OSCE's work on water also tells the story of the growth of the economic and environmental dimension in the last couple of years, as well as that of the challenges ahead.

Water Issues and the OSCE Economic and Environmental Forum

Water has featured twice on the high-level political agenda of the OSCE in the economic and environmental dimension. Recognizing the significance of water in terms of both security and co-operation, two Chairmanships made the topic a priority.

The Economic and Environmental Forum is the major and highest level annual meeting within the economic and environmental dimension of the OSCE. Each year, it focuses on a theme proposed by the Chairmanship and agreed upon by the 56 participating States. Its objective is to give political stimulus to the dialogue on security-relevant economic and environmental issues and to contribute to the elaboration of specific recommendations and

¹ The views expressed in this contribution are the personal opinions of the authors.

follow-up activities to address these challenges. It also reviews the implementation of the participating States' commitments in the economic and environmental dimension.

Each Economic and Environmental Forum is preceded by a series of expert-level preparatory conferences aimed at assisting the participating States to prepare for that year's Forum.

The annual Forum brings together more than 400 participants representing governments, civil society, the business community, and other international organizations to engage in dialogue and consultations and identify practical solutions for common economic and environmental concerns.

The Tenth Meeting of the Economic Forum, which took place in Prague from 28 to 31 May 2002 under the Portuguese Chairmanship, had "Cooperation for the sustainable use and the protection of quality of water in the context of the OSCE" as its overall theme.

Five years later, the 2007 Spanish OSCE Chairmanship renewed this commitment by proposing, "Key Challenges to Ensure Environmental Security and Sustainable Development in the OSCE Area: Land Degradation, Soil Contamination and Water Management" as the theme of the 15th OSCE Economic and Environmental Forum.

Consensus on the theme of the 2002 Forum was not easily achieved. Negotiations were long and difficult and finally three interpretative statements were attached to the Permanent Council Decision on the place, date, and overall theme of the Tenth Meeting of the Economic Forum.² The arguments invoked by those delegations that made interpretative statements ranged from claims that the OSCE lacked the necessary expertise to deal with such issues, via expressions of preference for an alternative topic, to a reluctance to discuss transboundary water issues, transboundary water management regimes, the distribution and management of water resources, etc. in the OSCE context. Extreme caution was recommended in handling this issue, as, particularly in the case of parts of the Central Asian region, water was not only regarded as a natural resource belonging in the ecological and economic category, but could also be seen as a political category in its own right.

In 2007, a rather different mood characterized the debates regarding water management in the OSCE context. Not only were no objections expressed to the theme of the 15th Economic and Environmental Forum proposed by the Spanish Chairmanship, but, on the contrary, most delegations engaged actively in the preparatory process for the Forum, and participation reached record levels.

Moreover, following the 2007 Forum and drawing from its recommendations, two important documents were approved at the Madrid Ministerial Council on 29-30 November 2007, namely the Madrid Declaration on Envir-

2 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 429, Place, Date and Overall Theme for the Tenth Meeting of the Economic Forum*, PC.DEC/429, 19 July 2001.

onment and Security,³ which singles out not only water management but also issues such as climate change as crucial long-term challenges in the OSCE area, and a Ministerial Council decision on water management,⁴ which provides the OSCE with a strong mandate to strengthen dialogue and co-operation on water management within its region, to act as a framework for the further development of water management co-operation between states and relevant international actors, and to support the participating States, upon request, in the implementation of relevant commitments.

Water-Related Activities

Based on recommendations from the Economic and Environmental Forums, a number of activities have been developed by the OSCE, at both headquarters and field level.

ENVSEC

One of the OSCE's most important environmental activities is its participation in the Environment and Security Initiative, initiated during the 2002 Forum and formally launched in 2003. Recognizing that environmental problems do not stop at national borders, the ENVSEC initiative has developed a platform that turns potential disagreements between states into opportunities for confidence-building and co-operation.

Joining the OSCE in the ENVSEC initiative are the United Nations Development and Environmental Programmes (UNDP, UNEP), the United Nations Economic Commission for Europe (UNECE), and the Regional Environmental Centre (REC) for Central and Eastern Europe. NATO is an associated member. The combined strengths of these partner organizations help focus interventions to meet the environment and security priorities of national governments in a co-ordinated manner, avoiding duplication.

In close co-ordination and co-operation with national governments, ENVSEC has conducted environment and security assessments in the regions of Central Asia, South-eastern Europe, the Southern Caucasus, and Eastern Europe. Following these in-depth assessments, ENVSEC has developed work programmes, consisting of over 70 projects ranging from capacity-building to environmental-policy development and public-awareness events to address priority issues. In terms of water-related projects, there are two ongoing assessments taking place, one on the Eastern Caspian and another on the Amu

3 Cf. *Madrid Declaration on Environment and Security*, MC.DOC/4/07 of 30 November 2007, in: *Organization for Security and Co-operation in Europe, Fifteenth Meeting of the Ministerial Council*, 29 and 30 November 2007, Madrid 2007, 30 November 2007, pp. 10-12.

4 Cf. *Decision No. 7/07, Follow-up to the Fifteenth Economic and Environmental Forum: Water Management*, MC.DEC/7/07 of 30 November 2007, in: *ibid.*, pp. 27-28.

Darya. The Eastern Caspian assessment was launched at the ENVSEC Management Board meeting in Brussels in November 2008, while the Amu Darya assessment will be launched during 2009.

Chu-Talas

At the initiative of the governments of Kazakhstan and Kyrgyzstan, the transboundary project “Promoting the Creation of a Commission for the Chu and Talas between Kazakhstan and Kyrgyzstan” was started in 2003. A number of partners joined forces to implement the project, including the Ministry of Agriculture of the Republic of Kazakhstan, the Ministry of Agriculture, Water Resources, and Processing Industry of the Kyrgyz Republic, the OSCE, the UNECE, and the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), as well as the Peipsi Centre for Transboundary Water Co-operation in Estonia. The OSCE field presences also provided important support in terms of project implementation.

The ultimate objective of the project was to support Kazakhstan and Kyrgyzstan in implementing the Agreement on the Use of Water Facilities of Intergovernmental Use on the Chu and Talas Rivers, which the two countries had signed in January 2000 and ratified in February 2002. Through this Agreement, the parties had committed themselves to establishing a permanent structure, a joint commission, to regulate the use of the water, and to sharing the financing of the exploitation and maintenance of the infrastructure.

Assistance was provided to the two governments in the following ways: drafting documents that would define the status, functions, responsibilities, and rights of the commission; developing procedures and preparing basic documents regarding the co-funding of various structures; mediation to achieve a consensus between the two governments as the above mentioned documents were drafted.

An important component of this work was the various elements of public participation built into the process, as one of the project objectives was to provide information to stakeholders and involve broad public participation in the management of water resources in the Chu and Talas river basins. In that regard, local NGOs counterparts – the NGO *Zhalgas* from Kazakhstan and the NGO *Sheriktesh* from Kyrgyzstan – contributed to project implementation and the drafting of the documents.

The project culminated in the creation and inauguration of a Bilateral Chu and Talas Commission between the Kyrgyz and Kazakh governments. Through the creation of the Bilateral Commission, a long-term, mutually beneficial and co-operative exchange of resources between Kazakhstan and Kyrgyzstan is now in place, promoting regional governance through shared responsibilities and obligations toward the Chu and Talas Commission.

An Asian Development Bank (ADB) project, “Improved Management of Shared Water Resources in Central Asia”, supported in parallel the work

of the Commission through the establishment of a Secretariat and permanent working groups of experts.

It is worth noting that there were no comparable co-operative projects in Central Asia at the time the project started. This co-operation can therefore be seen as a new departure that could serve as a good example for the Central Asian countries, as well as other regions, in the field of improved co-operation on the use of transboundary water resources.

In short, the project has demonstrated that co-operation can function, and that co-operative agreements of this sort, pioneered in the region through the Chu and Talas project, can and do have significant benefits for all participants. Many lessons learned from this project go beyond the borders of Kazakhstan and Kyrgyzstan and even beyond Central Asia.

Moreover, the ability of the OSCE to capitalize upon political strength and dialogue between its participating States, fostering co-operation in water management, in this case, and on other issues in general, is indeed a major strength of the Organization. The Chu and Talas project clearly illustrates the ability of the OSCE to work directly with all parties, serving as a broker to ensure that dialogue and discussion is effective at both the political and the working levels. While the OSCE, as a political security organization, can foster political co-operation among stakeholders, resulting in policy change on water management issues, the technical expertise on water-related development issues available at both the UNECE and UNESCAP is invaluable. Further partners with specialist knowledge of the NGO sector or national implementation projects and solutions to water issues lend enormous value to the project. Following the successful outcomes, the OSCE was requested by both co-Chairs of the Chu and Talas Commission to continue supporting the work of the Commission in deepening dialogue and broadening co-operation between the countries.

Dniester

A project on transboundary co-operation and the sustainable management of the Dniester river was initiated in 2004. It aimed at establishing institutionalized co-operation in the Dniester river basin, developing an action programme to improve the legal framework and supporting confidence-building activities and the exchange of information. This joint OSCE-UNECE endeavour within the ENVSEC framework involved the Ministry of Environment and Natural Resources of Moldova, the Moldovan state water concern *Apele Moldovei*, the Ukrainian Ministry of Environmental Protection, the Ukrainian State Committee for Water Management, as well as civil society partners such as the Eco-TIRAS International Environmental Association of River Keepers from Moldova and the Ukrainian environmental organization MAMA-86.

The first phase of the project culminated in the drafting of a transboundary diagnostic study for the basin, which analysed its current state, defined transboundary environmental problems, and outlined international legal tools for transboundary co-operation. The report concluded that further development of transboundary co-operation was needed.

Following the successful collaboration between the OSCE and UNECE on the “Transboundary Co-operation and Sustainable Management of the Dniester River” project (Dniester I), both organizations were requested, by Ukrainian and Moldovan authorities, to facilitate the development of a follow-up project. The objectives were to update the bilateral agreement between the states and develop an action programme to improve the existing international legal framework for interstate co-operation, emergency-response co-operation, and co-operation on “water and health”, and to develop information-exchange systems for the entire basin. This “Action Programme for Improved Joint Management of the Dniester River Basin” (Dniester II) aimed at addressing bottlenecks in the transboundary water co-operation process and, in particular, to expand the scope of co-operation and improve public participation and access to and exchange of information.

The UNECE, which also oversees the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, is an important partner with its expertise on transboundary water issues and direct links to the water authorities in the region. The OSCE is the largest regional security organization in the world, and through the delegations in Vienna, as well as its field presences, offers good mechanisms for continuous, international political dialogue linked to project implementation.

The key output of the Dniester II project consisted in an agreed action programme elaborating on development of the legal and institutional framework, co-operation on emergency and sanitary-hygienic issues, and development of the open joint information system. A list of the draft documents developed within the scope of the project includes an updated draft bilateral agreement on the Dniester, a regulation on public participation in decision-making relevant to the Dniester river basin, a regulation on co-operation on sanitary-hygienic control, a regulation on management of the joint Dniester website, and an action plan to develop an information management system for the Dniester river. The documents are presently being agreed upon by representatives of state authorities, the public, and research institutes in Moldova and Ukraine.

The relevance of this activity to the Transdnestrrian conflict lies in the element of confidence-building and normalization of relations that results from having Moldovan and Transdnestrrian authorities and stakeholders forming part of the same national working group and participating in regular, bilateral working meetings. Thus, the project is an example on how opportunities offered by water management can be used to build confidence and foster co-operation among states and communities.

The OSCE is now working to ensure that all the legal documents created under Dniester II are approved in both parliaments by supporting a Dniester III project.

South Caucasus River Monitoring Programme

A joint OSCE/NATO South Caucasus co-operative river-monitoring project was started in 2002 aiming at quantitative and qualitative monitoring of the Kura-Aras/Araks river basin system, supporting the development of innovative monitoring techniques, and promoting data sharing between national institutions. The project brought together representatives of the National Academies of Sciences of Armenia, Azerbaijan, and Georgia to conduct co-operative monitoring of the Kura-Aras/Araks river basin. Monitoring activities are presently being carried out regularly at over 40 locations along the river to measure the occurrence of persistent organic pesticides, heavy metals, and radioactivity in the river basin system.

The 15th OSCE Economic and Environmental Forum (2007)

The 15th Economic and Environmental Forum (EEF) was a good and timely opportunity to review and build upon the various OSCE activities and initiatives in the field of water management, take stock of existing achievements, strengthen co-operation with partners, and identify future challenges and opportunities.

It was preceded by two preparatory conferences: one in Central Asia (Bishkek), and one in Spain (Zaragoza), where a major international exhibition on water took place in the summer of 2008. The focus of the preparatory conference in Zaragoza was water management, where discussions benefited from input from top-level experts and practitioners.

At the Zaragoza conference, Francesca Bernardini, Secretary of the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, outlined five factors needed if water resources are to be managed successfully to meet growing challenges. First, it is necessary to create legal frameworks, such as conventions, that promote co-operation, include enforcement and dispute mechanisms, and provide necessary assistance. Second, the establishment of joint institutions at national and regional levels that engage local actors will reduce the often reoccurring issue of lack of co-ordination within national authorities and institutions. Third, there must be policy integration among all national governmental actors that seeks to define medium and long-term goals. Fourth, more emphasis should be placed on sharing both benefits and costs. In particular, mutually beneficial co-operative activities should be developed. Finally, there

is a need to adapt mechanisms to ensure that goals remain realistic, as managing water resources is not a static endeavour.

Anders Berntell, Executive Director of the Stockholm International Water Institute (SIWI), noted that water, a public good, is shared most of the time by two or more countries, and that diplomatic engagement is therefore imperative. More emphasis needs to be placed on the beneficial potential of water co-operation, and efforts should be made to build a sense of water as a source of co-operation rather than conflict. He further noted that long-term processes at national and international levels (such as conventions) are very important and that adequate financing is imperative for creating lasting, stable institutions of water co-operation. This co-operation creates political momentum in and of itself but is sometimes insufficient to overcome existing political barriers. In order to effectively address these political barriers and undertake complex projects, regional power dynamics need to be understood, as does the key role of donors in enabling a level playing field. Berntell stressed that the OSCE had a clear role to play in promoting water co-operation. As a neutral actor, the Organization could work to create the political will needed to manage water resources more effectively when water co-operation did not create the necessary momentum to fully address the problems.

The outcome of the debates in Zaragoza were brought to the political-level meeting of the EEF in Prague, which recognized once more that water co-operation is a highly political issue and should have a high profile on the OSCE agenda for that reason. The importance of water co-operation for economic development and security was also emphasized.

Sustainable (transboundary) water management is a complex exercise requiring long-term involvement and co-operation at various levels, not just between countries, but also between state institutions, civil society, and the business community within countries. The OSCE, with its experience and mandate, has a role to play in that regard.

One of the main conclusions of the 15th EEF process was that water management is very closely linked with good governance. Good-governance issues are particularly pertinent in the water sector, and the concept of water governance is sometimes highly political in nature. For example, meaningful participation in decision making at different levels is essential for effective democracy. The fact that very few countries in the OSCE region have a minister of water also indicates the low level of political commitment towards water governance in the region. The same goes for national budgets, which have seen financing of the sector cut in many parts of the OSCE region. Furthermore, in terms of water being integrated into poverty reduction strategy papers, water management may be mentioned in the document (in particular flooding and droughts), but this does not seem to translate into programmes of action or priorities for investment. The OSCE should therefore continue to promote the principles of good governance in the water sector.

In the area of water management, the OSCE should expand its co-operation with regional and international organizations and direct its efforts toward building political will and local capacities, filling existing gaps, and strengthening and enforcing existing co-operation mechanisms. The OSCE should deepen its partnership with the UNECE, in particular towards:

- promoting the implementation of international conventions and basic legal acts (here, the OSCE can go back to the Helsinki Final Act given the major role that water has come to play modern global policy making), and
- involving the general public and fostering the development of a new “culture of water” in civil society. The Prague Forum stressed that the Aarhus Convention was a useful tool in this connection.

Under its general theme of environmental security and sustainable development, the Prague Forum also dealt with issues related to climate change. The international community needs to co-ordinate action among states to prevent the worst effects of this crisis from materializing. The OSCE will do its part to promote co-operation between its participating States on emerging threats to environmental security.

Further Water-Related Activities

The Forum was instrumental in clarifying the possible role of the Organization in each of the following areas and generated a number of follow-up activities.

Kazakhstan – Building Capacity for Water Co-operation

In October 2007, the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) and the OSCE Centre in Almaty, jointly with UNECE and the local UNDP office and with the US support, organized a meeting on the “Capacity for Water Co-operation” project in Almaty, Kazakhstan. The meeting focused on “River basin commissions and other institutions for transboundary water co-operation”. Proceedings of the meeting are being prepared for publication. In the meantime, various stakeholders within the co-operation on water dialogue held a meeting on the human right to water with regard to the Protocol on Water and Health under the Convention of the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki Water Convention). Particularly interesting for all parties was the extended dialogue with the health sector and the World Health Organization (WHO) on achieving sound water governance.

Moldova – Monitoring Water Quality

In August 2007, the OSCE Mission to Moldova financially supported a project to monitor the environmental situation, including water quality, of the Cuciurgan reservoir in the southern part of Transdnestria. This project is scheduled to run for one year and is being implemented by the Moldovan NGO Eco-TIRAS in partnership with the Moldovan Ministry of Reintegration, the Ministry of Ecology and Natural Resources, and three Transdnestrian environmental NGOs. The Cuciurgan reservoir is facing environmental pollution from a nearby power station and from the discharge of communal waste. The water from the reservoir discharges into the Black Sea in the area close to the city of Odessa.

Turkmenistan – Training on Efficient Use of Irrigation Water

On 21-25 January 2008, the OSCE Centre in Ashgabad, in co-operation with the city municipality and the agribusiness school of Turkmenabat, organized a five-day workshop aimed at sharing international best practices on water use management in irrigation and raising awareness of the environmental consequences of salinization and inefficient irrigation methods. Around 30 participants from Turkmenabat's municipal water utilities department, state and private farmers, and the Amu Darya River Basin Organization attended the workshop and learned about new water-saving technologies in the agricultural sector.

All these projects have improved co-operation and expanded stakeholder involvement both horizontally and vertically, creating co-operative practices and models that can be used beyond the sphere of water issues.

Renewed Focus on Water-Related Challenges in Central Asia

In the Central Asian region, approximately 50 to 60 per cent of the population live in rural areas and depend on the quality of land and water resources. During Soviet times, infrastructure development did not always take into consideration environmental concerns. In addition, since the collapse of the Soviet Union, the existing infrastructure for the management of water resources (reservoirs, pumps, pipes, etc.) has not been well maintained. The challenges the region faces include a growing population and shrinking water supply, lower land fertility and yields, desertification, salination, the further drying up of the Aral Sea, a decrease in biodiversity and deterioration of ecosystems compounded by the adverse effects of climate change, the deterioration of irrigation infrastructure, and worrying social and health indicators. All these developments have major implications for security and stability in the region.

These issues were thoroughly discussed in the course of the 15th OSCE Economic and Environmental Forum process, held under the Spanish Chairmanship. Moreover, as a direct follow-up to the Forum, a regional conference addressing the main challenges for providing environmental security and sustainable development in the Central Asian region, with a special focus on technology transfers, was organized in Tashkent for 30-31 October 2007.

Meeting the water-related challenges in Central Asia depends not only on raising capacities and financial resources. They also require the generation of political will to enhance regional co-operation and update regional arrangements and mechanisms stemming from the Soviet era. This is where it is to be hoped that the OSCE, as a platform for political dialogue with a strong presence in the field, could make a contribution.

According to the report on the review of the implementation of commitments prepared by the UNECE Secretariat for the 15th OSCE Economic and Environmental Forum, despite progress, regulatory reforms in the field of water are far from complete in Central Asian countries, and have resulted in some gaps and contradictions between new laws, decrees, codes, and regulations. Many regulatory documents dating from the former Soviet Union are still in force, so it is not always clear which regulations apply in a specific case. It is also often impossible to comply with these norms, whether because appropriate measuring devices or financial and human resources are lacking or because they are not economically feasible or realistic. Challenges for transboundary co-operation include poorly defined shared responsibilities between national authorities and a lack of co-ordination between them. Transboundary water management suffers from problems at the national level as well, such as poor inter-ministerial co-ordination.

Speaking at the Zaragoza conference, Prof. Victor A. Dukhovny, Director of the Scientific Information Center of the Central Asian Interstate Commission for Water Co-ordination (SIC-ICWC), presented the experience of co-operation between the five Central Asian States in transboundary water management, mainly regarding the basins of the Amu Darya and Syr Darya rivers and the Aral Sea. SIC-ICWC activities have included: joint planning of river regimes and water storage reservoirs; operational management of water supply – consumption control and in some instances quality control; development of the regional information system; and implementation of joint regional projects. The SIC-ICWC's main achievement has been to ensure conflict-free water supply for the countries of the region. Prof. Dukhovny underlined the importance of creating primary documents and institutional bodies to initiate conflict-free, harmonious water management that would benefit all the countries involved. He also stressed the importance of sustainable water availability and emphasized that it had to become a common understanding for governments and all other stakeholders that water was of similar vital importance as gas, oil, and minerals.

Along the same line of thinking, speaking at the above-mentioned Tashkent conference, Usman Buranov, the technical director of the International Fund for Saving the Aral Sea (IFAS) stated that interstate water management co-operation in Central Asia was similar in importance to the co-operation on coal and steel that was instigated in Europe after the Second World War. The states in the region seem to have understood the importance of preventing further environmental degradation and improving the state of the environment. In this context, water management and infrastructure need to be improved, and some progress has been made, using loans from international institutions as well as financial arrangements from local investors.

Other speakers and participants in the Tashkent conference referred to a number of potentially destabilizing factors such as population growth, climate change, changing patterns of water consumption, aging water infrastructure, shortages of finance and qualified staff in the water sector, etc. Many existing problems were identified as being linked to the issues of interstate water management and the effective use of water resources. Joint management, development, and protection of water resources can lend regional co-operation and integration a new impetus. Nevertheless, not all the countries in the region are parties to the Helsinki Water Convention.

The issue of water consumption, its waste as a result of poor infrastructure, and the allocation of water to the various sectors of the economy was also mentioned. In particular, reference was made to agriculture and the high levels of water needed to grow cotton. Solutions to this include the planting of less water-intensive crops.

The gender dimension of soil and water management and the impact of land degradation and water scarcity on social conditions, health, and migration were also touched upon, and it was made clear that the health aspects of water affect women in particular in Central Asia.

Regarding the specific role of the OSCE, the following recommendations were made:

- The Organization should support, first and foremost, more regional co-operation, including through: sharing of data across borders, particularly in cases of emergency; adequate legal frameworks defining rights to water, including in a transboundary context.
- The Organization should facilitate co-ordination between donors in forming regional programmes on water and environmental co-operation and improving the usage of donors funds.
- The Organization should contribute to the provision of increased capacity-building opportunities to water users, water suppliers, and water experts at every level: basic, advanced, and professional; involving farmers can also contribute to reducing soil degradation.

- The Organization should advocate the crucial importance of environmental sustainability and the need to reserve water for ecological use.

Attention should be given to drawing up or enhancing agreements in the following river basins:

- Amu Darya, shared by Afghanistan, Tajikistan, Turkmenistan, and Uzbekistan;
- Syr Darya, shared by Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan;
- Zeravshan, shared by Tajikistan and Uzbekistan.

Facilitating the transfer of experience and expertise with regard not only to technology but also to transboundary co-operation practices from other parts of the world, particularly Europe, could also be beneficial for the Central Asia region. It was also concluded that new technologies, incentives, and a pricing system capable of optimizing water consumption were important elements of a comprehensive and sustainable solution in the region.

The 16th OSCE Economic and Environmental Forum (2008)

Finland, which holds the Chairmanship of the OSCE in 2008, selected “Maritime and inland waterways co-operation in the OSCE area: Increasing security and protecting the environment” as one of its priorities and as the theme of the 16th Economic and Environmental Forum. This draws partly from the topic of the 14th Forum, held under the Belgian Chairmanship, which covered a whole range of transportation issues including waterway transportation, and the 15th Forum, held under the Spanish Chairmanship, which concentrated on environmental aspects of security.

Regarding inland-waterways co-operation, the forum process indicated that addressing environmental challenges should be a priority. The Forum highlighted the positive experience in the Danube river basin, where the need for co-ordination in addressing economic and environmental challenges related to river management was recognized. The International Commission for the Protection of the Danube River (ICPDR) linked up with the Danube Navigation Commission and the International Commission for the Protection of the Sava River Basin, in order to initiate a cross-sectoral discussion process which led to a “Joint Statement on Guiding Principles on the Development of Inland Navigation and Environment in the Danube River Basin”. The Forum recommended applying the Danube model to other river basins. The OSCE could, for instance, help to replicate the above-mentioned Joint Statement and promote its principles.

The 16th Forum process also supported the continuation of a number of ongoing activities such as the Dniester project and the development of concrete activities following the ongoing ENVSEC assessment work in the Amu-Darya river basin.

It was again stressed that Central Asia should be a priority region for the OSCE with regard to river-basin co-operation and water management. The region's existing agreements need to be updated, and transparent information exchange established among the countries. The transfer of international knowledge and experience would be beneficial and the OSCE could be a useful facilitator. The regulation of the energy/water nexus and the development and improvement of water-saving strategies in the region were mentioned as areas for future OSCE involvement. Technology transfer could be another area where the OSCE could help – in co-operation with others. Building co-operation between the countries of the region and Afghanistan was also emphasized. It was suggested that the EU Central Asian Strategy adopted in 2007 might open new opportunities for co-operation.

Conclusions and the Way Ahead

As a direct follow-up to the 15th Economic and Environmental Forum, the OSCE held a seminar at Stockholm Water Week in 2007, where it presented and discussed the issues around transboundary water management. Clear conclusions and recommendations were reached during the seminar, which provide a good summary of the work the Organization has carried out in the field so far:

- Water is a political issue and can be a vehicle for enhancing democracy and public participation and empowering local stakeholders.
- Regional organizations, such as the OSCE, can play a much greater role in supporting transboundary water initiatives.
- Bilateral or multilateral water agreements require political will to be effective, hence political organizations play an important role in the process.
- Participation in international dialogue is a prerequisite for national/regional ownership, particularly in countries in transition.

The activities and projects implemented by the OSCE in co-operation with the UN and other partners in the field of transboundary water management can and have become catalysts for the development of co-operation in transboundary river basins.

Above all, it should be held in mind that no co-operative undertaking comparable to the Chu-Talas project existed in Central Asia when the OSCE and the UNECE began supporting the Kazakh and Kyrgyz governments. The

establishment of the commission in the Chu-Talas river basins further encouraged other international organizations (such as the EU and the Asian Development Bank, ADB) to provide assistance to the water authorities operating in the Chu and Talas basins. The support provided in the Dniester river basin has been important in improving the international legal basis for transboundary and intergovernmental co-operation, including the exchange of information and public participation in decision making. In the case of the Kura-Aras/Araks river monitoring project, gathering scientifically verifiable data has proved to be the best way to foster co-operation.

In short, the projects have demonstrated that co-operation can function, and that co-operative agreements of the sort that have been pioneered in these projects can and do have significant benefits for all participants.

The achievements of the OSCE's transboundary river basin projects can be seen as far-ranging, and lie primarily in the steps taken to co-ordinate water resources in a methodological and stable manner between neighbouring states.

Moreover, the OSCE's ability to capitalize upon the political strength of its participating States and the constant dialogue between them, in this case, in order to foster collaboration in transboundary water management and, indeed, in natural resource management in general, is clearly a major strength. The examples given above clearly illustrate the OSCE's ability to work directly with all parties, serving as a broker to ensure that dialogue and discussion is effective at both the political level and in implementation.

It is important to stress the strong role of co-operation and the key contribution made by the partners involved in the process. While the OSCE, as a security policy organization, can foster political co-operation among stakeholders resulting in policy changes on transboundary water management issues, the added value and technical expertise of both the UNECE and NATO's Science for Peace programme, as well as other partners, are invaluable. Further collaborators, including specialists in the NGO sector, or in national implementation and solutions to water issues, also lend enormous added value.

In the future, the OSCE will continue to foster dialogue and co-operation on transboundary water management in the region. The conference on "Challenges for Providing Environmental Security and Sustainable Development in the Region of Central Asia", held in Tashkent on the 30-31 October 2007 provides a good platform for further steps. Since then, the OSCE has engaged in dialogue with the Central Asian countries and has collaborated with the UN Convention to Combat Desertification and the World Meteorological Organization in supporting regional dialogue and establishing a drought management centre for Central Asia.

Under ENVSEC, the OSCE aims to support the follow-up to the Amu Darya assessment, where direct responses to gaps and needs will be identified

and directly implemented through projects agreed with the relevant Central Asian states, as well as Afghanistan and other ENVSEC partners.

In particular, co-operation with the Secretariat of the Helsinki Water Convention and with the UNECE will be strengthened. The OSCE is also looking forward to supporting the Interstate Committee for Water Co-ordination in Central Asia in a capacity building project that focuses strongly on regional co-operation, and promoting policies to encourage water management and environmental sustainability in the region. Finally, the OSCE will work closely with the UNDP regional office in Bratislava and offices in Central Asia to support national integrated water resource management plans, avoid overlap, and strengthen water policies in the region.

Economic and Environmental Security Should Remain Key Components of the OSCE's Core Mandate¹

“Unless we tackle global poverty, long-term security will remain elusive. A strategy for development is by far the best form of conflict prevention.”²

The most important worry a farmer in Central Asia is likely to have is how to feed his family, closely followed by how to obtain clean drinking water. These are two of the most basic human needs, both of which – among many others – are addressed by the economic and environmental activities of the Organization for Security and Co-operation in Europe, also known by its acronym OSCE. In Central Asia, as in many other countries of the post-Soviet area, the Organization has field operations in every state, allowing it to play an important role on the ground, close to both the population and national governments. Although the Organization is mostly active in the post-Soviet space, its 56 participating States include all countries in Europe and the former Soviet Union, as well as the United States and Canada, making the OSCE the world's largest regional security organization. In 2005, the Organization celebrated the 30th anniversary of the creation of its predecessor, the Conference on Security and Co-operation in Europe, or CSCE, at the signing of the Helsinki Final Act in 1975,³ one of the most important security documents in Europe's post-War history.

Although the Organization contributed crucially to the end of the Cold War and the break-up of the communist system, it has seen rising criticism in recent years, including voices⁴ questioning its right to exist alongside such heavyweights as the European Union, NATO and the Council of Europe. The debate over the OSCE's future led to the creation, under the Slovenian OSCE Chairmanship in 2005, of a so-called Panel of Eminent Persons, composed of

1 Kilian Strauss is a Senior Programme Officer at the OSCE. He wrote this article in a personal capacity.

2 *Speech by Federal President Horst Köhler on the occasion of the 41st Munich Conference on Security Policy “Economic Development and Security”*, Munich, 11 February 2005, available online at: <http://www.bundespraesident.de/en/Speeches-,11165.622319/Speech-by-Federal-President-Ho.htm>

3 Final Act of the Conference on Security and Co-operation in Europe, Helsinki, 1 August 1975, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 141-217, available online at: http://www.osce.org/documents/mcs/1975/08/4044_en.pdf.

4 Cf. A bowl of thin alphabet soup, in: *The Economist*, 7 August 2008.

senior statesmen and intellectuals from six OSCE participating States.⁵ The Panel submitted a report entitled “Common Purpose – Towards a More Effective OSCE”⁶ to the Organization’s Permanent Council in September 2005, outlining their recommendations for reform. In its second chapter, the report looks at the OSCE’s three dimensions, i.e. the politico-military dimension, the economic and environmental dimension and the human dimension. This breakdown of the OSCE’s activities goes back to the Helsinki Final Act, which referred to three “baskets” of security, the second of which was then named “Co-operation in the Field of Economics, of Science and Technology and of the Environment”.

The OSCE’s Second Dimension

The OSCE’s second basket, currently referred to as the economic and environmental dimension, was then – as now – the least known of the OSCE’s three areas of activity. From 1992 to 1997, it existed only in the form of the Annual Economic Forum, which resulted from the transformation of the former Senior Council and aimed at regularly reviewing the economic and environmental commitments of OSCE participating States. It was established by the 1990 Bonn Document following a meeting on economic co-operation in the then German capital.⁷ In 1997, the position of Co-ordinator of Economic and Environmental Activities was created within the OSCE Secretariat in Vienna.⁸ Since then, the activities of the second dimension have not stopped expanding, underscoring the growing relevance of economic and environmental issues to the Organization’s 56 participating States, but especially to those states situated “East of Vienna”, where the majority of activities are implemented.

The course the Organization takes is set by the OSCE foreign ministers at their annual Ministerial Council Meeting. The meeting in Maastricht in December 2003 stands out in particular, due to the adoption of the “Strategy

5 Wilhelm Höyneck of Germany, Kuanysh Sultanov of Kazakhstan, Miomir Žužul of Croatia, Nikolay Afanasievsky/Vladimir Shustov of Russia, Knut Vollebæk of Norway, Hans van den Broek from the Netherlands and Richard Williamson from the US.

6 Common Purpose – Towards a More Effective OSCE. Final Report and Recommendations of the Panel of Eminent Persons On Strengthening the OSCE, 27 June 2005, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2005*, Baden-Baden 2006, pp. 359-379.

7 Cf. Document of the Bonn Conference on Economic Co-operation in Europe Convened in Accordance with the Relevant Provisions of the Concluding Document of the Vienna Meeting of the Conference on Security and Co-operation in Europe, in: Bloed (ed.), cited above (Note 3), pp. 426-438, available online at: http://www.osce.org/documents/eea/1990/04/13751_en.pdf.

8 The mandate of the Co-ordinator of OSCE Economic and Environmental Activities can be found at: <http://www.osce.org/eea/13050.html>.

Document for the Economic and Environmental Dimension”.⁹ The Strategy Document and the growing number of second-dimension activities underline the extent to which economic processes and environmental concerns lie at the heart of security and co-operation in South-eastern and Eastern Europe, the Southern Caucasus and Central Asia, i.e. the areas in which the OSCE is active with 18 field operations.¹⁰ At the same time, the nature of economic and environmental threats has undergone important changes in recent years, a fact that was outlined in the “OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century”,¹¹ also adopted in Maastricht in 2003.

Addressing Economic Development and Environmental Security

Economic processes are at the heart of creating democratic, prosperous nations, as underlined by the success of the European Economic Community – now the European Union – since its foundation in 1957. Yet given the high levels of corruption¹² and weak institutions in many of the transition countries resulting from the collapse of the Warsaw Pact and the Soviet Union, a lot remains to be done to create market-oriented, prosperous states. At the same time, without a stable economy, the interest of states in democratic processes often remains low,¹³ which, in combination with frozen conflicts, ethnic tension or organized crime, leads to considerable security risks.

These economic security risks, as well as environmental threats such as pollution, radioactive contamination and deforestation, are addressed by the activities of the OSCE’s second dimension. The key fields of activity are in the areas of good governance, environmental security, migration management and economic development.¹⁴

While the approach to activities was somewhat haphazard in earlier years, project development has taken on an increasingly programmatic char-

9 OSCE Strategy Document for the Economic and Environmental Dimension, in: Organization for Security and Co-operation in Europe, *Eleventh Meeting of the Ministerial Council*, 1 and 2 December 2003, Maastricht 2003, MC.DOC/1/03, 2 December 2003, pp. 13-25, available online at: http://www.osce.org/documents/sg/2004/01/1865_en.pdf.

10 The OSCE has field operations in Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, Moldova, Montenegro, Serbia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.

11 OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, in: *Eleventh Meeting of the Ministerial Council*, cited above (Note 9), pp. 1-10, available online at: http://www.osce.org/documents/mcs/2003/12/17499_en.pdf.

12 Cf. Transparency International’s corruption perceptions index 2008, at: <http://www.transparency.org>.

13 Cf. Douglass C. North/John Joseph Wallis/Barry R. Weingast, *A Conceptual Framework for Interpreting Recorded Human History*, NBER Working Paper No. 12795, December 2006: “Sustaining competitive democracy is possible only in the presence of economic competition”.

14 An overview of OSCE activities in the second dimension is available at the website of the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) at: <http://www.osce.org/eea>.

acter. Although long-term thinking is not directly encouraged by the Organization's annual budgeting and the limited availability of extra-budgetary resources from only a few of the OSCE's participating States and partner organizations, the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA) has succeeded in creating a multi-annual initiative: the Environment and Security Initiative (ENVSEC).¹⁵ It is aimed at addressing environmental risks to security in OSCE participating States and is implemented in close co-operation with partner organizations such as the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the United Nations Economic Commission for Europe (UNECE) and NATO.

Other activities that have become increasingly programmatic are the OCEEA's activities aimed at promoting good governance, i.e. its activities related to the fight against corruption, money laundering, the financing of terrorism and organized crime. Good governance is vital for building modern economies and states based on the rule of law. Numerous activities have been carried out to implement the UN Convention against Corruption and to strengthen the legislative and institutional framework on combating money laundering and terrorist financing.¹⁶ The OCEEA has also been closely involved in promoting migration management¹⁷ since the topic was first raised by the Slovene OSCE Chairmanship in 2005, and implemented a three-year anti-trafficking programme from 2003 to 2006.¹⁸

While the OCEEA plays an important part in developing new project initiatives, the actual activities are mostly implemented by OSCE field operations, often involving partner organizations such as other international organizations or NGOs. Due to the OSCE's small size (a total of around 3,500 staff in institutions and field operations) and its limited means (a total annual budget of 164 million euros¹⁹), the projects implemented by the Organization are relatively modest, rarely exceeding 100,000 euros. This does not mean, however, that the OSCE's contribution is negligible. On the contrary, the OSCE plays an important role as a catalyst for action, drawing the attention of other, financially more powerful institutions (e.g. the World Bank) to the needs of countries in transition.

15 The website of Environment and Security Initiative can be found here: <http://www.envsec.org>.

16 For details, see: <http://www.osce.org/eea/13474.html>.

17 For details, see: <http://www.osce.org/eea/29017.html>.

18 For details, see: <http://www.osce.org/eea/13252.html>.

19 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 839, Approval of the 2008 Unified Budget*, PC.DEC/839, 7 March 2008, at: http://www.osce.org/documents/pc/2008/03/30239_en.pdf.

A question often asked about the OSCE is what added value it brings from its involvement in economic and environmental activities, especially when compared to other international organizations and NGOs active in similar areas. The answer lies in the Organization's political clout, as the OSCE is an inter-governmental organization with "direct lines of communication" to the administrations of its 56 participating States, above all via their various foreign ministries, but also through other key ministries and structures, including the often very powerful presidential administrations. The Organization also benefits from strong field presences, especially in the South Caucasus and Central Asia, where it is one of the most important international players on the ground. Moreover, the OSCE closely co-operates with other international organizations and NGOs and co-ordinates its activities with them on the ground. Particularly important partnerships exist with the various UN agencies, such as the UNDP, the UNEP, the UNECE and the United Nations Office on Drugs and Crime (UNODC), as well as non-UN agencies including the Organization for Economic Co-operation and Development (OECD), the World Bank and the Council of Europe. In order to ensure that these activities achieve their objectives, the OSCE often assumes the crucial role of co-ordinator and driving political force. The value of this is widely appreciated by both the Organization's partners and national governments.

But the OSCE can do more. One area in which its second dimension could make a genuine difference are the regions affected by the so-called "frozen" conflicts, i.e. in Nagorno-Karabakh (between Armenia and Azerbaijan) and Moldova (Transnistria), as well as the two disputed Georgian territories of Abkhazia and South Ossetia. Although the geopolitics of these conflicts are highly intractable (as recent events have shown) and negotiations have been going on for over a decade in most cases, joint work on economic or environmental issues has often proven possible within the framework of small, modest projects. These can build confidence at the technical level by dealing with largely non-political issues such as pollution or forest fires. Highlights include an OSCE assessment mission to Nagorno-Karabakh in 2006 that assessed the damage caused by wildfires in the territory,²⁰ and an environmental assessment mission to South Ossetia in October 2008.²¹

20 Cf. Office of the Co-ordinator of OSCE Economic and Environmental Activities, *Activity report of the Office of the Co-ordinator of OSCE Economic and Environmental Activities, June 2006-May 2007*, available online at: <http://www.osce.org/item/25011.html>.

21 Cf. Secretariat – Office of the Co-ordinator of OSCE Economic and Environmental Activities, press release, *Joint OSCE-UNEP assessment report on environmental impact of recent conflict in Georgia released*, at: http://www.osce.org/eea/item_1_34596.html.

To allow the OSCE to draw on this competitive advantage and to play a stronger role in addressing economic and environmental threats, an increase in the financial means put at its disposal would be required. As of 2008, a mere 1.1 per cent of the OSCE's core budget is spent on the Office of the Coordinator (mostly on operational costs such as salaries), while an additional three per cent of the annual budget is spent on economic and environmental activities in OSCE field operations.²² The majority of the activities in the second dimension are funded by extra-budgetary contributions from participating States, partner institutions or the private sector. Yet despite growing requests for action and increasing financial needs, the volume of extra-budgetary contributions received by the OCEEA has fallen over the last few years, mainly due to a drastic reduction in financial support from the United States, which used to be one of the biggest contributors to activities in the economic and environmental dimension. Support from EU member states has traditionally been modest, while the European Commission has provided virtually no funding for the OSCE's second dimension. This will have to change if the OSCE is to maintain its role as an important player in the area of conflict prevention and post-conflict rehabilitation, particularly in the South Caucasus and Central Asia. Both the Commission and EU member states should therefore reconsider their lack of enthusiasm for activities implemented in the second dimension, as should states that have recently grown better off and have not contributed to activities in the past, such as Russia and Kazakhstan.

Given the modest size of most projects implemented in the second dimension (the average project costs ca. 60,000 euros), the additional cost would be relatively moderate (around one million euros annually). The European Commission, in particular, is called upon to reconsider its refusal to directly support the OSCE's economic and environmental activities, given the financial means at its disposal and the synergy effects this could produce, as many of the OSCE's activities are complementary to the EU's technical assistance programmes, especially in Central Asia. The OSCE should also reach out more actively to the private sector. Over the past few years, a small number of projects have already been supported by the private sector, although much more could be done in the future. The most important thing in this context would be for the OSCE to convincingly prove the added value of such partnerships to the private sector.

Yet there are also other potential sources of support. It is often difficult for the OSCE to develop the expertise needed to treat new areas of activity with the necessary professionalism in a short period of time, especially due to the changing priorities of each annual OSCE Chairmanship, especially

22 Cf. *Approval of the 2008 Unified Budget*, cited above (Note 19).

against a background of regular budget cuts. This is why the dimension is increasingly drawing on the experience of outside experts and short term consultants. Yet this requires financial means which are not always readily available. Potential solutions include the creation of rotating expert positions within the OCEEA or field operations, or the setting up of informal teams of expert advisers on selected topics. In order to remunerate the required experts, the Director of the Office of the OSCE High Commissioner on National Minorities, Ambassador John de Fonblanque, suggested in 2005 that funds could be freed by scaling down the annual Economic and Environmental Forum.²³ This is an option worth considering. The Forum process could also be put to better use by focusing more closely on some of the second dimension's core activities instead of broaching a new theme every year. OSCE participating States also possess a broad pool of expertise on which the Organization could draw – e.g. at ministries and in academia – and which could be put at the disposal of the Office on a temporary basis, for instance by means of short term secondments.

Looking Beyond Dimensions

Although this article is focusing on the OSCE's economic and environmental dimension, the growth of cross-dimensional and multi-disciplinary activities over the last few years would suggest that it is time to abandon the traditional compartmentalization of OSCE activities. One activity that no longer falls clearly into one dimension or another is the OSCE's involvement in combating organized crime, which brings together the OCEEA, the Strategic Police Matters Unit (SPMU) and the Office for Democratic Institution and Human Rights (ODIHR) within the framework of its rule-of-law initiative. The same goes for activities aimed at combating trafficking in human beings or the disposal of highly toxic rocket-fuel ("*mélange*"), which bring together OSCE units and departments from different "dimensions" of security.

As threats to security and their solution do not always fall easily into pre-established categories, the OSCE should start looking beyond dimensions in addressing these issues. Better co-ordination among the different OSCE units, along with better inter-agency co-operation in participating States would no doubt yield even better results in combating crime.

Long-Term Sustainability

The main concern about the OSCE's economic and environmental activities, apart from their impact and effectiveness, should remain their sustainability.

23 Cf. John de Fonblanque, Strengthening the economic and environmental dimension of the OSCE, in: *Helsinki Monitor* 3/2005, pp. 180-183, here: p. 182.

It is crucial that initiatives that have been launched by the OSCE are continued and extended by the interested parties, be they governments, NGOs or the private sector. In this context, OSCE missions assume a highly important role, as they are the main implementers of activities in the field. However, the high rate of staff turnover, due to the OSCE's status as a "non-career organization", does not always contribute to a very consistent approach, making it sometimes difficult to achieve sustainability. Finally, although it has been acknowledged that economic and environmental co-operation play highly important roles in conflict prevention and post-conflict rehabilitation, a number of OSCE missions do not even have a mandate to concern themselves with such matters, among them the OSCE Mission to Moldova and the biggest OSCE field operation of all, the OSCE Mission in Kosovo. Activities in both missions would clearly benefit from an economic and environmental mandate.

Conclusion

Despite the ongoing debate about the OSCE's future, the Organization remains an important player in today's Europe, including in the countries of the former Soviet Union. The need for the OSCE's involvement in the politico-military and human dimensions is beyond doubt, given the growing international threat of terrorism and the numerous frozen conflicts in the region. The same should also apply to its involvement in promoting economic and environmental security, which constitutes a crucial contribution to security and stability in Europe and the entire OSCE area. Besides, the economic and environmental dimension can often act as an important catalyst for other activities in the fields of military security and human rights.

The OSCE, as an organization concerned with both security and co-operation, has an important role to play in the promotion of economic stability and environmental sustainability, especially in Central Asia and the South Caucasus. Its key contribution lies in its role as a raiser of awareness on such important issues as trafficking in human beings, money laundering, corruption and environmental degradation, as well as its involvement in capacity and institution building.

The activities of the economic and environmental dimension, by creating economic opportunities and defusing tensions caused by environmental factors, can lead to a reduction of extremism, which is an important element in the resurgence of terrorism.

For many people in transition countries, economic stability – i.e. their ability to feed their families – is their topmost priority. Environmental issues are just as essential, as clean drinking water is a basic human need, which is not yet guaranteed in all OSCE countries.

The 56 OSCE participating States should therefore seek to expand the Organization's involvement in the economic and environmental sphere. This would require additional means – especially for project activities – which should be provided by EU member states and the European Commission, as well as by some of the richer CIS states such as Russia or Kazakhstan, which will assume the OSCE Chairmanship in 2010. However, calls for a “rebalancing” of the dimensions, which would see a shift of resources from the OSCE's human to the second dimension should be resisted. With relatively modest means, the OSCE's contribution to economic stability and environmental sustainability can be highly effective.

III. Organizational Aspects

OSCE Institutions and Structures

Fifteen Years of Conflict Prevention by the High Commissioner on National Minorities

In recent years, the danger of war between states has significantly diminished, while tensions between different ethnic groups within states have remained considerably high, not only in the OSCE area, but also in many other parts of our world. Interethnic conflict is a major source of violence causing enormous human and material losses throughout the world and giving rise to immense costs related to post-conflict peacebuilding, including physical reconstruction and social rehabilitation. Therefore, the 15th anniversary of the institute of the High Commissioner on National Minorities (HCNM) is a good opportunity to reflect on my role and mandate¹ and to see if it could also be applied elsewhere in our world.

Over the last several months and years, we have witnessed outbreaks of ethnic violence in many parts of the world, and this should serve us as a reminder that security and stability are not a given in our society, but are values that need to be continuously nurtured.

In the early nineteen-nineties, Europe became bitterly aware of this fact as the wars broke out in the Balkans. Thus, a number of instruments have been developed to give conflict prevention a real chance of success. Participating States in the Organization for Security and Co-operation in Europe (OSCE) have agreed that democracy, economic prosperity, and good neighbourly relations also depend on the respect for minority rights. On 21 November 1990, the Charter of Paris was signed and the European states agreed that “questions related to national minorities can only be satisfactorily resolved in a democratic political framework”. Furthermore, they have decided to hold each other accountable for progress in this area and to do away with hiding malpractice under the guise of internal affairs.

In 1992, the OSCE established the position of HCNM to prevent inter-ethnic conflict and to sound a warning when violence is about to erupt. The High Commissioner’s mandate allows him² to address internal situations in all 56 OSCE participating States with regard to minority issues. This determination has of course not averted all crises, but it did create a mechanism for addressing root causes of conflict and elaborating policies of integrating multiethnic societies with respect for diversity of all ethnic groups.

1 The mandate of the HCNM can be found at the HCNM website: <http://www.osce.org/hcnm>.

2 So far the position of HCNM has been held by three men, therefore the HCNM will be referred to as “he” throughout the article. The first High Commissioner was Max van der Stoep (1993-2001), followed by Rolf Ekéus (2001-2007). I was appointed to this position in July 2007.

It is also important to note at the outset that my function is not that of an ombudsman for national minorities or an investigator of individual minority rights violations and therefore I am the OSCE's High Commissioner *on* National Minorities and not *for* national minorities. In fact, individual cases are explicitly excluded from my mandate. This, however, does not preclude me from studying all the information I receive from different sources to make my judgment on specific issues that are brought to my attention.

The pragmatic "problem-solving approach" developed by the HCNM combines quiet diplomacy, policy advice, and technical (often legal) assistance. My predecessors, Minister Max van der Stoel and Ambassador Rolf Ekéus, may take a lot of credit for defusing interethnic tension in the Baltic region and Eastern Europe and I intend to continue this approach. Topics that have been tackled as central aspects of interethnic conflict prevention include education, language, effective participation of minorities in public life, media, and policing.³ The sets of recommendations issued in each of these areas have been made possible by collecting the best practices of OSCE participating States; they have contributed to setting standards in terms of how states can tackle challenges in their national integration policies in the OSCE area and beyond.

My mandate does not define the notion of a "national minority", and I am aware that a number of participating States even have a problem with this term, but I would like to refer to Max van der Stoel's keynote address at the opening of the OSCE Minorities Seminar in Warsaw in 1994, when he stated that he "[...] won't offer you [a definition] of my own. I would note, however, that the existence of a minority is a question of fact and not of definition. In this connection, I would like to quote the Copenhagen Document of 1990 which [...] states that 'To belong to a national minority is a matter of a person's individual choice.' [...] I would dare to say that I know a minority when I see one. First of all, a minority is a group with linguistic, ethnic or cultural characteristics, which distinguish it from the majority. Secondly, a minority is a group which usually not only seeks to maintain its identity but also tries to give stronger expression to that identity." My approach is therefore to look at communities or other groups that display some of those features.

The mandate of the HCNM is remarkable not only because of the absence of a definition of "national minorities" but also in a number of other ways. Apart from general guidelines, it provides me with the necessary freedom of initiative in many aspects: The HCNM does not become engaged in

3 *The Hague Recommendations Regarding the Education Rights of National Minorities* of 1 October 1996, *The Oslo Recommendations Regarding the Linguistic Rights of National Minorities* of 1 February 1998, *The Lund Recommendations on the Effective Participation of National Minorities in Public Life* of 1 September 1999, *Guidelines on the Use of Minority Languages in the Broadcast Media* of 10 October 2003, and *Recommendations on Policing in Multi-Ethnic Societies* of 9 February 2006. The recommendations are available (in several languages) at the HCNM website.

all minority-related issues, but only in those that have security implications. As there are usually a multitude of potentially dangerous challenges, deciding on which ones to tackle is up to the good judgement of the HCNM.⁴

My mandate obliges me to act as a “tripwire” – alerting the OSCE participating States when a given situation threatens to develop into a conflict. This means that I am very often dealing with challenges that are not entirely visible at first glance, because I need to become active at the earliest possibility. These challenges frequently arise from certain stipulations in national legislation or practices that run counter to the genuine integration of a society.

I can conduct on-site visits and engage in preventive diplomacy, in theory even without the consent of the state concerned. However, I cannot function properly without the political support of the participating States. In practice, therefore, I carry out my tasks in close consultation with them. Only with their backing can I make a meaningful contribution. In addition to obtaining first-hand information from all parties, it is my task to promote dialogue, confidence, and co-operation. I cannot consider national minority issues in situations involving organized acts of terrorism. I also do not communicate with or acknowledge communications from persons or organizations that condone terrorism.

Another important aspect of my mandate is its long-term perspective. In order to find sustainable solutions for problematic interethnic matters, it is essential to keep in mind that de-escalation of a situation can be only a first step in the process of reconciling the interests of the parties concerned. Usually my goal is to maintain and enhance a process of exchanges of views and co-operation between the parties, leading to concrete steps calculated to de-escalate tensions and, if possible, resolve underlying issues.

If I am to be effective as a third party, it is essential that I preserve my impartiality at all times. My guidelines are international norms and standards, to which OSCE participating States have committed themselves. Stability and conflict prevention are, as a rule, best served by governments adhering to those standards.

If one looks at the mandate of the HCNM, it is remarkable that OSCE participating States in 1992 were prepared to give so much independence to an individual. Each decision as to where and when the HCNM shall become engaged is left to his discretion and does not require the approval of the OSCE Permanent Council. This is essential, as timing is often an important issue when I get involved in a potential conflict situation. In terms of reporting, I inform the Chairman-in-Office about all my activities and report to the Permanent Council twice per year.

4 According to his mandate, the HCNM provides “early warning” and, as appropriate, “early action” at the earliest possible stage “in regard to tensions involving national minority issues which have not yet developed beyond an early warning state, but, in the judgement of the High Commissioner, have the potential to develop into a conflict within the OSCE area”.

I would like to underline that the condition of confidentiality – which means that the HCNM mainly acts through silent diplomacy – has proven very useful and is still vital to my position. Parties directly involved in a tense situation often feel they can be more co-operative and forthcoming if they know that the discussions will not be revealed to the outside world. There are often discrepancies between what people are prepared to share in confidential talks and what they say in public.

Over the years, the HCNM mandate has been implemented by my predecessors according to their good judgement, focusing on specific issues that are relevant to peaceful development. I intend to continue this tradition and to not only look at country-specific issues but also to take up thematic areas. I launched the most recent set of recommendations on “National Minorities in Inter-State Relations” in October 2008 in Bolzano/Bozen.⁵

Over the last fifteen years of intense activity, the office of the HCNM has gained a unique insight into identifying and addressing potential causes of conflict. My predecessors and I have focused much of our attention on situations involving persons belonging to national or ethnic groups that constitute the numerical majority in one state but the numerical minority in another (often neighbouring) state. This issue engages the interest of governmental authorities in each state and constitutes a potential source of inter-state tension, if not conflict. Indeed, such tensions have defined much of European history.

Under international law, the protection of minority rights is the responsibility of the state where the minority resides. At the same time, other states may have an interest in the well-being of minority groups abroad, especially those with whom they are linked by bonds of kinship, such as language, and history. Experience has shown that there is a need for greater clarity on how states can pursue such interests without jeopardizing peace and good neighbourly relations.

While the responsibility for protecting minorities rests with the state in which minorities reside, the protection of human rights, including minority rights, is also the concern of the international community. The central message of these newest recommendations is that states may take measures in relation to national minorities abroad as responsible members of the international community and should ensure that such measures do not substitute or harm civic relations between members of national minorities and their states of residence. When extending benefits to members of national minorities abroad, states should be guided not only by respect for minority rights, but also by the principle of friendly relations between states. States should ensure that their policies with respect to national minorities abroad do not stand in the way of the integration of national minorities in their states of residence or fuel separatist tendencies.

5 *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations of 2 October 2008*, available at the HCNM website.

I believe these recommendations will provide representatives of states, national minorities, and international organizations with guidance on how to cope with this sensitive issue in a way that protects and promotes the rights of persons belonging to national minorities, prevents conflict, maintains inter-ethnic harmony, and strengthens good-neighbourly relations.

Throughout the OSCE area, there are increasingly tensions arising due to migration flows. This may be a new area that the HCNM will have to address. The challenges of dealing with those “new” minorities might at times be different from those concerning traditional national minorities. However, the conflict potential arising from a lack of integration into society remains high. That is probably why the OSCE Parliamentary Assembly requested the HCNM to look into the matter and to come up with a suggestion on how to address it.

Several years ago, at a conference in October 2003, Rolf Ekéus already said that “[migration] must be addressed not only as a social question, but also as a matter of governance – as a basic policy issue. Failure to do so carries the prospect of social unrest potentially undermining the stability necessary for prosperity”.⁶

As I come to the end of this article, I would like to make an appeal to the international community to consider an instrument like the HCNM also for other areas of our world. Lately I have been particularly troubled by what happened in Kenya at the beginning of 2008. This sudden outbreak of ethnic violence is only one example among many. Minority issues are never solved “once and for all”. In our world, we live in permanent processes to which people need to adapt and which politicians need to tackle. I mention Kenya here, because it was a reminder not least to the African Union of the challenges Africa faces with thousands of ethnic groups spread across national boundaries.

Some 16 million lives have been lost as a result of ethnic strife since 1945 – far more than in wars between states. According to Oxfam, in Africa alone, conflicts since the end of the Cold War have cost the continent 300 billion US dollars. These figures, however, fail to reflect the damage inflicted upon the fabric of societies that will haunt them for generations. Dealing with the consequences of these conflicts usually requires tremendous reconciliation efforts. By the time violence breaks out, a conflict has developed its own dynamics, and the chances of successful diplomatic engagement are substantially reduced, largely leaving the international community with costly options and uncertain outcomes from other kinds of intervention.

In my view, it is vital for the international community to intervene at the earliest possible opportunity and to help the authorities and the opposition to

6 Organization for Security and Co-operation in Europe, High Commissioner on National Minorities, *Towards a Europe for All*, Address of Mr. Rolf Ekéus, OSCE High Commissioner on National Minorities to the Programme Roundtable Conference, organized by The Netherlands Helsinki Committee “New Minorities”: Inclusion and Equality, The Hague, 20 October 2003.

find common ground in addressing the grievances of all ethnic communities when such a need arises. It is said that “an ounce of prevention is worth a pound of cure” and my office tries to work accordingly.

I am convinced that we need to move from a culture of reaction to a culture of prevention, and this requires becoming action-oriented at an early stage. Regional inter-governmental organizations – such as the African Union – can, through early preventive action and co-operative engagement, effectively address the root causes of violent conflict. Human rights, effective democratic institutions, power sharing, and good governance should be the basis for all solutions.

As of today, only Europe has established a High Commissioner on National Minorities institution with a strong mandate that gives him authority to address these issues without being invited to by the nation states. Now action has to be taken on a global scale. Prevention of interethnic conflict must become a priority as much as the fight against poverty, famine, AIDS, or any other problems of immense scale that humanity is facing. This could happen in various forms – in the United Nations format, in the work of regional international organizations, international NGOs, and civil society groups. Europe has a lot of experience, both positive and negative, in diversity management. The rest of the world could learn from our mistakes and our achievements.

The OSCE Media Freedom Representative Turns Ten: Current and Future Challenges to Press Freedom in the OSCE Region¹

Together with its corollary, freedom of the media, freedom of expression is one of the most basic human rights. In order to ensure a high level of compliance with the norms and standards accepted by the OSCE participating States, the Office of the OSCE Representative on Freedom of the Media (RFOM) was established in November 1997 by Permanent Council Decision No. 193.

The RFOM, the youngest of the three independent OSCE institutions,² is tasked with both monitoring the relevant media developments in the OSCE area and assisting OSCE participating States in implementing their media freedom commitments. It has often been referred to as the “the only intergovernmental media freedom watchdog in the world”.

In January 1998, Freimut Duve of Germany took office as the first RFOM; he was succeeded in this capacity by Miklós Haraszti of Hungary in March 2004.

Under the auspices of the 2008 Finnish OSCE Chairmanship, the Office of the RFOM organized a special event to mark the 10th anniversary of his mandate. This took place on 29 February 2008 in Vienna and was dedicated to “Present and future challenges to media freedom and free expression in the OSCE region”.³

A Unique Insight into Media Freedom in the OSCE Area

The anniversary event featured an impressive array of speakers, who outlined the challenges that journalists face every day. All geographical areas and major issues were scrutinized, including cases where states tolerate harassment or journalists are murdered, where pluralism is considerably restricted by undue government influence, where journalists’ rights to investigate their

1 The views and opinions expressed in this report are those of the author and do not necessarily reflect those of the OSCE.

2 The two others are the Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR) and the High Commissioner on National Minorities (HCNM), based in The Hague.

3 A publication featuring the presentations and the discussions held at the anniversary event was produced in the autumn of 2008: *Ten Years for Media Freedom – An OSCE Anniversary: Current and Forthcoming Challenges*, 15 September 2008. The handbook can be downloaded from: http://www.osce.org/fom/item_11_32993.html.

governments' acts are denied, and where offending or critical views are often punished, sometimes systematically, as "extremism" or "hate speech".

Recent international tensions caused by secular depictions of religious figures and an increased tendency to criminalize attempts to revise and re-interpret historical events were given special attention by several speakers, including *Le Monde* cartoonist Plantu and *Gazeta Wyborcza* foreign correspondent Konstanty Gebert. The Chair of the Writers in Prison Committee, Karin Clark, spoke about restrictions on free expression faced by writers in the OSCE region.

Thomas Hammarberg, the Human Rights Commissioner of the Council of Europe, joined the appeal by the RFOM to participating States to decriminalize the professional mistakes of journalists – such as libel and slander – and to allow these offences to be treated exclusively in civil courts.

Gus Hosein, Senior Fellow at Privacy International, denounced recent policies on border, travel, and communications surveillance in both the United States and the European Union. Reino Paasilinna, a Finnish Member of the European Parliament, explored global trends towards increased surveillance, especially on the internet.

Firdevs Robinson, an editor with the BBC World Service, described the current situation regarding media and press freedom in Turkey and the three countries of the South Caucasus, Armenia, Azerbaijan, and Georgia, particularly in the light of recent or forthcoming elections in these countries.

Other speakers drew a distressing picture of press freedom in the Commonwealth of Independent States (CIS). Far from thriving, independent media outlets in most CIS nations are struggling just to keep operating. Oleg Panfilov, Director of the Moscow-based Centre for Journalism in Extreme Situations, rated the media environment in most of the post-Soviet countries as unsatisfactory.

Aleksey Simonov, President of the Glasnost Defence Foundation, compared the current media situation in Russia to a zoo, with the media in the role of the caged animals.

Typology of Threats against Freedom of the Media in the OSCE Area

Ten years after the establishment of the Office of the RFOM, the right to freedom of expression and freedom of the media continues to be under threat both in the participating States and worldwide.

In particular, we are witnessing the rapid deterioration in two crucial dimensions of press freedom: the physical security of journalists and the legal protection of reporting critical of state officials and national or religious symbols.

Violence against Journalists

Miklós Haraszti has stated on numerous occasions that there is only one thing more intimidating for free speech than harassment, physical attacks, or even murder of media workers and that is when governments *tolerate* harassment, attacks and murders. Tragic events throughout recent years in the OSCE area showed that violence against journalists is a recurring challenge to media freedom.

On top of numerous incidents of threats, harassment, and beatings of media professionals, recent years have seen the murders of journalists Elmar Huseynov in Azerbaijan, Alisher Saipov in Kyrgyzstan, Paul Klebnikov and Anna Politkovskaya in the Russian Federation, Hrant Dink in Turkey, and Chauncey Bailey in the US.

The benefits of professional journalism can be enjoyed by all only if journalists can operate in an environment where professional, legal, and political parameters are conducive to free media.

In an address to the International Federation of Journalists' World Congress in May 2007 in Moscow, the RFOM said:

When violence against journalism can count on a practical impunity, it is no exaggeration to claim that this indifference by the authorities encourages and perpetuates the crime. Failure to find the perpetrators may happen even to the best of detectives. But with apathy, law enforcement seems to share the motives of the perpetrators. Idleness in stopping violence kills hope.⁴

Criminalization of Defamation

Impunity does not start with the actual failure to successfully investigate and prosecute murders of journalists. It starts with the criminalization of journalist offences, which is, in essence, the criminalization of journalism. In 21st century democracies, such offences should be handled by civil courts for the sake of an open debate about issues of public interest.

Violence against journalists and officially imposed restrictions on their freedoms are intricately linked. Before becoming the victims of violent crime, journalists are often the defendants in criminal cases – for speech offences.

This is highlighted by some of the more notorious cases involving the murder of journalists, such as Elmar Huseynov (2005) and Hrant Dink

4 Miklos Haraszti, *Violence against journalists: why the gravest danger?* Keynote speech by the Representative on Freedom of the Media to the IFJ World Congress, 28 May 2007, Moscow. The text is available online at: http://www.osce.org/documents/rfm/2007/06/24811_en.pdf.

(2007). Both murders were preceded by numerous criminal proceedings brought against these journalists throughout their careers.

The criminalization of libel and insult is the most common reason for the imprisonment of journalists in the OSCE area today. Equally oppressive is the ongoing habit of granting special protection from verbal criticism to heads of state or other high public officials. Such practices contradict the case law of the European Court of Human Rights in Strasbourg – competent for 47 of the 56 OSCE participating States.⁵

In cases of defamation, almost all OSCE participating States (and, most notably, 25 of 27 EU member States)⁶ have the possibility of imposing criminal sanctions, including imprisonment. In practice, Western European states do not apply criminal sanctions for defamation. However, the criminal codes of these well-respected democracies are referred to by countries in other parts of the world to argue for the retention of such provisions in their laws. EU countries would set a good example if they were to remove these provisions and refer all such cases to civil law.⁷ In this vein, the Parliamentary Assembly of the Council of Europe recently called on its member states to “abolish prison sentences for defamation without delay”.⁸

Misuse of Counter-Terrorism Provisions and Increased Surveillance over the Internet

With the increase in both the magnitude and the number of threats, there is a growing and legitimate trend among the OSCE participating States to address these heightened security concerns. However, governments also need to respect the media’s right to investigate and report on issues that are clearly of public interest.

In this regard, journalists have come under increased pressure for writing investigative pieces based on confidential information, or after refusing to reveal their sources, notably in Western OSCE countries.⁹ Such pressure weakens the media’s ability to uncover information and write about wrong-

5 In a landmark case (*Lingens v. Austria*), the Court made clear that “freedom of the press [...] affords the public one of the best means of discovering and forming an opinion of the ideas and attitudes of political leaders. [...] The limits of acceptable criticism are accordingly wider as regards a politician as such than as regards a private individual. Unlike the latter, the former inevitably and knowingly lays himself open to close scrutiny of his every word and deed by both journalists and the public at large, and he must consequently display a greater degree of tolerance.” *Lingens v. Austria* (1986), para. 42.

6 Only seven OSCE participating States (Bosnia and Herzegovina, Cyprus, Estonia, Georgia, Moldova, Ukraine, and the United States) have decriminalized libel so far.

7 Ireland seems to have initiated just such a move, with Justice Minister Brian Lenihan’s recent proposal to delete the sections on criminal libel contained in a Bill that was being discussed in the Irish Senate in March 2008. Cf. http://www.osce.org/fom/item_1_30323.html.

8 Council of Europe, Parliamentary Assembly, *Resolution 1577 (2007) Towards decriminalisation of defamation*.

9 The RFOM has issued a number of press releases on such cases, which can be consulted at the RFOM website.

doing, corruption, abuse of power, nepotism, etc, and undermines its role as the “fourth estate”.

Additionally, while the internet is becoming the most important source of diverse information (indeed the only alternative source to state-controlled media in several countries), states have shown an increased willingness to control online communications. Such efforts have proven successful in various countries, including OSCE participating States, where technical blockages or filtering of the free flow of information across the internet have been put in place.¹⁰ Telecom and content regulators from government and industry are increasingly playing a more intrusive role in overseeing “what happens online”, thereby endangering not only the present but also the future of media freedom in the internet age.

Proliferation of Arbitrary Speech Bans

Finally, in a world of dissolving boundaries, the otherwise legitimate expectation that the media should be culturally sensitive has seen an increase in the number of attempts to label the reporting, debate, or criticism of controversial issues as punishable “extremism” or “hate speech”. The proliferation of arbitrary speech bans on certain statements regarding historical events also weakens international standards on free debate and creates new tensions between nationalities and/or countries.

It is legitimate to ban certain vicious forms of racist expression, and international law actually requires this. States that have ratified the *International Covenant on Civil and Political Rights* (ICCPR) for example, are required under Article 20 to prohibit hate speech, carefully defined as “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”. However, as the European Court of Human Rights has noted, the guarantee of freedom of expression also encompasses statements which “offend, shock or disturb”.¹¹

The Challenge of Digitization

Future developments that will require the attention of the Office of the RFOM, and of OSCE participating States, are related to the so-called “switchover” from traditional (analogue) to digital-terrestrial transmission in

10 See Ronald Deibert/John Palfrey/Rafal Rohozinski/Jonathan Zittrain (eds), *Access Denied: The Practice and Policy of Global Internet Filtering*, Cambridge, MA, 2008

11 *Handyside v. United Kingdom*, (1976), para. 49. The exact quote reads: “Freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man. Subject to paragraph 2 of Article 10 (Art. 10-2), it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no ‘democratic society’”.

broadcasting and the convergence of different telecommunication platforms (telecommunications, broadcast, mobile TV, handheld internet, etc).

This change will revolutionize the way we watch TV or listen to radio. The number of available channels will increase and broadcasting costs will diminish because of the elimination of the current scarcity of the frequency spectrum which, hitherto, has been the main justification for governmental licensing of broadcasters. However, to achieve the expected benefits – more choice for more people – a certain number of obstacles will have to be overcome so that all households in OSCE participating States can access television in digital mode: the first of them being for infrastructure owners/operators to invest in upgrading transmission networks.

The Dilution of OSCE Commitments

In 2007, the RFOM raised issues related to media freedom with governments of the OSCE participating States on more than 100 occasions and issued more than 50 public statements. The Office organized two regional media conferences, conducted several assessment visits (in the Balkans, Caucasus, and Central Asia), and organized a series of training courses aimed at developing better relations between the state and the media and increasing the access of journalists to information held by government bodies. It also published numerous books and special reports on a wide range of subjects including: governance of the internet, accreditation of journalists, registration of media outlets, and the handling of journalists by law-enforcement officers during political demonstrations, to name just a few.

Despite a decade of hard work, Miklós Haraszti warned that the OSCE must remain vigilant against the weakening of OSCE commitments in areas such as democracy, human rights, and media freedom. The OSCE must continue to insist that compliance with these values is a prerequisite for peace and security.

In an address to the 56 OSCE ambassadors gathered at the OSCE Permanent Council on 13 March 2008, the RFOM raised attention to the new worrying trend of calling the universality of OSCE commitments into question.¹² In his words:

Ten years ago, the establishment of this Office marked a moment when all participating States committed themselves to the universal values of democracy, including the protection of free expression and media pluralism. Today, just as in the days before the

12 The full speech can be accessed at: http://www.osce.org/documents/rfm/2008/03/30234_en.pdf. All RFOM regular reports to the OSCE Permanent Council are available at the documents database of the RFOM website in the section on “statements and regular reports to the PC”.

formation of the OSCE, different interpretations of democracy are being cultivated again, also with regard to speech rights. The requests for co-operation from the OSCE Institutions mandated to care for the fulfilment of the human rights commitments again are sometimes regarded as “intrusion into internal affairs”.¹³

Notwithstanding these challenges – old and new – the RFOM will tirelessly continue to perform his mandated activities to keep the participating States’ commitments to media freedom alive and to try to ensure compliance.

13 Ibid. p. 2.

The Spanish OSCE Chairmanship 2007

The Programme of the Spanish Chairmanship

With Spain's assumption of the OSCE Chairmanship in 2007, a large country was leading the Organization for the first time in more than a dozen years, and only the third time in history.¹ This brought many benefits: not only a large cadre of qualified and able personnel and an acknowledged tradition of skilled diplomacy, but also such things as Spain's intermediary role in European relations with North Africa and Ibero-America. Spain's was therefore expected to be an innovative Chairmanship. Furthermore, a socialist government had just come to power after many years of conservative rule, which seemed to raise the possibility of additional creative momentum for the OSCE.

Meanwhile, however, at the Brussels Ministerial Council, the Belgian Chairman had succeeded in leading the Organization at least some way out of a situation that had threatened its very existence.² His successor, the Spanish Foreign Minister Miguel Ángel Moratinos Cuyaubé explicitly praised him for this in his inaugural speech in the Permanent Council, perhaps only out of politeness: "An outstanding success was obtained [...] The decisions taken in Brussels have established clear-cut guidelines for our work together in 2007"³

Nonetheless, the snapshot of the Organization given by the new Chairman at the start of his term of office was far from rosy: "Our current situation is not an easy one. The Participating States and the OSCE itself are passing through a complicated stage."⁴ Tasks to which he referred included the restoration of regional stability in the Balkans, the strengthening of coexistence, democratic institutions, and the rule of law in the former Yugoslavia, and the continuation of the Kosovo mission.⁵ With unusual candour, he noted that the transition to democracy of many states was very far from complete. Then he turned to the long-running conflicts in the OSCE area, including Moldova "on both shores of the Dniester", Georgia, and Nagorno-Karabakh. He pulled no punches in describing relations between some participating States as "strained" and "characterized by sanctions, pressure or aggressive rhetoric".

1 Germany 1991, Italy 1994.

2 For more information, cf. Kurt P. Tudyka, *Die OSZE – Besorgt um Europas Sicherheit* [The OSCE – Concerned about European Security], Hamburg 2007, pp. 58-60.

3 Speech by the Spanish Minister of Foreign Affairs and Cooperation Miguel Ángel Moratinos Cuyaubé, Permanent Council of the OSCE, CIO/GAL/007, Vienna, 11 January 2007.

4 Ibid.

5 For this and for the following statements, cf. *ibid.*

Noting that it was necessary to admit that the consensus on values and their realization sometimes appeared to be weakening, he added rather darkly that “intolerance, discrimination and even hatred” are threatening our ever more diverse societies. Finally, he turned to the difficult situation within the OSCE itself, as typified by the budget freeze.

His report on the state of the Organization closed with the sobering statement that “Project Europe” is still unfinished, by which he meant the plan to make Europe a space of peace, security, freedom, and co-operation. In this survey, as in other statements he made, it is striking that the Chairman-in-Office referred back again and again to the CSCE and never mentioned the Charter of Paris, and hence that he stressed the OSCE’s role as a forum for dialogue, without dwelling on institutional arrangements. In its way, the rather wordy virgin speech of the Spanish foreign minister and newly appointed Chairman-in-Office already foreshadowed the fact that he would be more concerned with preserving the OSCE than leading it to a renaissance.

Before detailing his plans, he named three principles that would underpin and guide his efforts, and which we can consider “secondary virtues”: *priority*, *perseverance*, and *patience*. At least he gave “priority” a concrete form with his resolution to pursue a balanced relationship between the three dimensions.

The Chairman went on to give examples of proposals in each of the three dimensions, although these were defined in only vague terms. Although he said he wanted to pay particularly close attention to the familiar prolonged conflicts, he made no specific predictions or even promises. He stated his intention of improving the synergy between the Permanent Council and the Forum for Security Co-operation by continuing to hold debates on civil and military co-operation in emergencies. Efforts were to be increased to combat terrorism, including by tightening travel document security, enhancing legal co-operation on criminal affairs, and involving civil society. More would be done to protect and provide due recognition to the victims of terrorism.

In the economic and environmental dimension, he emphasized the linkages between ecology and security by stressing the concept of “environmental security”. Relevant issues include soil degradation and contamination, and water management.

In the human dimension, the Chairman announced an ambitious yet nebulously worded plan aimed at democratization: promoting greater participation and diversity in increasingly plural societies. He also announced comprehensive efforts to combat intolerance, discrimination, and trafficking in human beings, improving transparency and democratic processes, and to promote the creation of societies based genuinely on the rule of law. He declared his intention of strengthening ties with the Mediterranean partners for co-operation and undertaking more activities together with the OSCE’s Asian partners. In this connection, it was also interesting that he mentioned the possibility that the OSCE could acquire new partners in the future. Finally, he

noted the need to co-operate more effectively with other international organizations, in order, in part, to reduce overlap and create synergies. He did not, however, detail specific steps.

The remarks of the Spanish foreign minister and the programme he presented for the OSCE sphere were quite clearly influenced by Spain's domestic social and political problems and experiences.

Three-and-a-half months later, the delegations received a document entitled "The Way to Madrid", which discussed each of the aforementioned topics in favour of introducing a long-term and transparent approach to decision-making processes. The Chairman thus offered preliminary ideas about the format and the content of the Ministerial Council Meeting and invited the delegations to further debate. He had already received a "quasi-universal" request to examine ways and means to confer to the Council a higher capacity of attraction for ministers as well as enhanced visibility for the general public. The Ministerial Council "should be what it was intended to be from its inception: that is an annual occasion to provide political guidance and visibility to the work of the Organization".⁶

The Activities of the Spanish Chairmanship in 2007 – Successfully Strengthening the OSCE?

In considering an OSCE Chairmanship, it would be useful to divide its activities into four types, all of which are naturally associated with leadership, orientation, and representation. These can in turn be broken down into existing activities taken on by the new Chairmanship, tasks forced upon it, and self-initiated activities. Without implying any sort of ranking, the first category includes oversight of the Secretariat and other OSCE institutions, i.e. the exercise of their various mandates; the second, conflict management; the third, collective opinion shaping; and the fourth, consultation and communication.

Just like all his predecessors, the Spanish Chairman ensured that he was closely assisted by a personal confidant by naming the Spanish diplomat Josep Borrell to be his Special Envoy. He also confirmed Ambassador Andrzej Kasprzyk as his Personal Representative with responsibility for the Minsk Process (i.e. the conflict on Nagorno-Karabakh). The Chairman's other four Personal Representatives also continued to perform their activities: Gert Weisskirchen, responsible for combating anti-Semitism; Ömür Orhun, for combating intolerance and discrimination against Muslims; Anastasia Crickley, for combating racism, xenophobia, and discrimination against Christians

6 *Announcement of a food-for-thought paper on preparations for the Madrid Ministerial Council meeting*, CIO.GAL/58/07, 30 April 2007, p. 11; on the Spanish proposal for the adoption of an OSCE strategy on environment and security, which was later submitted for approval to the OSCE Ministerial Council, see CIO.GAL/66/07, 30 April 2007.

and members of other religions, and Eva Biaudet, the Special Representative for combating trafficking in human beings.

Whether it liked it or not, one of the most delicate issues the Spanish Chairmanship had to take over was to resolve the question of the stalled decision-making process on Kazakhstan's application to assume the OSCE Chairmanship in 2009. This topic had developed from a question of the objective abilities and qualifications of the first Central Asian applicant for the position into a geopolitical dispute (above all one over political principles) on the formal equality and equal treatment of all participating States and the significance accorded to OSCE principles in the constitutional reality of a candidate country; the question became mixed up with the Spanish Chairmanship's opportune efforts to balance the OSCE's three dimensions. If this did not at first appear to offer a means for softening the fronts dividing participating States, it later did so thanks to a deal involving the granting of future Chairmanships to other candidates.

The adoption of the budget on 2 February 2007 came as a great relief to the Chairman, not just because it was ultimately his responsibility, but also because he needed to deal with many other things.⁷

The Spanish Chairmanship managed successfully the move to the Secretariat's new headquarters in Vienna, which was opened with great ceremony by Spain's King Juan Carlos and the Austrian President Heinz Fischer on 21 November 2007.⁸

Of all the OSCE's operational activities, election monitoring caused the Chairman-in-Office the greatest headache. Alongside Russia's well-known fundamental questioning of the OSCE's activities in this area, new disputes emerged, which shook the Organization to the core. These arose both from ODIHR's negative assessment of several elections, and especially as a result of Russia's (and briefly Poland's) refusal to admit observers in the usual fashion.

The Chairman presented three of the promised food-for-thought reports, which were intended to guide the Organization's work in 2007, to provide a basis for evaluating it, and finally to provide a basis for proposals on how to improve its work in the future. The first concerned the examination of the three-committee structure of the Permanent Council, which had been introduced in 2006; the second, the participation of NGOs; and the third, a review of commitments entered into, as proposed by ODIHR.

The task of supervising the OSCE's field presences, generally also a routine matter, involved two departures from business as usual during the Spanish Chairmanship. The first was the closure of the OSCE Mission to Croatia, which appeared to have been handled satisfactorily and was later

7 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 780, Approval of the 2007 Unified Budget*, PC.DEC/780/Corr.1, 2 February 2007.

8 Cf. Philip Hatton, *Moving into an Architectural Jewel*, in: *OSCE Magazine* 1/2008, pp. 22-25.

adjudged to have been so. In contrast, Kosovo's move towards *sui generis* statehood confronted the mission there with significant problems of legitimacy, leading to further political and practical problems. The Chairmanship found a precarious temporary solution to this crisis by proposing that the mission's mandate be renewed only on a monthly basis. The closure of the OSCE Mission to Croatia implicitly raised the question once again of how long the OSCE would continue to have field missions.

In the area of conflict management, the tasks assumed by the Spanish Chairmanship included the perennial efforts to resolve the intractable conflicts in Moldova and Georgia and over Nagorno-Karabakh. The Chairman travelled to Azerbaijan and Armenia with the key aim of improving the chances of finding a settlement to the smouldering conflict before 2008, which is an election year. Sceptical commentators have stated that the intervention of the Chairman-in-Office in long-term conflicts can only make matters worse.

On top of that came the sudden and dramatic worsening of the disputes between Georgia and the Russian Federation and the constitutional crises in Albania and Ukraine. The Chairman intervened in all of these in various ways. In the conflict between Georgia and South Ossetia, observers say that the value of the Chairman's "fire-brigade" function, which he considers so useful, is overestimated.

The following list of interventions illustrate his efforts to ensure conflicts do not escalate:

- 9 January 2007: Appeal to the Russian Federation and Belarus concerning the delivery of oil
- 13 January 2007: Dispatch of Special Envoy Jose Pons as a mediator to Albania
- 29 January 2007: Official reprimands sent to Georgia and Ossetia
- 12 February 2007: Call for Turkmenistan to ensure that the presidential elections are fair
- 7 March 2007: Criticism of the elections in Abkhazia
- 19 April 2007: Offer to mediate in Ukraine following riots at the constitutional court
- 23 April 2007: Dispatch of Special Envoy Jose Pons to Moldova
- 28 April 2007: Proposal to discuss US missile defence plans in the OSCE
- 3 May 2007: Criticism of the removal of a monument in Tallinn, and protests at the Estonian Embassy in Moscow.

Collective opinion forming encompasses not just the weekly meetings of the Permanent Council and the Forum for Security Co-operation and their committees and working groups, which also serve decision making, but also the vast array of additional meetings, events, conferences, and meetings of bod-

ies. Some of them are organized and chaired directly by the Chairmanship, some indirectly, but all are its responsibility. Naturally, neither the Chairman-in-Office nor his Permanent Representative in Vienna, the Chairperson of the Permanent Council, could take part in all these events. The following selection illustrates what happened in 2007:

- 22-23 January: Vienna, part one of the 15th Economic and Environmental Forum
- 6-7 March: Vienna, OSCE Annual Implementation Assessment Meeting
- 12-13 March: Zaragoza, Second Preparatory Conference to the 15th OSCE Economic and Environmental Forum
- 22-23 March: Vienna, Workshop on enhancing legal co-operation in criminal matters to counter terrorism
- 29-30 March: Vienna, Supplementary Human Dimension Meeting
- 26-27 April: Milocer, Montenegro, Regional meeting of OSCE Heads of Mission in South-Eastern Europe
- 16-18 May: Warsaw, Human Dimension Seminar
- 21-23 May: Prague, part two of the 15th Economic and Environmental Forum
- 31 May-1 June: Vienna, Public-private partnership conference on combating terrorism
- 7-8 June: Bucharest, High-level conference on combating discrimination and promoting mutual respect and understanding
- 11 June: Zagreb, Judges' meeting on inter-state co-operation in war crimes proceedings, promoted by the OSCE
- 12-13 June: Ulaanbaatar, OSCE-Mongolia Conference
- 19-20 June: Vienna, 2007 Annual Security Review Conference
- 28-29 June: Vienna, Drugs experts conference
- 12-13 July: Vienna, Supplementary Human Dimension Meeting
- 19-20 July: Vienna, Workshop on travel document security
- 10-11 September: Helsinki, First Preparatory Conference to the 16th OSCE Economic and Environmental Forum
- 13-14 September: Vienna, High-level meeting on victims of terrorism
- 20-21 September: Vienna, Conference on combating the sexual exploitation of children on the internet
- 9-10 October: Córdoba, Conference on intolerance against Muslims
- 18-19 October: Vienna, Supplementary Human Dimension Meeting
- 5-6 November: Madrid, Madrid Youth Forum.

A considerable number of people were involved in these and other events. For instance, 600 people attended the Budapest conference; 300 were at the Prague forum, and 200 visited the meeting in Zaragoza. However, merely crunching numbers tells us nothing about the effectiveness of all this activity. One notable initiative on the part of the Chairmanship was choosing Israel to

host the Mediterranean Seminar on combating intolerance and discrimination and promoting mutual respect and understanding on 18-19 December 2007.

Meeting and participating in joint activities with representatives of other governments and international organizations helps to promote consultation and communication within the OSCE and beyond. Naturally, this means the Chairman-in-Office has a busy schedule of travel and speechmaking. The following activities illustrate the efforts of the Spanish Chairmanship in this regard in 2007:

- 9 January: Discussions with UN Special Envoy for Kosovo Martti Ahtisaari in Madrid
- 11 January: Meeting with NGO representatives in Vienna
- 22-23 January: OSCE Troika meeting in Brussels; followed by OSCE-EU Troika meeting
- 25 January: Meeting in Madrid with mediators and observers of the situation in Moldova
- 10-14 April: Visit to the five Central Asian participating States; meetings with NGO representatives and with the opposition in Kyrgyzstan
- 3 May: “2+2” meeting with the Council of Europe
- 25 May: Another meeting in Madrid with mediators and observers of the situation in Moldova
- 4 June: Visit to Azerbaijan
- 5 June: Visit to Armenia
- 28 September: Speech to the UN General Assembly in New York
- 8 October: Meeting with the Moldovan president in Chişinău
- 8 October: Meeting with the Transdniestrian leader in Tiraspol.

The Spanish Chairman-in-Office undertook fewer foreign trips than some of his predecessors from smaller countries. As well as reflecting personal preference, this could have objective causes arising from the Spanish foreign ministry’s superior diplomatic network.

The Results of the Spanish Chairmanship

The Chairman-in-Office can display the fruits of his labour during the Ministerial Council, which is limited to two days in length by the OSCE Rules of Procedure, and which he prepares and heads. However, this “harvest” is often accompanied by hectic sowing, or – to risk stretching the metaphor – watering and fertilizing, aimed at rapidly increasing the yield. This was certainly how it occurred under Spain’s stewardship.

The Ministerial Council convened on 29 and 30 November 2007 in Madrid. As always used to be the case, it began with a public opening ceremony. This was followed by the three closed plenary sessions. The short final, pub-

lic session ended in the early evening of 30 November. After the welcome by the Spanish prime minister and addresses by the Chairman-in-Office, the president of the Parliamentary Assembly, and the Secretary General of the OSCE came the statements of the heads of delegation, which, as usual, took up the most time, and speeches by representatives of international organizations. Of all the items on the agenda, the adoption of documents took the least time. Curiously, the Permanent Council had to meet beforehand for an extraordinary session, its 690th plenary meeting, for five minutes to refer the documents to the Ministerial Council, which was necessary before they could formally be adopted. During this session, the Permanent Council also made a snap resolution to create a partnership fund, consisting of voluntarily contributed funds to be used to finance conferences, seminars, workshops, and other meetings with partner countries.⁹

In the Chairman's view at least, the most important procedural innovation in the Ministerial Council Meeting was the holding of a working lunch on the first day, to which he invited the foreign ministers and the heads of delegations. In this semi-formal atmosphere, he sought to encourage an open discussion of the most controversial topics. As a result of this achievement, as the Chairman-in-Office euphorically put it (although the heads of delegations had also eaten lunch together in previous years), a "spirit of Madrid" came into being, which – if one accepts the Chairman-in-Office's explanation – had given the participating States the confidence to be willing to compromise. He therefore strongly recommended that it be repeated at future meetings.

As at earlier Ministerial Council Meetings, several countries, including the US, were not represented by their foreign ministers. In the course of the meeting, the same oppositions arose that were evident at other recent ministerial meetings: over the non-ratification of the Adapted CFE Treaty by the NATO states and Russia's failure to keep its promise to withdraw troops from Moldova and Georgia. The situation was exacerbated this time by Russia's announcement that it was suspending the existing CFE Treaty.

As already mentioned, the meeting took place in the shadow of the 2006 Brussels Ministerial Council, which had failed to decide on Kazakhstan's application for the OSCE Chairmanship in 2009. This had been opposed by the USA, in particular, on the grounds that Kazakhstan lacked the necessary democratic structures.

Other irreconcilable differences, whether manifest or latent, existed with regard to the Kosovo question, ODIHR, the role of the missions, the budget, the legal personality of the OSCE, and regional issues. Yet the Madrid Ministerial Council did not collapse or leave the OSCE paralysed, but resulted in the issuing of two announcements, the adoption of four declar-

9 Cf. Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 812, Establishment of a Partnership Fund*, PC.DEC/812, 30 November 2007.

ations or statements, and of ten decisions, even if this was, in purely qualitative terms, a rather meagre haul.¹⁰

Two important decisions needed only to be announced by the Chairman-in-Office, having already been made through a silence procedure before the summer: the decision on the extension of the mandate of the OSCE Representative on Freedom of the Media, Miklós Haraszti, on 7 March 2007, and the decision on the appointment of the OSCE High Commissioner on National Minorities, Ambassador Knut Vollebæk, on 4 July.¹¹

The Ministerial Council then adopted three “Ministerial Statements” or “Ministerial Declarations”,¹² one on the OSCE partners for co-operation, one on the negotiations aimed at ending the conflict in Nagorno-Karabakh, and the third on supporting the United Nations global counter-terrorism strategy. The statement on Nagorno-Karabakh was no more than a reaffirmation of the OSCE’s support for the negotiating body, known as the Minsk Group, which the Chairman had already declared a success.

As its name would suggest, the Chairman gave particular weight to the “Madrid Declaration on Environment and Security”.¹³ Indeed, the OSCE’s engagement with the dangers of climate change, as explicitly stated in the declaration, does amount to a new field of activity for the Organization, as the Chairman stressed.

The Ministerial Council then passed several “decisions”, which largely concerned organizational matters,¹⁴ such as a decision on issues relevant to the Forum for Security Co-operation, one on OSCE engagement with Afghanistan, one on public-private partnerships in countering terrorism, and one on following up the Fifteenth Economic and Environmental Forum in the area of water management. This decision includes a call for closer co-

10 Cf. the statistical comparison in: Kurt P. Tudyka, In the Absence of a Summit, Is the Ministerial Council Going Round in Circles? In: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2007*, Baden-Baden 2008, pp. 53-63.

11 Cf. Decision No. 1/07, Extension of the mandate of the OSCE Representative on Freedom of the Media, MC.DEC/1/07 of 7 March 2007, in: Organization for Security and Co-operation in Europe, *Fifteenth Meeting of the Ministerial Council*, 29 and 30 November 2007, Madrid 2007, MC15EW72, 30 November 2007, p. 15, and Decision No. 2/07, Appointment of the OSCE High Commissioner on National Minorities, MC.DEC/2/07 of 4 July 2007, in: *ibid.*, p. 16.

12 Cf. Ministerial Declaration on the OSCE Partners for Co-operation, MC.DOC/1/07 of 30 November 2007, in: *ibid.*, pp. 3-4; Ministerial Statement, MC.DOC/2/07 of 30 November 2007, in: *ibid.*, p. 5; Ministerial Statement on Supporting the United Nations Global Counter-Terrorism Strategy, MC.DOC/3/07 of 30 November 2007, in: *ibid.*, pp. 6-9.

13 Cf. Madrid Declaration on Environment and Security, MC.DOC/4/07 of 30 November 2007, in: *ibid.*, pp. 10-12.

14 Cf. Decision No. 3/07, Issues Relevant to the Forum for Security Co-operation, MC.DEC/3/07 of 30 November 2007, in: *ibid.*, pp. 17-18; Decision No. 4/07, OSCE Engagement with Afghanistan, MC.DEC/4/07/Corr.1 of 30 November 2007, in: *ibid.*, pp. 19-22; Decision No. 5/07, Public-Private Partnerships in Countering Terrorism, MC.DEC/5/07 of 30 November 2007, in: *ibid.*, pp. 23-24; Decision No. 7/07, Follow-up to the Fifteenth Economic and Environmental Forum: Water Management, MC.DEC/7/07 of 30 November 2007, in: *ibid.*, pp. 27-28.

operation with the United Nations Economic Commission for Europe (UNECE). This could help to raise the significance of the OSCE's second dimension, which has so far tended to be weak, particularly since both organizations have the same membership.

Both the Netherlands, as a result of the failure to secure legal personality of the OSCE, and Ukraine, to express reservations about the role of the Collective Security Treaty Organization (CSTO), appended interpretative statements to the decision on Afghanistan.¹⁵ The Russian Federation issued a statement in favour of co-operation with the CSTO and for control over the planning and funding of the engagement with Afghanistan to remain with the Permanent Council.¹⁶ The decision is concerned with the possibility of strengthening the OSCE's engagement with Afghanistan in order to monitor its borders with the states of Central Asia, to train Afghan police, and to support efforts to combat drug trafficking.

There was one decision in the second dimension (on protecting critical energy infrastructure from terrorist attack)¹⁷ and three dealing with human-dimension issues:¹⁸ the decision on combating trafficking in human beings for labour exploitation, the decision combating sexual exploitation of children on the internet, and the decision on tolerance and non-discrimination: promoting mutual respect and understanding. Of these three decisions, the one on human trafficking stands out, because it is the first time that the OSCE has addressed the market for illegal labour.

The last but one decision, on future OSCE Chairmanships, was considered a life-or-death matter for the Organization.¹⁹ In it, Kazakhstan was granted the Chairmanship in 2010, as was Greece in 2009, and Lithuania in 2011 in a multi-year-package.

The decision in Kazakhstan's favour became possible after the Kazakh foreign minister, Marat Tazhin, made a speech on the first day, in which he distanced himself from a Russian proposal that the OSCE Office for Democratic Institutions and Human Rights (ODIHR), which has always been independent, should be effectively subordinated to the governments of the par-

15 Cf. Decision No. 4/07, OSCE Engagement with Afghanistan, cited above (Note 14), Attachments 1 and 2.

16 Cf. Statement by the Delegation of the Russian Federation, Annex 1 to MC(15) Journal No. 2 of 30 November 2007, in: *ibid.*, p. 81.

17 Cf. Decision No. 6/07, Protecting Critical Energy Infrastructure from Terrorist Attack, MC.DEC/6/07 of 30 November 2007, in: *ibid.*, pp. 25-26.

18 Cf. Decision No. 8/07, Combating Trafficking in Human Beings for Labour Exploitation, MC.DEC/8/07 of 30 November 2007, in: *ibid.*, pp. 29-32; Decision No. 9/07, Combating Sexual Exploitation of Children on the Internet, MC.DEC/9/07 of 30 November 2007, in: *ibid.*, pp. 32-33; Decision No. 10/07, Tolerance and Non-discrimination: Promoting Mutual Respect and Understanding, MC.DEC/10/07 of 30 November 2007, in: *ibid.*, pp. 34-36.

19 Cf. *Decision No. 11/07, OSCE Chairmanships in 2009, 2010 and 2011*, MC.DEC/11/07 of 30 November 2007. The final decision just dealt with the time and place of the next meeting of the Ministerial Council; cf. Decision No. 12/07 of 30 November 2007, Time and Place of the Next Meeting of the OSCE Ministerial Council, in: *ibid.*, p. 39.

ticipating States: “Kazakhstan commits to preserve ODIHR and its existing mandate and will not support any future efforts to weaken them.”²⁰ Tazhin also stated that, with ODIHR’s help, Kazakhstan would reform legislation related to elections and political parties by the end of 2008, and would work with the OSCE Representative on Freedom of the Media to liberalize its media laws.²¹

Kazakhstan had received the support of Russia, among others, with Moscow keen to see an answer to the question of whether the OSCE represented the interests of all participating States. The USA had barely disguised the fact that its assent to Kazakhstan’s assuming the Chairmanship would require the latter to distance itself from a Russian proposal that would have prohibited ODIHR from publishing the results of its election monitoring activities without the approval of the affected government. The Russian foreign minister, Sergei Lavrov, described this as a deep crisis in the OSCE, whose origins lay in the fact that “some states”, as he said, attempted to turn it into an instrument for “democratizing lessons”, and refused completely to discuss necessary reforms.²²

Greece, Lithuania, Belarus, the Russian Federation and Kazakhstan all issued interpretative statements regarding the multi-year decision. While the first two countries merely expressed polite thanks for being selected, the other three statements revealed the contradictory understandings of the OSCE that had emerged in the run-up to the decision. The representative of the Russian Federation noted “that the decision was preceded by attempts to tie us all down with certain conditions regarding the attainment of consensus, including the demand that we must renounce all further efforts to reform the Office for Democratic Institutions and Human Rights (ODIHR).”²³ As could be expected, the Belarusian representative shared this point of view, opposing the imposition of preconditions on candidates for the Chairmanship,²⁴ while the Kazakh delegation was ultimately concerned with avoiding offending any side, expressing, on the one hand, disappointment at not being selected to hold the 2009 Chairmanship, but adding, ironically and cryptically, that “the situation related to our bid should not be regarded as a precedent but, never-

20 *Address of H.E. Dr. Marat Tazhin, Minister of Foreign Affairs of the Republic of Kazakhstan, at the OSCE Ministerial Meeting*, Madrid, 29 November 1997, at: <http://en.government.kz/documents/publications/page09>.

21 Cf. OSZE-Vorsitz für Kasachstan [OSCE Chairmanship for Kazakhstan], in: *Frankfurter Allgemeine*, FAZ.NET, 30 November 2007, at: <http://www.faz.net/print/Politik/OSZE-Vorsitz-fuer-Kasachstan>.

22 *Speech by Russian Minister of Foreign Affairs Sergey Lavrov at the 15th OSCE Ministerial Council Meeting*, Madrid, November 29, 2007, at: http://www.in.mid.ru/brp_4.nsf/e78a48070f128a7b43256999005bcb3/79192e2f10681d34c32573a30046d58a?OpenDocument.

23 *Statement by the Delegation of the Russian Federation*, Annex 5 to MC(15).Journal No. 2 of 30 November 2007, in: Fifteenth Meeting of the Ministerial Council, cited above (Note 11), p. 86.

24 Cf. *Statement by the Delegation of Belarus*, Annex 3 to MC(15) Journal No. 2 of 30 November 2007, in: *ibid.*, p. 84.

theless, as an example of a constructive decision taken with a view to raising the importance and role of the OSCE in the global community”²⁵

Among the statements made at the Ministerial Council, the comments of Russian Foreign Minister Lavrov are particularly interesting because they contain a blunt illustration and reflection of the OSCE’s crisis. He cites “deep-seated differences in the views of the role, purpose and future of the OSCE” and states that the participating States have been “unable to overcome the negative trends in the evolution of the OSCE”.²⁶ He goes on to describe it as a “moment of truth” for many of the fundamental problems of European security. In Lavrov’s view, however, the OSCE unfortunately remains “on the sidelines of the main developments”, its lack of relevance is a consequence of the domination of particular group interests over pan-European ones. He then lists a catalogue of grievances, including the question of Kosovo, the long blockage of Kazakhstan’s candidature, the lack of accountability of the missions, the misuse of extrabudgetary funds, the questionable value of the presence of certain shady NGOs at OSCE meetings, the one-sidedness of measures taken by ODIHR, and finally the problem of the CFE Treaty.²⁷

When Russian journalists asked whether Russia might be about to leave the OSCE, Lavrov answered in the negative, adding that “I hope that the acrimonious nature of the discussion in the OSCE may cause everyone to reflect upon the future of the Organization.”²⁸ This was a reaction to US Under Secretary of State R. Nicholas Burns, who had accused Russia of carrying out an “attack” on the OSCE’s very substance.²⁹

Conclusion

At the Madrid Ministerial Meeting, not only were fewer declarations and decisions adopted than in previous years, but those that were adopted lacked substance. At least as worrying is the fact that no decisions were adopted on the conflicts that continue to smoulder in various parts of the OSCE area or, above all, on the precarious situation of the Mission in Kosovo. Despite lengthy and intensive preparation by a specially appointed commission, the Ministerial Council was unable to adopt the draft convention on the legal

25 *Decision No. 11/07*, cited above (Note 19), Attachment to MC.DEC/11/07, pp. 37-38, here: p. 38.

26 *Statement by Mr. Sergey Lavrov, Minister for Foreign Affairs of the Russian Federation, at the Fifteenth Meeting of the OSCE Ministerial Council*, MC.DEL/34/07, 29 November 2007, p. 1.

27 Cf. *ibid.*, pp. 1-2.

28 Reinhard Vesper, Vor den Duma-Wahlen. Russlands Anschlag auf die OSZE, in: *Frankfurter Allgemeine*, FAZ.NET, 29 November 2007, at: http://www.faz.net/s/RubDDBDABB9457A437BAA85A49C26FB23A0/Doc~E7AACED21379E474291511599DE474DCB~A_Tpl~Ecommon~Scontent.html (author’s translation).

29 Cf. *ibid.*

status of the OSCE, which is urgently required if only to secure the personal safety of OSCE personnel. Efforts to achieve consensus here floundered on whether the legal formalization of the Organization should extend as far as the creation of a charter. The Chairman nonetheless attached the finished draft to his final statement. Likewise, the draft of a document acclaiming the work of human rights defenders and institutions failed to achieve the necessary unanimous support.

The Ministerial Council's failure to produce a political declaration was less of an issue – given that it has not done so since 2003 – than its failure to even produce a draft of one. The Spanish Chairmanship appeared to be afraid of both losing face and of reopening recently closed divisions (more like chasms). This is ultimately an admission of his own loss of power, belief, and patience in the possibility of producing a consensus by means of persuasion. However, what was lacking here was less the Chairman's ability to formulate a compromise as the a general willingness to compromise on the part of the participating States. One small blessing was the lower number of interpretative statements attached to the decisions that were passed than in previous years. This can be traced back, however, to a clever strategy of restraint that avoided insisting that certain decisions be passed.

Instead of a political declaration approved by a mere majority of the participating States, the Chairmanship preferred to present its “food for thought”, which did not even include those tasks that had not been or could not be performed.³⁰ Once more, this did not fail to include the desire for a meeting of Heads of State or Government – the last Summit having been held in Istanbul, eight years ago. Yet the OSCE is a dependent variable in the international environment, which is shaped by the major participating States in other forums.

The Chairman admitted that he was himself disappointed at what had been achieved, even if he expressed it indirectly: “The reality of this year has left us with mixed feelings.” As he noted, the problems included “disagreements, the occasional intrusion of tensions and conflict situations”.³¹ Although he had always avoided making grand announcements, he had nonetheless possessed a very different conception of how the Ministerial Council would progress. Nor was he able to inspire hope of an OSCE renaissance, and the Organization must continue to fear for its ongoing ability to function effectively. However, the Spanish Chairman was able to reduce the level of fear during his term of office. His achievements were minimal, sufficing merely to keep the Organization afloat; it was more a matter of preserving existing achievements than searching for – let alone finding – renewal.

30 Cf. *Spain Chairmanship's Food for Thought on the Outcome of the Madrid Ministerial Council*, Cf. CIO/GAL/181/97, 4 December 2007.

31 *Statement by the Minister for Foreign Affairs and Co-operation of Spain, Chairman-in-Office of the OSCE, at the Fifteenth Meeting of the Ministerial Council*, MC.DEL/12/07, 29 November 2007, p.1.

Preparing for the OSCE Chairmanship – CORE Training Courses and Capacity Building

The Centre for OSCE Research (CORE) at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH) operates as a politically independent think tank, combining basic research on the OSCE and other multilateral organizations with on-demand capacity building. CORE provides a range of services, including institution building, training, curriculum development, and more. Working on a contract basis with governments, international and non-governmental organizations, and other partners, CORE aims to foster co-operation and multilateralism, promote dialogue, and strengthen conflict prevention.

OSCE-Related Chairmanship Training

CORE's involvement in capacity building developed out of its experience in academic teaching, which has seen the Centre actively involved in conceptualizing and teaching OSCE studies in various formats at universities and academies in Hamburg, Venice, Bishkek, and elsewhere. Through its research and other project activities, CORE staff members have been aware for some time of a general need to increase knowledge of the OSCE as an international security organization. When Kazakhstan became the first CIS member state to apply for the OSCE Chairmanship, the need for capacity building and skills development within ministries for foreign affairs that have little OSCE experience became obvious and CORE decided to develop the first OSCE-related Chairmanship training measures.

The general objective of the training course is therefore to build up and strengthen the participating State's knowledge of how the OSCE operates and, specifically, to prepare it to assume the OSCE Chairmanship. It imparts both information on OSCE activities as well as practice- and policy-relevant knowledge of the challenges faced by a Chairman-in-Office (CiO) of the OSCE.

The planning, conceptualization, and implementation of OSCE-related training courses is provided by CORE and takes place either in Hamburg or elsewhere on demand. The example of an all-inclusive 24-day CiO-training course includes six modules of varying length and provides introductions into OSCE history, commitments, the three dimensions of security, conflict prevention and field operations, institutional structures, negotiation and decision-making bodies, reform discussions, and CiO procedures. The composition of these modules is flexible, and individual modules can be booked

separately. As the training places a strong emphasis on practical application, it includes on-site seminars at the OSCE Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw and at OSCE headquarters in Vienna (Permanent Council [PC] Committees and Working Groups, CiO, OSCE Secretariat, national delegations). Other elements that can be part of the programme include an excursion to Berlin with meetings in the Federal Foreign Office, the German Bundestag, the Centre for International Peace Operations (ZIF), and other think tanks.

The training courses are given by CORE staff members and external experts. The lecture-based teaching carried out in Hamburg involves 20-25 leading experts, among them representatives of the OSCE Secretariat, ODIHR, the Office of the High Commissioner on National Minorities (HCNM), and the permanent missions to the OSCE. Contributions have also been made by former OSCE ambassadors and members of OSCE task forces. During the excursion to Vienna, classroom training is complemented by interviews with leading representatives of the OSCE and of national delegations. Course participants are given the unique opportunity to exchange opinions on OSCE developments with a number of senior officials and leading experts of national delegations.

The training places a strong emphasis on employing a diversity of methodologies in order to enhance the participants' motivation and active involvement. The use of modern media and participatory methods such as issue-oriented briefings and practical skill-oriented training exercises on interview techniques, taking minutes, analysing texts, drafting statements, and delivering brief reports helps to maximize effectiveness. Finally, the training aims at improving the participants' command of English, with English being the language of instruction throughout. The participants are regularly asked for feedback on the content, scope, and methodology of the training. Modifications are made where necessary to reflect the participants' training needs. The trainees have extensive support from CORE staff. All necessary materials are provided by CORE in both electronic and paper forms. The training finishes with a final colloquium, which gives the participants a chance to prove their knowledge and analytical skills.

The 2010 Kazakhstan Chairmanship and Training Courses for Kazakh Diplomats

On 18 February 2003, the then head of the Kazakh delegation to the OSCE, Ambassador Rakhat Aliev, announced Kazakhstan's candidacy for the 2009 OSCE Chairmanship. The declaration of this political ambition awakened a variety of expectations and misgivings among OSCE participating States from the start. On the one hand, questions arose concerning the opportunities and limitations for Kazakhstan to implement its unfulfilled commitments and

the domestic reforms associated with them, on the other, there was much discussion of changes in the role and structure of the OSCE in Euro-Asian security and East-West relations in general.¹

Kazakhstan's intentions were welcomed in principle by a majority of OSCE participating States. European countries in particular expressed above all their hope that the candidacy would lead to reform in Kazakhstan.² The German government,³ along with Finland, Norway, and the Netherlands, announced its support for Kazakhstan's candidacy as early as 2003. As a candidate for the Chairmanship, Kazakhstan demonstrated a consistent desire to actively share in shaping the OSCE, as demonstrated by the participation of Ambassador Kuanysh Sultanov in the OSCE Panel of Eminent Persons, which discussed OSCE reform, as well as Kazakh involvement in the OSCE working group on transnational threats, and the holding of the first ever ODIHR Tolerance Implementation Meeting in Almaty in 2006. At the same time, Kazakhstan remained true to its multi-vector policy with regard to its relations with the great powers: It supported the Astana Appeal and the Moscow Declaration,⁴ but also considered the possibility of its playing a bridging function in overcoming East-West tensions.

The Kazakh leadership went on the offensive to tackle potential doubts as to the country's readiness for reform. On 30 October 2003, then Foreign Minister Kassymzhomart Tokaev made this statement in Brussels: "As far as Kazakhstan is concerned, we know that there are some doubts abroad [...] We want to apply for this chairmanship in the OSCE because first of all, we fully understand the importance and the difficulty of this issue. It is a challenge not only for OSCE itself, but for Kazakhstan. It is an impetus for us to

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- 1 Cf. Markus Kaim/Andrea Schmitz, Die Frage des kasachischen Vorsitzes und die Zukunft der OSZE. Der OSZE-Ministerrat in Brüssel [The Question of the Kazakh Chairmanship and the Future of the OSCE. The OSCE Ministerial Council in Brussels], in: *SWP-Aktuell* 57, November 2006, available online at: http://www.swp-berlin.org/common/get_document.php?asset_id=3478; Andrei Zagorski, Kazakhstan's Chairmanship Bid: A Balance Sheet of Pros and Cons, in: Daniel Warner (ed.), *The OSCE at a Turning Point: OSCE Chairmanship and Other Challenges*, Geneva 2007, pp. 93-124.
 - 2 On 22 July 2003, the Co-operation Council of the Partnership and Co-operation Agreement between Kazakhstan and the EU "[...] expressed the hope that Kazakhstan would pursue successfully its ambition for OSCE Chairmanship in 2009". Available online at: http://www.europa-eu-un.org/articles/en/article_2586_en.htm. On 31 July, in the OSCE Permanent Council, the EU made the following statement: "We hope to see further progress in Kazakhstan on these [reform] issues over the coming years and would underline that a firm commitment to and compliance with OSCE principles and standards is a requirement for any participating state, in particular for those wishing to offer their services as Chairmanship of this Organisation."
 - 3 On 5 December 2003, at the German-Kazakh Business Forum in Astana, Chancellor Gerhard Schröder stated that "Germany supports Kazakhstan's bid for the OSCE Chairmanship in 2009". Available at: <http://www.kazakhstanlive.com/3.aspx?sr=7>.
 - 4 Cf. *Appeal of the CIS Member States to the OSCE Partners*, Astana, 15 September 2004 (unofficial translation from the Russian), at: http://www.ln.mid.ru/brp_4.nsf/0/70f610ccd5b876ecc3256f100043db72?OpenDocument; and Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, *Statement by CIS Member Countries on the State of Affairs in the OSCE*, Moscow, 3 July 2004, at: http://www.ln.mid.ru/brp_4.nsf/0/3be4758c05585a09c3256ecc00255a52?OpenDocument.

follow up with the political reforms in order to make the country in full compliance with the international standards and those adopted by OSCE itself. So our commitment in this respect is quite clear. When addressing to OSCE, to our partners within this organisation, we want to see your support, to obtain your spiritual assistance and your understanding [...] pursuing liberal, drastic reforms during the last several years is not so easy because of the complicated geopolitical situation around the Central Asia.”⁵

With its willingness to accept support in preparing for the OSCE Chairmanship, the Kazakh government created opportunities for finding co-operative solutions to problems, e.g. through capacity-building projects. The German government was one of the first OSCE participating States to grasp this chance and entered into an arrangement with the Kazakh foreign ministry in 2006 and again in 2007 to co-finance training courses for foreign ministry officials. These courses were carried out by CORE in September 2007 and June 2008.

The decision on a Kazakh OSCE Chairmanship, originally tabled to be made at the Brussels Ministerial Meeting in December 2006, was postponed for a year, because the USA and the UK, in particular, were not convinced that their expectations were being met regarding Kazakhstan’s progress in the domestic adoption of OSCE commitments (free and fair elections, standards in the areas of freedom of speech and press freedom, and the release of political prisoners). After Foreign Minister Marat Tashin promised at the Madrid Ministerial in December 2007 to instigate the relevant legislative reforms (media law, election law, mechanisms for dialogue between government and civil society) and to protect the mandate and activities of ODIHR, the participating States decided to award Kazakhstan the OSCE Chairmanship for 2010. The first ever decision on three future OSCE Chairmanships (Greece 2009, Kazakhstan 2010, Lithuania 2011) and the establishment of the informal Quintet (i.e. the Troika countries of Spain, Finland, and Greece and the two incoming Chairmanships of Kazakhstan and Lithuania) demonstrated how the Organization was adapting institutionally to changes in Euro-Asian security co-operation. For its part, Kazakhstan has participated in the usual preparations for the Chairmanship and continues to make efforts to raise its profile, e.g. at the first meeting between the General Secretaries of the Conference on Interaction and Confidence-Building Measures in Asia (CICA) and the OSCE in June 2008,⁶ and as the host of a session of the OSCE Parliamentary Assembly in Astana in July 2008.

While it still remains valid to ask, despite the fundamental decision in favour of Kazakhstan, whether Kazakhstan will implement its reform plans

5 H.E. Dr Kassymzhomart Tokaev, *Lecture “The major Geopolitical Challenges of Central Asia Today”*, Brussels, 30 October 2003, available online at: <http://www.irri-kiib.be/speechnotes/02-03/031030-TOKAEV.pdf>.

6 Cf. Press release on the meeting, at: <http://portal.mfa.kz/portal/page/portal/mfa/en/content/news/nws2008>.

effectively and in a timely fashion,⁷ the Kazakh government has demonstrated its constructive approach in the area of capacity building. The Kazakh side participated in the preparations and implementation of the training courses attentively and enthusiastically. A total of 15 diplomats from the foreign ministry received training in Hamburg in 2007 and 2008. The first group consisted of five, the second of ten junior officials from various departments. The second group included an equal number of male and female participants. The trainees were given a comprehensive working knowledge of OSCE issues and have established personal ties to OSCE structures and delegations. Special highlights during both courses were lectures by former OSCE Ambassador, Dr Dieter Boden, and former OSCE Secretary General, Ambassador Dr Wilhelm Höynck, and meetings with OSCE Secretary General, Marc Perrin de Brichambaut, in Vienna and State Minister, Gernot Erler, at the German Federal Foreign Office.

Prospects for CORE Capacity Building

While the next Chairmanship training course, for a mixed Lithuanian-Kazakh group of trainees in 2009, is in preparation, CORE is striving to expand its capacity-building activities. In the area of institution building, it continues to develop teaching programmes for newly established teaching and training institutions in the CIS area that have a special focus on the OSCE. This follows the example of the OSCE Academy in Bishkek, which was established from 2001-2004 in close co-operation with CORE.⁸ The most recent institution-building project concerns the future Armenian Diplomatic Academy, for which CORE completed a needs assessment in 2008 in co-operation with the Armenian Ministry of Foreign Affairs and commissioned by the OSCE Office in Yerevan. Further capacity-building services include the organization of international conferences,⁹ evaluations,¹⁰ and the drafting of policy papers

7 For a well structured overview, see Zagorski, cited above (Note 1) 2007, pp. 102-106.

8 CORE developed an overall model of the Academy, and assisted in fundraising, curriculum development, selection of teaching staff and students, academic teaching, and supervision of masters theses. Cf. Frank Evers, A New Think-Tank for the OSCE and Central Asia. Establishing the OSCE Academy in Bishkek, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 337-345.

9 See Anna Kreikemeyer/Wolfgang Zellner, *The Quandaries of Promoting Democracy in Central Asia: Experiences and Perspectives from Europe and the USA*, Report of a Transatlantic Workshop at the Centre for OSCE Research in Hamburg, 2007, available online at: http://www.core-hamburg.de/documents/CORE_Working_Paper_18.pdf; CORE international conference on "Co-operation with Central Asia – The Potential of the EU's Central Asia Strategy 2008", in co-operation with the Protestant Academy Loccum. Proceedings will be published in 2009 at: www.loccum.de.

10 See *Working in OSCE field missions*, 2003, details available at: http://www.core-hamburg.de/CORE_english/serv_bee_misseval.htm; *Evaluation of EC Pilot Training Courses on Civilian Aspects of Crisis Management 2003*, unpublished manuscript.

on demand.¹¹ CORE's consulting and teaching activities have included the development upon request of general plans and specific curricula for masters programmes and summer school courses. CORE researchers also act as teaching staff, academic supervisors, and mentors for scholars and students from CIS states.¹² Last but not least, CORE is active in the field of mediation. Since 2001, CORE staff members have accumulated broad knowledge in creating peace-building dialogues between moderate Islamist and secular forces in Tajikistan, and, since 2007, in Central Asia as a whole.¹³ In all these activities, CORE co-operates with local experts from political institutions, academia, and the private sector.

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- 11 See two reports on the reform and future of the OSCE undertaken by CORE in co-operation with a group of international experts as commissioned by the Finnish Ministry of Foreign Affairs: Wolfgang Zellner, in consultation with Pál Dunay, Victor-Yves Ghebali, P. Terrence Hopmann, Sinikukka Saari, Andrei Zagorski, *Identifying the Cutting Edge: The Future Impact of the OSCE*, CORE Working Paper No. 17, Hamburg 2007, available online at: http://www.core-hamburg.de/documents/CORE_Working_Paper_17.pdf; and Wolfgang Zellner, in consultation with Alyson Bailes, Victor-Yves Ghebali, P. Terrence Hopmann, Andrei Zagorski, *Managing Change in Europe. Evaluating the OSCE and Its Future Role: Competencies, Capabilities, and Missions*, CORE Working Paper 13, Hamburg 2005, available online at: http://www.core-hamburg.de/documents/CORE_Working_Paper_13.pdf.
- 12 In co-operation with the Central Asia Research Initiative (CARI) of the Higher Education Support Programme (HESP) of the Open Society Institute, the OSCE Centre in Astana and the Kazakh National University (KAZGU) in Almaty, and with DAAD Germany.
- 13 See Anna Kreikemeyer/Arne C. Seifert (eds), *Zur Vereinbarkeit von Islam und Sicherheit im OSZE-Raum* [On the Reconcilability of Islam and Security in the OSCE Area], Baden-Baden 2003; and Jean-Nicolas Bitter et al., *From Confidence Building Towards Co-operative Co-existence. The Tajik Experiment of Islamic-Secular Dialogue*, Baden-Baden 2005.

External Relations and Influence

OSCE Engagement with Afghanistan

Introduction

At the Madrid Meeting of the OSCE Ministerial Council in November 2007, OSCE participating States acknowledged the importance of Afghanistan's long-term security and stability for the security of the OSCE area, and in particular for Central Asia. The foreign ministers therefore pledged their support to deepen the OSCE's engagement with Afghanistan across a spectrum of activities, and tasked the Secretary General with exploring ways to accomplish this objective and making concrete proposals to the participating States.

This effort is not new; the OSCE has already provided support to Afghanistan in various ways – through its election support teams in 2004 and 2005, and through Afghan participation in a number of activities organized by the OSCE's field operations, its Secretariat, and its participating States. On the basis of this positive experience, Afghanistan has requested OSCE assistance in border security and management, police training, and combating drug trafficking.

Ministerial Decision No. 4/07 provides a strong foundation for augmenting the OSCE's engagement with Afghanistan.¹ In initial consultations with the Secretariat in January 2008, participating States identified a number of areas where the OSCE might provide assistance to Afghanistan. In general, there was agreement that the OSCE's engagement with Afghanistan must be a part of a long-term and sustainable endeavour, complementing other national and international efforts already under way. Obviously, this would require substantial co-ordination among all relevant actors. Moreover, it was agreed in principle that the OSCE's approach to Afghanistan should be cross-cutting and cross-dimensional, ranging across a wide variety of OSCE funds and programmes.

The Ministerial Decision focuses on OSCE activities aimed at strengthening the management of borders between Central Asian states and Afghanistan, combating terrorism and trafficking in small arms and light weapons (SALW), illegal drugs, and human beings. Other areas may also be considered, provided such support is requested by Afghanistan and evaluated positively by the participating States. Given the complexity of the tasks ahead, the implementation of Ministerial Decision No. 4/07 will require the

¹ Cf. *Decision No. 4/07, OSCE Engagement with Afghanistan*, MC.DEC/4/07/Corr.1 of 30 November 2007, in: Organization for Security and Co-operation in Europe, Fifteenth Meeting of the Ministerial Council, 29 and 30 November 2007, Madrid 2007, 30 November 2007, pp. 19-22.

commitment of considerable human and financial resources for the next several years.

Despite these challenges, the OSCE is uniquely placed to contribute to the existing efforts of other international actors due to its comprehensive understanding of security, its broad membership, which includes Russia as well as all of Afghanistan's northern neighbours, and Afghanistan's direct engagement with the Organization as a Partner for Co-operation. The OSCE also offers an extensive network of field operations in Central Asia, which in many cases can access border crossing points more easily than operations based in Kabul, as well as a clear mandate and experience that is directly relevant to many of the most pressing security challenges of Afghanistan and its neighbours.

Milestones in OSCE Engagement with Afghanistan

The OSCE and Afghanistan have come a long way together in a relatively short period of time. On 18 February 2003, the Transitional Islamic State of Afghanistan requested the status of Partner for Co-operation. On 3 April 2003, the Permanent Council, in Decision No. 537, granted this request, noting "the interest of Afghanistan in establishing close relations with the OSCE based on exchanges of views and information on various issues of mutual interest",² and recalling that Afghanistan shared common borders with three OSCE participating States and had mutual security interests with these neighbours as well as with other OSCE States.

As a Partner for Co-operation, Afghanistan has participated in major OSCE-related events, including Ministerial Council Meetings, Human Dimension Implementation Meetings, meetings of the Economic and Environmental Forum, and the Annual Security Review Conference.

The OSCE has also provided limited assistance to Afghanistan in the form of Afghan participation in ongoing and subject-specific OSCE projects and events. Thus, Afghans have participated in round tables and workshops organized by the Thematic Units of the OSCE Secretariat, the OSCE institutions and some OSCE field operations on subjects such as countering terrorism, fighting organized crime, and drug trafficking. These events are often conducted in co-operation with other international organizations. For example, Afghan representatives have participated in conferences on combating illicit drugs organized jointly by the OSCE and the United Nations Office on Drugs and Crime (UNODC). Most recently, on 18-19 July 2008 in Vienna, two high-ranking representatives of the Afghan Counter Narcotics Agency attended such a conference, which addressed illicit trafficking in Afghan opi-

2 Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 537, Granting of the Status of Partner for Co-operation to Afghanistan*, PC.DEC/537, 3 April 2003, p. 1.

ates. A recent regional training seminar in Almaty focused on mutual legal assistance in the confiscation of criminal assets and combating money laundering. It was organized by the OSCE's Strategic Police Matters Unit (SPMU), the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA), and the UNODC, and also included Afghan officials. Afghan representatives have participated in cross-border training programmes on issues such as combating SALW trafficking.

Other projects that provide for Afghan participation are also being developed to support capacity-building efforts, for example, by providing internship opportunities for young Afghan diplomats in the Secretariat as well as training and sharing experience on elections.

In co-operation with the OSCE, Afghanistan hosted the 2008 OSCE-Afghanistan Conference on Strengthening Co-operation between the OSCE and its Asian Partners for Co-operation to Address Challenges to Security, which took place in Kabul on 9-10 November 2008. The conference was attended by OSCE participating States, OSCE Partners for Co-operation, international organizations and institutions, as well as non-governmental organizations.

The OSCE's co-operative initiatives with Afghanistan have always been confined to activities conducted within the OSCE area – that is, outside of Afghanistan – with two important exceptions. In 2004, the OSCE sent an election support team to assist in organizing Afghanistan's first presidential elections. This experience was repeated in 2005, when the OSCE dispatched an election support team to assist with Afghanistan's first parliamentary elections. Permanent Council decisions made such direct OSCE involvement on Afghanistan's territory possible, even though the decisions clearly stipulated that this was not to "set a precedent for OSCE activities beyond the Organization's geographic area of responsibility".³

On both of these occasions, the OSCE made use of a novel concept—an "election support team" rather than a traditional observation mission. There were several reasons for this: For one, not all OSCE participating States had initially been supportive of the OSCE's carrying out activities on Afghan territory; appropriate Permanent Council decisions were therefore necessary that stipulated the duration, size, and specific mandate of the OSCE effort; second, as a Partner for Co-operation, Afghanistan had not subscribed formally to the OSCE's Copenhagen Commitments on election standards; and third, the volatile security environment did not lend itself to ODIHR election observation based on random visits to polling stations.

Given these considerations, providing technical expertise and analysing aspects of the electoral process by deploying OSCE/ODIHR Election Support Teams (EST) was deemed the appropriate way for the OSCE to fulfil Afghanistan's request for election assistance. Following up on the positive role

3 Organization for Security and Co-operation in Europe, Permanent Council, *Decision No. 622, Election Support Team to Afghanistan*, PC.DEC/622, 29 July 2004, p. 2.

played by the OSCE Election Support Teams in Afghanistan in 2004 and 2005, it is conceivable that further follow-up activities, particularly with regard to the 2009 elections, might be considered, should the OSCE again receive a request from the Afghan authorities.

In November 2007, Ministerial Decision No. 4/07 provided an opportunity to create a potentially new, more sustained form of OSCE engagement with Afghanistan. Participating States have tasked the Secretary General “with examining the prospects for intensifying OSCE action to support measures for securing the borders between the Central Asian participating States and Afghanistan in line with the objectives and principles set forth in the OSCE Border Security and Management Concept”⁴

While the implementation of Ministerial Decision No. 4/07 on OSCE engagement with Afghanistan poses significant challenges, it also provides important opportunities for the OSCE to truly practise its cross-dimensional and comprehensive approach to security. In addition, the OSCE can provide for value-added activities, given its expertise in border security and management, police training, and other related competencies.

Implementation of Ministerial Council Decision No. 4/07

The Ministerial Decision is the result of a request by Afghanistan in September 2007 that the OSCE “provide assistance to the country in the fields of border security, police training and combating drug trafficking”.⁵ The Ministerial Decision also acknowledges the concern of participating States that the situation in Afghanistan will continue to have an impact on security in the OSCE area, particularly in Central Asia, for some time to come.

Among these possible security challenges are particularly those associated with the existence of weak and uncontrolled borders: the increase of narcotics production and trafficking via the “Northern Route”, directly affecting Tajikistan and Turkmenistan, as well as other OSCE participating States; large-scale criminal activities associated with regional narcotics flows which also fuel insurgency and corruption; the potential spillover of religious extremism; and the trafficking of small arms and light weapons.

Ministerial Council Decision No. 4/07 assigns a number of tasks to the Secretary General. In addition to the task mentioned above, he has been requested to explore “possible co-operation options with the United Nations and other relevant regional and international organizations and other actors”.⁶ Moreover, the Ministerial Decision tasks the Secretary General “with providing support for intensifying the involvement of Afghan counterparts in

4 OSCE Ministerial Council, Decision No. 4/07, cited above (Note 1), p. 20.

5 Ibid., p. 19.

6 Ibid., p. 20.

OSCE activities”⁷. It also encourages the OSCE field operations in Central Asia, in consultation with their host governments, to engage Afghan counterparts in relevant activities.

From the very beginning, it was clear that the implementation of the Ministerial Decision would depend on three factors: the commitment of participating States to provide guidance, expertise, funds, and qualified personnel; the development of concrete OSCE activities that correspond to the needs and priorities identified by the government of Afghanistan; and the complementarity of OSCE involvement with the existing efforts of the international community in Afghanistan and its neighbours.

To ensure that OSCE engagement with Afghanistan proceeds on the basis of these three factors, the Secretariat chose to develop its efforts through a proactive and wide-ranging participatory approach, involving OSCE participating States and all other relevant actors. In January 2008, the Secretariat held consultations with participating States, asking for concrete suggestions for specific activities to be implemented under each of the areas mentioned in Ministerial Decision No. 4/07. Participating States were also asked to provide preliminary indications of financial commitments to future OSCE activities with Afghanistan. International organizations with which OSCE activities were to be co-ordinated were contacted in parallel. These were, first and foremost, the United Nations, NATO, the EU, and the Collective Security Treaty Organisation (CSTO), as well as the World Bank and the World Customs Organization (WCO). The purpose of these communications was to inform relevant international actors about the OSCE’s commitment to contribute to long-term security and stability in Afghanistan. Moreover, international organizations were encouraged to share their ideas on roles the OSCE could play, so as to complement existing international efforts as effectively as possible and avoid unnecessary duplication.

The responses received from both the participating States and international organizations provided some specific guidance to the Secretariat on how to proceed with implementing the Ministerial Decision. Most of them focused on activities that would enhance the security of borders between the Central Asian participating States and Afghanistan, as foreseen in the Ministerial Decision. They also highlighted certain modalities for implementing OSCE activities, expressing in particular strong support for training and capacity building for customs and border officials and police, with a special emphasis on counter-narcotics. Other activities, such as preventing corruption, terrorism, and the trafficking in drugs, weapons, and human beings, were also suggested, as were electoral assistance, de-mining, and cross-border transport facilitation. The OSCE Secretariat also dispatched several fact-finding missions to Afghanistan, not only to assess the situation on the ground, but also to establish working contacts with Afghan and international partners.

7 Ibid.

The direct involvement of participating States and international organizations in assisting the Secretariat in implementing the Ministerial Decision by proposing concrete activities and modalities was a positive first step, and so far it has worked well. The concrete activities that have been suggested underline the importance of existing projects, particularly those activities in Central Asian participating States that could be further enhanced by facilitating the participation of Afghan counterparts. This suggests an awareness that the OSCE already had a solid basis for implementing elements of the Ministerial Decision.

A strong preference was also voiced for the OSCE to complement existing bilateral and multilateral efforts. It is to this effect that the implementation of the Ministerial Decision has seen a widening and deepening of efforts to consult, co-ordinate, and co-operate with international actors to avoid unnecessary duplication of programmes and projects and ensure compatibility with existing border or police development programmes in Afghanistan and the Central Asian region.

So far, the Secretariat has developed sixteen options aimed at addressing the situation in Afghanistan, strengthening border security and management, fostering cross-border co-operation between the Central Asian states and Afghanistan, and enhancing national law-enforcement capacities. In developing these options, the Secretariat took account of the suggestions of the participating States, international organizations already on the ground in Afghanistan, and the Afghan authorities. Several build on OSCE activities in its participating States, particularly training Afghan customs and border police (including counter-narcotics police). One particularly notable existing project is the undertaking to create a centre for training on border management in Dushanbe, Tajikistan, known as the Border Management Staff College. By working with these states on delivering most of these initiatives, the OSCE can promote cross-border co-operation and security to the benefit of all. Also, by incorporating elements of “train the trainer”, institution and capacity building, and best-practice development, OSCE efforts can expect to be sustainable in their impact.

The proposed projects and activities have also been fully aligned with the Afghan National Development Strategy. This strategy highlights the need to strengthen border police and customs enforcement and interdiction capacities, one of the eight pillars of the government’s efforts in counter-narcotics.

In developing these options for engagement with Afghanistan, the OSCE has sought the following: 1) to provide for a rapid, yet effective response to Ministerial Decision No. 4/07 that is aligned to the stated needs and strategies of the Afghan authorities and that is committed to a co-ordinated and co-operative approach with other international actors working in the region; 2) to exploit the unique strengths of the OSCE, the opportunities provided by its long-standing field presence in participating States bordering Afghanistan, and the relationships and experience that this presence has pro-

vided; 3) to address border management- and law enforcement-related matters in a comprehensive and “cross-dimensional” manner; in this respect, all OSCE activities adhere to the OSCE’s concept of comprehensive security; and 4) to develop capacities in such a way as to create a long-term, sustainable impact of significance to Afghanistan’s efforts to strengthen its law enforcement and border security.

Conclusions

Despite these already promising beginnings, a number of inherent challenges lie ahead for the OSCE in its engagement with Afghanistan. One is certainly the political and security environment in the country and the potential impact any deterioration in the security situation would have on the Central Asian participating States. Even though the bulk of the projects developed by the Secretariat in response to Ministerial Decision No. 4/07 would take place in neighbouring Central Asian participating States, co-ordination with Afghan authorities requires a security environment that allows for consultations and other necessary interactions.

The second challenge is the availability of financial resources. Since the majority of activities would be conducted through extra-budgetary projects, the realization of new Afghanistan-related projects will depend on the readiness of participating States and Partner countries to make funds available. Because these projects are likely to be of a long-term nature, donor states will need to provide some assurance that their support is sustainable. Third, the OSCE will also have to rely on expert knowledge from outside the Organization, and in particular from national experts and other international organizations. This means that participating States will have to take an active role in ensuring the availability of such experts.

Fourth, the sustainability of OSCE engagement with Afghanistan requires unambiguous political support from the participating States and other relevant actors. Participating States must therefore have a common sense of ownership of OSCE activities related to Afghanistan. This also necessitates that the pattern of consultations and decision-making established by the Secretariat at the start of the process be maintained and further enhanced, particularly through OSCE governing bodies such as the Permanent Council and its Security Committee.

On the political and technical levels, the OSCE executive structures will have to assist the future Chairmanships in keeping the process of engagement with Afghanistan on track. A solid framework for the planning and implementation of activities within the Secretariat needs to be assured, as does effective planning and co-ordination mechanisms with other international actors, both on the ground and at headquarters level.

Current international mechanisms provide a solid basis for ensuring that the OSCE's engagement with Afghanistan is well co-ordinated and does not duplicate existing efforts. In working with other international actors, the OSCE welcomed in particular the "Declaration of the International Conference in Support of Afghanistan" issued under the authority of the three co-chairs, President Nicolas Sarkozy, President Hamid Karzai, and UN Secretary-General Ban Ki-moon in Paris on 12 June 2008. The Declaration notes "the importance of regional cooperation on political, economic and security matters", and agrees that "Afghanistan's neighbouring countries have an essential role to play in supporting Afghan Government efforts to build a stable Afghanistan with secure borders".⁸

In early October 2008, the Chairmanship decided to advance OSCE activities on Afghanistan on the basis of a Permanent Council decision in order to ensure political support and sustainability of the implementation process. A relevant draft decision was circulated on 1 October 2008, with an annexed *Programme of Activities on the Implementation of the MC Decision 04/07*. So far, consensus has not been reached, and the adoption of the draft Permanent Council decision is still pending.⁹

What then lies ahead? As Secretary General, I remain inspired by the OSCE's ability to address new security challenges in a way that enhances the security of all OSCE participating States and Partners. The OSCE's engagement with Afghanistan is an important step in that direction.

8 *Declaration of the International Conference in Support of Afghanistan*, Issued Under the Authority of the Three Co-chairs, President Nicolas Sarkozy, President Hamid Karzai, Secretary-General Ban Ki-moon, Paris, 12 June 2008.

9 Cf. Organization for Security and Co-operation in Europe, *Report of the Secretary General on the implementation of the Madrid Ministerial Decision 04/07 on OSCE engagement with Afghanistan*, SEC.GAL/228/08, 28 November 2008.

OSCE Co-operation with China: Relevance, Benefits, and Downsides

A Brief History of the OSCE's Contacts with China

Contacts between the OSCE and China go back to late 2003. They were initiated by China, when the Chinese ambassador in Vienna asked for a meeting with then Secretary General Jan Kubiš. While the formal motive for the meeting was to invite Ambassador Kubiš to the opening of the Secretariat of the Shanghai Co-operation Organization (SCO) in Beijing in January 2004, the Chinese gave no specific explanation of their further intentions *vis-à-vis* the OSCE. Formally, contacts then were entirely between the OSCE and the SCO. At the same time, there was a first exchange of opinions on genuine OSCE-Chinese issues between the sides in Vienna. This was followed by an invitation to the OSCE Secretary General to attend the opening of the Tashkent-based SCO Regional Antiterrorist Structure (RATS). According to a comment made later by an OSCE official, the years 2003 and 2004 were obviously just a period of inquiry for the Chinese side.

Following China's initial request for contacts in 2003, the delegations in Vienna informally discussed the possibility of inviting China to become an OSCE Asian Partner for Co-operation in 2005. Subsequently, the Slovenian Chairman-in-Office made the following three summarizing points at the Ljubljana Ministerial Council:

- We have a strong self-interest in effective partnership, and we should realize the mutual benefits of, for example, opening a dialogue with China.¹
- China expressed considerable interest in the OSCE in 2005.²
- Some participating States were supportive of entering into a formal OSCE-China partnership but in 2005 conditions were not yet ripe.³

In the following years, Chinese representatives attended the OSCE conferences in Korea (2005), Thailand (2006), and Mongolia (2007) "on an ARF ticket", and seminars with Mediterranean Partners "on an SCO ticket". As

1 Dimitrij Rupel, *OSCE CiO Opening Statement*, OSCE Ministerial Council, Ljubljana, MC.DEL/4/05, 5 December 2005.

2 *Activity Report of the Chairman-in-Office for 2005*, in: Organization for Security and Co-operation in Europe, Thirteenth Meeting of the Ministerial Council, 5 and 6 December 2005, Ljubljana 2005, MC13EW66, 6 December 2005, pp. 83-102, here: p. 99 (section on Asian and Mediterranean Partners for Co-operation).

3 Ibid.

OSCE officials explain, Chinese representatives usually had the rank of Foreign Ministry Deputy Division Director, Foreign Ministry Deputy Department Director, or deputy president of an academic institute. In July 2006, the Chinese embassy in Vienna expressed interest in co-operating with the OSCE. In October 2006, the new Secretary General, Marc Perrin de Brichambaut, had a brief (non-protocol) stopover in Beijing, where, among other things, he met a Chinese deputy foreign minister. In December 2006, the special envoy of the Belgian Chairman-in-Office, Senator Pierre Chevalier, went to Beijing. Since then, the office of the OSCE Secretary General has been in sporadic contact with the Chinese embassy in Vienna.

OSCE officials visited Beijing three times, but never received an official invitation. Conversely, no official Chinese visits to the OSCE were conducted. This may answer the question of why the issue of an OSCE-Chinese partnership was never, as is the OSCE's tradition, "actively informally" discussed with participating States. Equally, China has taken no active steps to initiate further contacts since 2005 but has merely responded to invitations as a rule. It is still unclear whether the 2003-2005 period, during which China showed a certain interest in the OSCE or at least in information on the OSCE, was merely a passing phase or an indicator of a possible future trend.

The Relevance of OSCE-Chinese Co-operation

If one takes into account the regional-structural context as well as the interests of the main actors concerned, the potential relevance of co-operation between the OSCE and China represents a mixed bag. While structural arguments may point in favour of co-operation, the interests of states involved do not, or not yet, or to a far lesser degree.

The (Regional-)Structural Context of OSCE-Chinese Co-operation

China shares borders with four OSCE participating States: Russia and the three Central Asian states of Kazakhstan, Kyrgyzstan, and Tajikistan. The "Central Asian region forms the linchpin"⁴ between the OSCE participating States and the OSCE's Asian Partners for Co-operation, as the Belgian Chairman of the Contact Group with the Asian Partners for Co-operation, Ambassador Bertrand de Crombrughe, stated in his concluding remarks at the 2007 OSCE-Mongolia conference. The same is true of the region's position between the OSCE area and China. Economic relations between China and its neighbours are booming, with China being particularly interested in Russian and Central Asian energy resources. China, Russia, and all the Cen-

4 *Chairman's recommendations and suggestions*, OSCE-Mongolia Conference on "Strengthening the Co-operative Security between the OSCE and the Asian Partners for Co-operation", 12-13 June 2007, Ulaanbaatar, PC.DEL/589/07, 18 June 2007.

tral Asian states apart from Turkmenistan co-operate within the scope of the SCO, especially on anti-terrorism. Through the SCO and bilateral contacts, China has expanded its capacities as a security actor in the region. From this perspective, it would be desirable for the OSCE to co-operate with China, which is the only non-OSCE state within the SCO. All the more so as non-co-operation entails the risk that the OSCE, and implicitly also the EU, may become isolated from security co-operation in Central Asia.

Reserved Chinese Interest in European Multilateral Organizations

Although China and the EU are major trading partners, the EU is not seen by China as having significant political influence on Asian affairs, and Chinese affairs in particular. According to one expert, the EU generally has “no discernable impact on the strategic and institutional balance of the Asia Pacific”, and is therefore for China “not a strategic partner as such”.⁵ In the Chinese view, relations with the EU are second best to direct bilateral relations. In light of this, the idea that China would develop its relations with Europe through the OSCE seems even less plausible. Just as China does not need the EU to deal with European countries, it does not need the OSCE to mediate in its relations with Russia and the US. This is exacerbated by the OSCE’s recent overall decline in significance, which has seen it downgraded to an organization for “second-order security issues.”⁶

The OSCE barely figures in China’s thinking about security matters, and there is little awareness of OSCE affairs among the ruling elites. Few academic institutions in China have shown any interest in the Organization, and there are perhaps only half a dozen Chinese academic experts who have specialized in OSCE affairs. To the broader academic public, the OSCE has no significance at all.⁷ Notably, the attention of the Chinese political strata increased somewhat after the coloured revolutions in Ukraine, Georgia, and Kyrgyzstan, as concerns emerged about the causes of these events and their possible impact on China and Central Asia.⁸

Ambiguous Relevance for the Central Asian States

From a Central Asian perspective, there may be good reasons to encourage OSCE-Chinese relations. The five states find themselves balanced between

5 François Godement, Neither hegemon nor soft power: China’s rise at the gates of the West, in: Marcin Zaborowski (ed.), *Facing China’s rise: Guidelines for an EU strategy*, Chaillot Paper no. 94, December 2006, pp. 51-70, here: p. 56.

6 Francis Fukuyama, Re-envisioning Asia, in: *Foreign Affairs* 1/2005, pp. 75-87, here: p. 83.

7 Cf. Hans-Joachim Giessmann, Institute for Peace Research and Security Policy at the University of Hamburg/IFSH, interview in Hamburg, 22 November 2007.

8 Cf. Feng Shao Lei, School of Advanced International and Area Studies, East China Normal University, interview at the Institute for Peace Research and Security Policy at the University of Hamburg/IFSH, 22 November 2007.

their two large neighbours, China and Russia, and might consider that involving the OSCE – and therefore implicitly also the EU – will enlarge their room for manoeuvre. In some cases, they may like the idea of engaging with China in multilateral formats, as has already happened with Russia over a longer period. On the other hand, the democracy-oriented OSCE may not be the most welcome vehicle in this regard, and has at any rate to compete with the SCO as an alternative framework.

Relevance for the OSCE's (Northeast) Asian Partners for Co-operation

Among the Asian Partners for Co-operation, Japan and South Korea have sporadically argued in favour of inviting China to become an Asian Partner for Co-operation. In their arguments, they noted China's security relevance for the OSCE area in general, and for Russia and Central Asia in particular, as well as the need to launch regional dialogue formats in Northeast Asia. Suggestions that the OSCE transfers know-how to the region were again made in 2007.⁹ Mongolia, with a lower profile than Japan or Korea, has developed its own "third-neighbour approach" in foreign relations, which places emphasis on the EU, Japan, and the US. It may also believe that it has something to gain from attracting China to forge closer links with the OSCE.

Summary

Consequently, the relevance of establishing ties of co-operation to China results more from the interest of the OSCE – and implicitly the EU – in not becoming isolated in Central Asia *vis-à-vis* the three dominant actors, namely Russia, China, and the USA, which mainly rely on their bilateral relations. The fact that these major players, and especially China itself, seem not to be particularly interested in OSCE-Chinese co-operation limits the prospects of any such co-operation from the very beginning.

Arguments for and against OSCE-Chinese Co-operation

In the following, we analyse a number of areas with a view to whether their development is conducive to OSCE-Chinese co-operation. These are the economic development of China, its general foreign policy strategy, policies on Central Asia including the SCO, the interests of the Asian Partners for Co-operation, the impact of human dimension and democratization issues, and status questions within the OSCE.

9 "Dialogue should also continue on assessing the relevance of the OSCE experience to North East Asia", *Chairman's recommendations and suggestions*, cited above (Note 4), p. 1.

China's activities on the international stage in Northeast Asia, with regard to Europe, and on a global scale are largely framed by economic interests. In this regard, its new foreign-relations formula is to follow "a win-win strategy of opening up [...] and pushing] for the building of a harmonious world of lasting peace and common prosperity".¹⁰ For China, the economic dimension is the point of departure and the key motivation of all its foreign policy activities; all other motivations appear secondary. In economic terms, China has become involved with the OSCE area to a degree that has significant implications for all other fields of interests.¹¹

According to an observer, "China is today more open to the outside world than at any time since 1949, and not just economically".¹² Its economic rise is opening doors in other fields. For instance, China's accession to the World Trade Organization (WTO) means that international commitments have to be translated into domestic regulations and structures. Some observers see the intrusion of the WTO regime into China's domestic affairs as already irreversible.¹³ As by-products of economic and technological exchange, multiple links have been forged in fields such as education, science, the media, and migration policy. There is extensive communication between Chinese society and foreign business communities and academia, and with the Chinese diaspora. Chinese tourists are discovering the world in large numbers. Chinese elites are discussing other countries' experiences with restructuring political institutions, reforming welfare systems, and handling policy dilemmas.¹⁴ Despite governmental oversight, new information technologies are linking people directly to the outside world. Perhaps the most visible indication of China's new relative openness is its hosting of the 2008 Summer Olympic Games.

Economic change, co-operation, and communication are gradually permeating China's once closed economy, and this is producing spillover effects on other social and political fields. It is therefore important that attempts to bring about "change through trade" (in German "*Wandel durch Handel*")¹⁵ are complemented by efforts aiming at rapprochement and change through multilateral co-operation. From the European perspective, it would be advis-

10 *Constitution of Communist Party of China*, section on the General Programme, Xinhua News Agency, 26 October 2007, at: <http://www.china.org.cn/english/congress/229722.htm>.

11 A frequently cited example of China's international economic power is its potential to threaten the international monetary system by selling its huge reserves of US dollars.

12 Peter Ferdinand, The challenge of democratisation, in: Zaborowski (ed.), cited above (Note 5), pp. 27-38, here: p. 31.

13 See also: Hanns Günther Hilpert et al., *China 2020*, SWP-Studie S 32, October 2005 (in German), p. 6, pp. 15ff.

14 Cf. Ferdinand, The challenge of democratisation, cited above (Note 12), p. 31.

15 Cf. Kay Möller, *Nordostasien 2002* [Northeast Asia 2002], SWP-Studie S 36, October 2002, p. 6.

able to involve China in as many fields of exchange and conversation as possible.

The Impact of China's General Foreign Policy Strategy

As emphasized at the 17th National Congress of the Communist Party of China (CPC) in October 2007, China's foreign policy is based on the five principles of mutual respect for sovereignty and territorial integrity; mutual non-aggression; non-interference in internal affairs; equality and mutual benefit; and peaceful coexistence. China also strives for good-neighbourly relations and co-operation with developing countries.¹⁶ These principles are emphasized in conversation with Chinese officials on OSCE co-operation.¹⁷ At the same time, they are the soft vehicles for carrying China's hard economic interests across other countries' doorsteps.

At the global level, China shows little ambition to step into a super-power role. Pragmatically, it avoids assuming responsibility. In this regard, the examples of Russia (and the Soviet Union) and the US have a deterring effect on China. In multilateral organizations such as the UN, China tries to remain neutral or passive. In general, it prefers to arrange its foreign relations bilaterally rather than on a multilateral basis. There have been only two notable exceptions: China's co-initiation of the Shanghai Co-operation Organization and its accession to the WTO.

Irrespective of its economic progress, China's global military and political capacities are still limited. The longstanding presence of the United States in the Asia-Pacific region is a matter of fact, as is the considerable weight of other players. Within the Chinese leadership, there appear to be no illusions about this. At the same time, Beijing has been sensitive to concerns among its neighbours at its successful development. The normalization of relations with neighbouring countries and the co-initiation of or entry into multilateral frameworks demonstrate Beijing's new relative openness. It is striving to forge constructive relations with major players such as the US, Russia, India, the EU, and major EU members, while holding back from entering alliances.¹⁸ An increasingly important issue is China's proactive entrance into the field of development co-operation in Africa.

While the traditional Chinese foreign-policy principles of non-interference, non-assumption of responsibility, and focusing on bilateral relations remain valid, we can observe a certain softening of them. In the long term, this enhances the opportunities for including China in multilateral networks and organizations in areas that it deems critical.

16 Cf. *Constitution of Communist Party of China*, cited above (Note 10).

17 Cf. Chunqing Wang, Embassy of the People's Republic of China, interview in Vienna, 3 December 2007.

18 See also: Gudrun Wacker, China's "Grand Strategy", in: Gudrun Wacker (ed.), *Chinas Aufstieg. Rückkehr der Geopolitik?* [China's Rise. The Return of Geopolitics?], SWP-Studie S 3, February 2006, pp. 64f.

Central Asia and the OSCE, SCO, and the Conference on Interaction and Confidence-Building Measures in Asia (CICA)

Since the mid-1990s, China has taken decisive steps to establish stable relations with Russia and its Central Asian neighbours. Key moments were the settlement of border issues, and the 2001 founding of the SCO. On the one hand, this has created favourable conditions for China's further economic expansion into this part of the OSCE area. On the other, it has established a new multilateral security structure in Central Asia that includes China.

During the 1990s, the OSCE was mainly concerned with South-Eastern and Eastern Europe, and it is only since 11 September 2001 that it has focused more on Central Asia. Today, according to one observer, "the focus of the OSCE is shifting more and more to the East – to the South Caucasus, Central Asia with Kazakhstan, and Afghanistan."¹⁹ This has led to the present situation, where the spheres of activity of the OSCE and China are increasingly overlapping in Central Asia. This gives rise to the question of how this overlap should be organized: in a co-operative, a competitive, or an isolationist manner? Because Central Asia is the most important point of intersection between the OSCE and China, OSCE-Chinese co-operation does not necessarily need to be organized in a direct manner by making China an Asian Partner for Co-operation, but can also be framed by indirect means using the SCO or CICA as a platform (cf. the section on platforms for indirect co-operation between the OSCE and China below).

The 2010 Kazakh OSCE Chairmanship may promote co-operation of this kind, as Kazakhstan currently also holds the post of SCO Secretary General. Not only may the Chinese perceive that "this combination will open more space to China",²⁰ there might also be opportunities to use the Kazakh-initiated Conference on Interaction and Confidence-Building Measures in Asia (CICA) as another platform for interaction with China, which is a CICA participant.

Interests of the OSCE's (Northeast) Asian Partners for Co-operation

The Northeast Asian sub-region has its own identifiable role in international affairs. It goes without saying that no major security matter can be settled here without China; the same is true of Russia and the USA. The region clearly has no tradition of multilateralism. While regional crisis management and confidence-building mainly rest on bilateral relations, modern security affairs can no longer be handled outside multilateral arrangements, as is shown by the six-party talks on the Korean question.

19 Hideyuki Sakamoto, Chargé d'affaires, Embassy of Japan, interview in Vienna, 4 December 2007.

20 Interview with Feng Shao Lei, cited above (Note 8).

It is generally understood “that the establishment of a regional security co-operation framework in Northeast Asia is inextricably linked to the development of the relations among China, Japan, Russia and the USA, the four major players in the area.”²¹ On this basis, not only Japan and South Korea, but also Russia and the US, and, even to a certain degree China, have an interest in multilateralizing bilateral dialogues. In 2005, the US and South Korea jointly declared that they would “make common efforts to develop a regional multilateral security dialogue and a co-operation mechanism, so as to jointly respond to regional security issues”.²² China, for its part, has repeatedly raised the idea of establishing a Northeast Asia Security Forum that could later replace the six-party talks.²³

Northeast Asia’s heterogeneity may cause some to turn to the OSCE model. As a platform with proven capabilities in building confidence through dialogue and negotiation, and mutual threat reduction through arms control, the Organization possesses experience that Northeast Asia can draw upon.²⁴ This may be particularly true of the early CSCE process, which served to provide continuity in international relations and to establish security standards. This and the specific CSCE experience in making pan-European package deals may be attractive precisely because of the “loose characteristics the CSCE had at its inception”.²⁵ Transferring OSCE multilateral conflict-management expertise to Northeast Asia may add to regional stability there. Even the Chinese acknowledge that “the OSCE could be a model for institution building in Northeast Asia”.²⁶

Japan and South Korea, both of which are already Asian Partners for Co-operation, have argued in favour of inviting China to also become one. From their point of view, the creation of multilateral formats in Northeast Asia is inevitable, as bilateral ties are not sufficient for regional security building. South Korea stresses its experience with the six-party talks. Japan’s bilateral record with China, in particular, is unsatisfactory. More specifically,

21 Statement of the Permanent Mission of Spain to the OSCE, in: Organization for Security and Co-operation in Europe, Office of the Secretary General, Section for External Co-operation, *2005 OSCE-Korea Conference on new security threats and a new security paradigm*, PC.DEL/343/05, 25-26 April 2005.

22 Presidents George W. Bush and Roh Moo-hyun, *Joint Declaration on the ROK-U.S. Alliance and Peace on the Korean Peninsula*, 17 November 2005, at: <http://www.whitehouse.gov/news/releases/2005/11/20051117-6.html>.

23 Cf. Godement, cited above (Note 5), p. 64.

24 Cf. *Inventing a New Framework for Peace and Security in Northeast Asia*, Keynote Address by Su-Hoon Lee, Chairman of Presidential Committee on Northeast Asian Cooperation Initiative, Republic of Korea, p. 5, at: http://nabh.pa.go.kr/board/data/activity/362/leesh_050923.pdf.

25 “Europe benefited from the loose characteristics that CSCE had at its inception. This ‘looseness’ functioned very well as it allowed a number of nations with strategically different perceptions to come together and discuss diverse security issues. Considering the lack of ‘trust’ at the political and military levels and complexity of the security issues facing the region, at least in the initial stages, Northeast Asia may also be better off with such ‘looseness.’” *Ibid.*, p. 7.

26 Interview with Chunqing Wang, cited above (Note 17).

Japanese positions on an OSCE-Chinese partnership have ranged from strong oral support, assured earlier, to somewhat reluctant statements given more recently.²⁷ South Korean positions are more definite and range from general endorsement to emphasizing the need to link Korean reunification efforts to China's involvement in all possible multilateral formats.²⁸ Generally, South Korea "desires to alter the Northeast Asian security order from one of collective defence – based on Cold War perceptions – to one of co-operative security – based on comprehensive security".²⁹

Consequently, it is not so much the OSCE's current regional focus on Central Asia but rather its general features and historic experiences with multilateral processes that make it an attractive partner for the countries of Northeast Asia. Then again, transferring lessons learned by the OSCE to the Northeast Asian context is by no means bound to end in China becoming an OSCE Asian Partner for Co-operation.

The Impact of Human Rights and Democratization

It is frequently argued that the OSCE will not be welcomed by China because of its human dimension *acquis*, and particularly because of its position that "the commitments undertaken in the field of the human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned".³⁰ This stands in contrast to the finding that "China's newfound involvement with multilateralism is in practice synonymous with non-intervention in the affairs of sovereign states, including by multilateral organizations and internationally approved action. This applied in the past to human rights and regime change issues."³¹ China will obviously have fundamental difficulties with the OSCE, and especially with its human dimension. In this sense, the OSCE may not be well received in Northeast Asia, "because the OSCE today is viewed as more focused on democratization and human rights protection, the so-called humanitarian dimension of comprehensive and cooperative security".³²

While the CSCE/OSCE process was originally a means of maintaining the status quo between states, it has increasingly evolved into an instrument

27 Cf. Hideyuki Sakamoto, Chargé d'affaires, Embassy of Japan, interview in Vienna, 4 December 2007.

28 Ambassador Sung-Hwan Kim, Embassy of the Republic of Korea, Permanent Mission to the International Organizations in Vienna, interview in Vienna, 3 December 2007.

29 Su-Hoon Lee, cited above (Note 24).

30 Organization for Security and Co-operation in Europe, Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 3 October 1991, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 605-629, here: p. 606.

31 Godement, cited above (Note 5), p. 57.

32 Kiki Fukushima, *A Fate of Regionalism in East Asia and Northeast Asia, A View from Tokyo*, p. 26 at: <http://usccis.org/tools/software/original/public/fileforward.php?Id=3325&PHPSESSID=582dc278b53ce57306158e2d2a7e7b0b>.

that is used to influence internal developments in countries in transition. It is also widely believed that this contributes to stability at national levels and beyond. OSCE participating States have assured each other of mutual assistance “in case of overthrow or attempted overthrow of a legitimately elected government of a participating State by undemocratic means”.³³ It was certainly no accident that this assurance was given right after the failed *coup d'état* in Russia in 1991 – purportedly at Russia’s suggestion. Specifically in the context of the aforementioned opening of internal affairs to CSCE/OSCE interference, the states declared to support vigorously “the legitimate organs of [the affected ...] State upholding human rights, democracy and the rule of law, [herewith] recognizing their common commitment to countering any attempt to curb these basic values”.³⁴ The CSCE/OSCE represents a model of successfully managing change and avoiding sudden ruptures and instability. Even if the Chinese do not see the OSCE this way, its concept of “accompanying” peaceful evolution is nonetheless guaranteed to cause wariness on that side.

On the other hand, the Chinese leadership apparently sees a need to respond to Western comments on its domestic situation as well as to challenges arising from the situation itself. At the 17th CPC National Congress in October 2007, the Chinese President and General Secretary of the CPC, Hu Jintao, made numerous references to democratization issues. The congress also adopted amendments to the Constitution of the Communist Party of China stating that the CPC “respects and safeguards human rights. It encourages the free airing of views and works to establish sound systems and procedures of democratic election, decision-making, administration and oversight. It strengthens state legislation and law enforcement so as to bring all work of the state under the rule of law.”³⁵

Such statements can easily be dismissed as being purely declaratory. On the other hand, they do go substantially further than anything that happened in the Soviet Union, perhaps with the exception of the late Gorbachev period. In addition, declaratory policy is tending to develop a life of its own, and to serve as a basis of reference for actual change, just as happened with the Helsinki Final Act in the former Soviet bloc. Seen from this perspective, the OSCE’s human dimension *acquis* does not represent an obstacle, but an important asset for OSCE-Chinese relations in the long-term.

Both of these conflicting arguments are accurate in their way. In the short term, the OSCE’s relatively intrusive human rights and democracy commitments might cause Chinese reservations. However, over the longer term, the OSCE’s experience with democratic transformation processes might be more appreciated by China.

33 OSCE Moscow Document, cited above (Note 30), here: p. 612.

34 Ibid.

35 *Constitution of Communist Party of China*, cited above (Note 10).

Japan's Special Status as Restraining Factor

Last but not least, the OSCE's long-standing partnership with Japan, taken together with Japan's special position among the OSCE's Asian Partners for Co-operation, could somewhat complicate efforts to win China over to co-operation. It is uncertain whether China would be willing to accept the special treatment that has traditionally been given to Japan, and the exceptional position Japan occupies, which has even been enshrined in the new OSCE Rules of Procedure.³⁶

The existing tensions between China and Japan may contribute to keeping China at a distance from the idea of maintaining contact or even co-operating with the OSCE, all the more so as relations with Japan have only gradually improved over recent years, contrary to the general improvement in China's relations with its neighbours.

Platforms for Indirect Co-operation between the OSCE and China

Given China's hesitant approach and its difficulties with the OSCE's human-dimension *acquis*, it seems premature to directly address the possibility that China could become an OSCE Asian Partner for Co-operation. In addition, the OSCE itself is currently passing through a difficult period, with its human-dimension commitments being more or less openly challenged by a number of participating States. Adding China as an Asian Partner for Co-operation in such a situation might even aggravate things.

On the other hand, putting the very idea of co-operation with China on the back burner would be short-sighted and might mean missing longer-term strategic opportunities. If this view is taken, it would be conceivable to engage with China indirectly using the SCO, CICA, ARF, and ASEAN+3 formats and track II events as contact platforms.

36 “3. Japan may attend and make both oral and written contributions at meetings of the decision-making bodies, without the right to participate in the drafting of documents. 4. Other Partners for Co-operation may attend and make both oral and written contributions at the Meetings of Heads of State or Government and Ministerial Council meetings and, upon invitation by the respective Chairperson, at certain meetings of the PC and the FSC, without the right to participate in the drafting of documents. 7. Unless otherwise decided for certain ISBs by the relevant superior decision-making body, the Partners for Co-operation may attend the meetings of the following ISBs, without the right to participate in the drafting of documents: (a) Japan — PrepComm, EESC, Working Groups A and B, Contact Group with the Asian Partners for Co-operation; (b) Other Partners for Co-operation — their respective Contact Groups.” *Rules of Procedure of the Organization for Security and Co-operation in Europe*, MC.DOC/1/06, reprinted in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2007*, Baden-Baden 2008, pp. 355-376, here: IV. Rules of procedure for decision-making bodies, IV.1 General rules, (D) Other participants, p. 364, and V. Rules of procedure for informal bodies, (A) Informal subsidiary bodies of the decision-making bodies, p. 367.

The SCO as a Contact Platform

As China is the only member of the SCO that is not an OSCE participating State, any interaction of the OSCE with the SCO is an interaction with China. The types of co-operation available here include mutual invitations to conferences and joint seminars and the participation of the SCO in selected OSCE projects in Central Asia. This might be complicated in view of the fact that the SCO does not provide a normative basis comparable to that of the OSCE, particularly in the human dimension. Moreover, the SCO might prefer to concentrate more narrowly on fighting “the ‘three evils’ of ‘terrorism, separatism and extremism’”.³⁷ If so, assertions like the following: “If the OSCE would choose to strengthen its ties with the SCO, the human dimension is likely to be made a central issue”³⁸ could appear far from realistic. Nevertheless, initial steps could be taken to engage with the SCO. One path would be to discuss human dimension issues and their potential for targeting the “three evils”.

The CICA as a Contact Platform

The CICA goes back to an initiative of Kazakh President Nursultan Nazarbayev that was first presented at the UN General Assembly in 1992. Four Central Asian states – Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan – are CICA members, as are Russia, the US, and China. Alongside other international organizations, the OSCE takes part in CICA events. The CICA has elaborated a Declaration on Principles Guiding Relations Between CICA Member States (1999) and a CICA Catalogue of Confidence Building Measures (2004). As a minor international forum, the CICA might be considered a good place to conduct a special OSCE dialogue with China.

The ASEAN Regional Forum (ARF) as a Contact Platform

The ARF, established in 1994, is another significant format for OSCE-China contacts. Despite ASEAN’s primarily Southeast Asian focus, the ARF has its specifically Northeast Asian dimension. Arrangements such as the ARF are based upon the belief that regional security building in Asia will essentially be based upon sub-regional rapprochements, which in turn have to be prepared by bilateral dialogues. The ARF is a key point of contact for relevant

37 Alyson J.K. Bailes et al., *The Shanghai Cooperation Organisation*, SIPRI Policy Paper No. 17, May 2007, p. 6.; and *SCO Shanghai Convention on Combating Terrorism, Separatism and Extremism*, 2001, at: <http://www.sectSCO.org/html/00093.html>.

38 Marcel de Haas, *The Shanghai Cooperation and the OSCE: Two of a Kind?* In: *Helsinki Monitor: Security and Human Rights* 3/2007, p. 257.

ASEAN dialogue partners³⁹ and China. For the OSCE, it provides a platform for sharing experiences, specifically on CBMs, and for preventive diplomacy (both key points on the ARF agenda) particularly with China.

The ASEAN+3 Format as a Contact Platform

A further format for arranging Northeast Asian sub-regional dialogue is ASEAN+3, which has been established for talks between China, Japan, and South Korea. Notably, the 2007 Singapore ASEAN summit decided to spin-off the “Plus Three” dimension of ASEAN+3 and develop it gradually into an autonomous institutionalized format for trilateral dialogue. This includes plans to set up a small secretariat and to instigate rotating top-level meetings.

Track II Approaches as Contact Platforms

The above-mentioned platforms, and particularly the ARF and the ASEAN+3 formats, can be combined with track II approaches, whose task is to prepare future official contacts.

Recommendations

The philosophy of the following recommendations is not to make one big formal step – to invite China to become an Asian Partner for Co-operation – but to engage in a number of small steps in different formats to continuously provide China with information and to start practicing low-level co-operation, including track II diplomacy.

It is recommended that consideration be made of China’s possible desire to continue low-profile contacts with the OSCE. In China’s opinion, “one could start with exchanging staff, visit each other, participate in symposiums and discuss at working levels issues like anti-terror measures, non-proliferation and armament control. New threats and risks are of interest to China. We have hope for exchange at working level and somewhat above.”⁴⁰

It is recommended that China be invited to establish more regular contacts with the OSCE. The underlying intention should be to make China gradually acquainted with Europe’s multilateral security traditions as embodied in the OSCE. Relevant fields range from OSCE norms, principles, and commitments to OSCE structures, mechanisms, and procedures. Information should be provided to Chinese elites.

39 These include more than 30 OSCE participating States and Partners: Canada, the EU states, Russia and the US, on the one hand; Japan, Mongolia, and South Korea along with Thailand, a member of ASEAN, on the other.

40 Interview with Chunqing Wang, cited above (Note 17).

It is proposed that track II co-operation with China be gradually established, first of all by inviting Chinese experts to OSCE track II events, later by arranging joint OSCE-China track II events. The ARF track II approaches have so far been positive.

It is recommended that small-scale academic co-operation projects be supported. An example would be the promotion of networks between Chinese, German, and Central Asian think tanks.⁴¹ “First we need some academic projects before coming to official co-operation”, is a fairly typical Chinese comment.⁴² It is recommended that consideration be made of using the OSCE Prague Office to gradually establish an OSCE Asian Partner for Co-operation track II exchange, in which Chinese experts can be included.

It would be advisable to apply some of the 2007 Ulaanbaatar proposals to China. They were made with reference to interested Asian Partners for Co-operation and proposed, among other things, “to send experts to participate in OSCE regional workshops/seminars/training programs in all three dimensions” and “to second experts to the OSCE executive structures.”⁴³

It is recommended that an “OSCE meets North East Asia” seminar be arranged to be attended by Asian Partners for Co-operation, interested participating States, OSCE structures, and China. In the sense of the 2007 Ulaanbaatar proposals, the seminar should be used to discuss the “relevance of the OSCE experience to North East Asia, especially in the area of confidence-building measures (CBMs)”.⁴⁴

It is recommended that existing joint events with the ARF be used or new events arranged to exchange experiences on CBMs and preventive diplomacy. The ARF wants to engage with “significant organizations or processes that are deemed of immediate relevance to the ARF and its particular CBM-PD activities.”⁴⁵ This may be utilized for contacts with China.

It is recommended that consideration be made of inviting North Korea to communicate with the OSCE. This is independent of an invitation to China, but might be linked with it in the sense of helping to create an encouraging atmosphere. There are similar South Korean efforts to involve North Korea more deeply in ARF affairs.⁴⁶

It is recommended that advance thought be given to using the 2010 Kazakh OSCE Chairmanship to make contacts with China. In this context, the current Kazakh SCO Secretary-General could play a valuable intermedi-

41 Cf. interview with Feng Shao Lei, cited above (Note 8).

42 Ibid.

43 Chairman’s recommendations and suggestions, cited above (Note 4), p. 1.

44 Ibid.

45 ASEAN Regional Forum, *A Concept Paper on Enhancing Ties between Track I and Track II in the ARF, and between the ARF and Other Regional and International Security Organizations*; 13th ARF, Kuala Lumpur 2006; PC.DEL/278/07/Rev.1.

46 Cf. Permanent Mission of Belgium to the OSCE, *Report of the Contact Group meeting with the Asian Partners for Co-operation*, Vienna, 22 June 2007, PC.DEL/646/07, 27 June 2007.

ary role. Likewise, the Kazakh-initiated CICA could be another framework for meeting CICA participant China.

It is recommended that SCO officials be invited to OSCE events in Central Asia, that OSCE officials visit SCO events, that participating States' diplomats visit SCO events "on an OSCE ticket", and that the two organizations hold joint seminars at expert level on issues of common concern.

Annexes

Forms and Forums of Co-operation in the OSCE Area

G8 (Group of Eight)

Organization for Economic Co-operation and Development (OECD)

Council of Europe (CoE)

North Atlantic Treaty Organization (NATO)

Euro-Atlantic Partnership Council (EAPC)

Partnership for Peace (PfP)

NATO-Russia Council

NATO-Ukraine Charter/NATO-Ukraine Commission

European Union (EU)

EU Candidate Countries

EU Association Agreements

Stabilization and Association Agreements (SAA)

Western European Union (WEU)

Associate Members of the WEU¹

Associate Partners of the WEU

WEU Observers²

Eurocorps

Commonwealth of Independent States (CIS)

Baltic Assembly/Baltic Council of Ministers

Barents Euro-Arctic Council

Observers to the Barents Euro-Arctic Council

Nordic Council

Council of the Baltic Sea States (CBSS)

Stability Pact for South Eastern Europe

Observers to the Stability Pact for South Eastern Europe

Central European Free Trade Agreement/Area (CEFTA)

Central European Initiative (CEI)

1 The WEU does not differentiate between associate and full members.

2 Observer status confers privileges restricted to information exchange and attendance at meetings in individual cases and on invitation.

Southeast European Co-operative Initiative (SECI)
South Eastern European Co-operation Process (SEECP)
Black Sea Economic Co-operation (BSEC)

North American Free Trade Area (NAFTA)

Collective Security Treaty Organization (CSTO)

Shanghai Cooperation Organization (SCO)

Sources:

OECD: www.oecd.org

Council of Europe: www.coe.int

NATO: www.nato.int

EU: europa.eu

WEU: www.weu.int

Baltic Assembly/Baltic Council of Ministers: www.baltasam.org

Barents Euro-Arctic Council: www.beac.st

Nordic Council: www.norden.org

CBSS: www.cbss.st

Stability Pact for South Eastern Europe: www.stabilitypact.org

CEFTA: www.stabilitypact.org/wt2/TradeCEFTA2006.asp

CEI: www.ceinet.org

SECI: www.secicenter.org

BSEC: www.bsec-organization.org

NAFTA: www.nafta-sec-alena.org

CSTO: www.dkb.gov.ru

SCO: www.sectSCO.org

The 56 OSCE Participating States – Facts and Figures¹

1. Albania

Date of accession: June 1991

Scale of contributions: 0.125 per cent (OSCE ranking: 40)²

Area: 28,748 km² (OSCE ranking: 45)³

Population: 3,581,655 (OSCE ranking: 41)⁴

GDP per capita in international dollars at PPP rates⁵: 6,300 (OSCE ranking: 47)⁶

GDP growth: 6 per cent (OSCE ranking: 21)⁷

Armed forces (active): 11,020 (OSCE ranking: 36)⁸

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), SAA (2006), Stability Pact for South Eastern Europe, CEFTA, CEI (1995), SECI, SEEC, BSEC.

2. Andorra

Date of accession: April 1996

Scale of contributions: 0.125 per cent (40)

Area: 468 km² (51)

Population: 71,201 (52)

GDP per capita in international dollars at PPP rates: 38,800 (6)⁹

GDP growth: 4 per cent (33)¹⁰

Armed forces (active): none

Memberships and forms of co-operation: CoE (1994).

3. Armenia

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 29,743 km² (44)

Population: 2,976,372 (42)

GDP per capita in international dollars at PPP rates: 4,900 (49)

1 Compiled by Jochen Rasch.

2 Of 56 states.

3 Of 56 states.

4 Of 56 states.

5 The international dollar is the hypothetical unit of currency used to compare different national currencies in terms of purchasing power parity. PPP is defined as the number of units of a country's currency required to buy the same amounts of goods and services in the domestic market as one US dollar would buy in the United States. See The World Bank, World Development Report 2002, Washington, D.C., 2002.

6 Of 55 states.

7 Of 55 states.

8 Of 52 states. In calculating rankings in this category, the forces of the Turkish sector are counted separately.

9 2005.

10 2005 (estimated).

GDP growth: 14 per cent (2)
Armed forces (active): 42,080 (20)
Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC, CSTO.

4. Austria

Date of accession: June 1973
Scale of contributions: 2.51 per cent (13)
Area: 83,870 km² (28)
Population: 8,192,880 (24)
GDP per capita in international dollars at PPP rates: 38,400 (9)
GDP growth: 3 per cent (42)
Armed forces (active): 39,600 (23)
Memberships and forms of co-operation: OECD (1961), CoE (1956), EAPC, PfP (1995), EU (1995), WEU Observer (1995), Stability Pact for South Eastern Europe, CEI (1989).

5. Azerbaijan

Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 86,600 km² (27)
Population: 7,961,619 (25)
GDP per capita in international dollars at PPP rates: 7,700 (44)
GDP growth: 23 per cent (1)
Armed forces (active): 66,740 (15)
Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

6. Belarus

Date of accession: January 1992
Scale of contributions: 0.28 per cent (30)
Area: 207,600 km² (19)
Population: 10,293,011 (19)
GDP per capita in international dollars at PPP rates: 10,900 (41)
GDP growth: 8 per cent (11)
Armed forces (active): 72,940 (13)
Memberships and forms of co-operation: EAPC, PfP (1995), CIS (1991), CEI (1995), CSTO.

7. Belgium

Date of accession: June 1973
Scale of contributions: 3.24 per cent (10)
Area: 30,528 km² (43)
Population: 10,379,067 (18)

GDP per capita in international dollars at PPP rates: 35,300 (13)
GDP growth: 3 per cent (42)
Armed forces (active): 39,690 (22)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1993), Stability Pact for South Eastern Europe.

8. Bosnia and Herzegovina

Date of accession: April 1992
Scale of contributions: 0.125 per cent (40)
Area: 51,209 km² (36)
Population: 4,498,976 (36)
GDP per capita in international dollars at PPP rates: 7,000 (45)
GDP growth: 6 per cent (21)
Armed forces (active): 9,047 (41)
Memberships and forms of co-operation: CoE (2002), EAPC, PfP (2006), SAA (2008), Stability Pact for South Eastern Europe, CEFTA, CEI (1992), SECI, SEECP.

9. Bulgaria

Date of accession: June 1973
Scale of contributions: 0.55 per cent (26)
Area: 110,910 km² (23)
Population: 7,385,367 (27)
GDP per capita in international dollars at PPP rates: 11,300 (39)
GDP growth: 6 per cent (21)
Armed forces (active): 40,747 (21)
Memberships and forms of co-operation: CoE (1992), NATO (2004), EAPC, PfP (1994), EU (2007), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEI (1995), SECI, SEECP, BSEC.

10. Canada

Date of accession: June 1973
Scale of contributions: 5.53 per cent (7)
Area: 9,984,670 km² (2)
Population: 33,098,932 (11)
GDP per capita in international dollars at PPP rates: 38,400 (9)
GDP growth: 3 per cent (42)
Armed forces (active): 64,000 (16)
Memberships and forms of co-operation: G8 (1976), OECD (1961), NATO (1949), EAPC, Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, NAFTA.

11. Croatia

Date of accession: March 1992

Scale of contributions: 0.19 per cent (33)

Area: 56,542 km² (35)

Population: 4,494,749 (37)

GDP per capita in international dollars at PPP rates: 15,500 (35)

GDP growth: 6 per cent (21)

Armed forces (active): 17,660 (32)

Memberships and forms of co-operation: CoE (1996), EAPC, PfP (2000), EU Candidate Country, Stability Pact for South Eastern Europe, CEFTA, CEI (1992), SECI, SEECP.

12. Cyprus

Date of accession: June 1973

Scale of contributions: 0.19 per cent (33)

Area: 9,250 km² (49)¹¹

Population: 784,301 (47)¹²

GDP per capita in international dollars at PPP rates: 27,400 (23)

GDP growth: 4 per cent (33)

Armed forces (active): Greek sector: 10,000 (40), Turkish sector: 5,000 (47)

Memberships and forms of co-operation: CoE (1961), EU (2004), Stability Pact for South Eastern Europe.

13. Czech Republic

Date of accession: January 1993

Scale of contributions: 0.57 per cent (25)

Area: 78,866 km² (29)

Population: 10,235,455 (20)

GDP per capita in international dollars at PPP rates: 24,200 (26)

GDP growth: 7 per cent (16)

Armed forces (active): 23,092 (29)

Memberships and forms of co-operation: OECD (1995), CoE (1993), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEI (1990/1993).

14. Denmark

Date of accession: June 1973

Scale of contributions: 2.1 per cent (14)

Area: 43,094 km² (39)

Population: 5,450,661 (29)

GDP per capita in international dollars at PPP rates: 37,400 (11)

GDP growth: 2 per cent (49)

11 Greek sector: 5,895 km², Turkish sector: 3,355 km².

12 Total of Greek and Turkish sectors.

Armed forces (active): 29,960 (25)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), WEU Observer (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

15. Estonia

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 45,226 km² (38)

Population: 1,324,333 (46)

GDP per capita in international dollars at PPP rates: 21,100 (29)

GDP growth: 7 per cent (16)

Armed forces (active): 4,100 (48)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Assembly/Baltic Council of Ministers, CBSS (1992), Stability Pact for South Eastern Europe.

16. Finland

Date of accession: June 1973

Scale of contributions: 1.85 per cent (16)

Area: 338,145 km² (13)

Population: 5,231,372 (31)

GDP per capita in international dollars at PPP rates: 35,300 (13)

GDP growth: 4 per cent (33)¹³

Armed forces (active): 29,300 (26)

Memberships and forms of co-operation: OECD (1969), CoE (1989), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1956), CBSS (1992), Stability Pact for South Eastern Europe.

17. France

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 643,427 km² (6)

Population: 60,876,136 (5)

GDP per capita in international dollars at PPP rates: 33,200 (18)

GDP growth: 2 per cent (49)

Armed forces (active): 254,895 (4)

Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1992),

Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

18. Georgia

Date of accession: March 1992

Scale of contributions: 0.05 per cent (49)

Area: 69,700 km² (32)

Population: 4,661,473 (34)

GDP per capita in international dollars at PPP rates: 4,700 (50)

GDP growth: 12 per cent (3)

Armed forces (active): 21,150 (31)

Memberships and forms of co-operation: CoE (1999), EAPC, PfP (1994), CIS (1993), BSEC.

19. Germany

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 357,021 km² (12)

Population: 82,422,299 (3)

GDP per capita in international dollars at PPP rates: 34,200 (16)

GDP growth: 3 per cent (42)

Armed forces (active): 245,702 (5)

Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1950), NATO (1955), EAPC, EU (1958), WEU (1954), Eurocorps (1992), Observer to the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe.

20. Greece

Date of accession: June 1973

Scale of contributions: 0.98 per cent (19)

Area: 131,940 km² (22)

Population: 10,688,058 (16)

GDP per capita in international dollars at PPP rates: 29,200 (22)

GDP growth: 4 per cent (33)

Armed forces (active): 156,600 (8)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1952), EAPC, EU (1981), WEU (1995), Stability Pact for South Eastern Europe, SECI, SEECP, BSEC.

21. The Holy See

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 0.44 km² (56)

Population: 800 (56)

GDP per capita in international dollars at PPP rates: n/a
GDP growth: n/a
Armed forces (active): 0¹⁴
Memberships and forms of co-operation: none.

22. Hungary

Date of accession: June 1973
Scale of contributions: 0.6 per cent (23)
Area: 93,030 km² (25)
Population: 9,981,334 (21)
GDP per capita in international dollars at PPP rates: 19,000 (31)
GDP growth: 1 per cent (54)
Armed forces (active): 32,300 (24)
Memberships and forms of co-operation: OECD (1996), CoE (1990), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Stability Pact for South Eastern Europe, CEI (1989), SECI.

23. Iceland

Date of accession: June 1973
Scale of contributions: 0.19 per cent (33)
Area: 103,000 km² (24)
Population: 299,388 (51)
GDP per capita in international dollars at PPP rates: 38,800 (6)
GDP growth: 4 per cent (33)
Armed forces (active): none
Memberships and forms of co-operation: OECD (1961), CoE (1950), NATO (1949), EAPC, EU Association Agreement (1996), Associate Member of the WEU (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1995).

24. Ireland

Date of accession: June 1973
Scale of contributions: 0.75 per cent (21)
Area: 70,280 km² (31)
Population: 4,062,235 (39)
GDP per capita in international dollars at PPP rates: 43,100 (4)
GDP growth: 5 per cent (27)
Armed forces (active): 10,460 (39)
Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1999), EU (1973), WEU Observer (1992), Stability Pact for South Eastern Europe.

14 Authorized strength 100-110 members of the Swiss Guard, see: http://www.vatican.va/roman_curia/swiss_guard/500_swiss/documents/rc_gsp_20060121_informazioni_it.html.

25. Italy

Date of accession: June 1973

Scale of contributions: 9.35 per cent (2)

Area: 301,230 km² (16)

Population: 58,133,509 (7)

GDP per capita in international dollars at PPP rates: 30,400 (19)

GDP growth: 2 per cent (49)

Armed forces (active): 186,049 (6)

Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, CEI (1989).

26. Kazakhstan

Date of accession: January 1992

Scale of contributions: 0.36 per cent (28)

Area: 2,717,300 km² (4)

Population: 15,233,244 (15)

GDP per capita in international dollars at PPP rates: 11,100 (40)

GDP growth: 9 per cent (9)

Armed forces (active): 49,000 (17)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), CSTO, SCO.

27. Kyrgyzstan

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 198,500 km² (20)

Population: 5,213,898 (32)

GDP per capita in international dollars at PPP rates: 2,000 (54)

GDP growth: 8 per cent (11)

Armed forces (active): 10,900 (37)

Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), CSTO, SCO.

28. Latvia

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 64,589 km² (34)

Population: 2,274,735 (43)

GDP per capita in international dollars at PPP rates: 17,400 (33)

GDP growth: 10 per cent (6)

Armed forces (active): 5,696 (46)

Memberships and forms of co-operation: CoE (1995), NATO (2004), EAPC,

PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Assembly/Baltic Council of Ministers, CBSS (1992), Stability Pact for South Eastern Europe.

29. Liechtenstein

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 160 km² (53)

Population: 33,987 (53)

GDP per capita in international dollars at PPP rates: 25,000 (25)¹⁵

GDP growth: 11 per cent (5)¹⁶

Armed forces (active): none¹⁷

Memberships and forms of co-operation: CoE (1978), EU Association Agreement (1995), since 1923 Community of Law, Economy, and Currency with Switzerland.

30. Lithuania

Date of accession: September 1991

Scale of contributions: 0.19 per cent (33)

Area: 65,300 km² (33)

Population: 3,585,906 (40)

GDP per capita in international dollars at PPP rates: 17,700 (32)

GDP growth: 9 per cent (9)

Armed forces (active): 13,850 (35)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Assembly/Baltic Council of Ministers, CBSS (1992), Stability Pact for South Eastern Europe.

31. Luxembourg

Date of accession: June 1973

Scale of contributions: 0.47 per cent (27)

Area: 2,586 km² (50)

Population: 474,413 (49)

GDP per capita in international dollars at PPP rates: 80,500 (1)

GDP growth: 5 per cent (27)

Armed forces (active): 900 (51)

Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1996), Stability Pact for South Eastern Europe.

15 1999 (estimated).

16 1999 (estimated).

17 In 1868, the armed forces were dissolved, see: <http://www.liechtenstein.li/pdf-fl-multimedia-information-liechtenstein-bildschirm.pdf>.

32. The Former Yugoslav Republic of Macedonia

Date of accession: October 1995

Scale of contributions: 0.125 per cent (40)

Area: 25,333 km² (46)

Population: 2,050,554 (44)

GDP per capita in international dollars at PPP rates: 8,500 (43)

GDP growth: 5 per cent (27)

Armed forces (active): 10,890 (38)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1995), EU Candidate Country, Stability Pact for South Eastern Europe, CEFTA, CEI (1993), SECI, SEECP.

33. Malta

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 316 km² (52)

Population: 400,214 (50)

GDP per capita in international dollars at PPP rates: 22,900 (27)

GDP growth: 4 per cent (33)

Armed forces (active): 1,609 (50)

Memberships and forms of co-operation: CoE (1965), EAPC, PfP (1995/2008)¹⁸, EU (2004), Stability Pact for South Eastern Europe.

34. Moldova

Date of accession: January 1992

Scale of contributions: 0.05 per cent (49)

Area: 33,843 km² (42)

Population: 4,466,706 (38)

GDP per capita in international dollars at PPP rates: 2,900 (52)

GDP growth: 5 per cent (27)

Armed forces (active): 6,750 (43)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), CIS (1991), Stability Pact for South Eastern Europe, CEFTA, CEI (1996), SECI, SEECP, BSEC.

35. Monaco

Date of accession: June 1973

Scale of contributions: 0.125 per cent (40)

Area: 2.00 km² (55)

Population: 32,543 (54)

18 Malta joined the PfP in April 1995, but suspended its participation in October 1996. Malta re-engaged in the Partnership for Peace Programme in 2008, see: <http://www.nato.int/docu/update/2008/04-april/e0403e.html>.

GDP per capita in international dollars at PPP rates: 30,000 (21)¹⁹
GDP growth: 1 per cent (54)²⁰
Armed forces (active): none
Memberships and forms of co-operation: CoE (2004).

36. Montenegro

Date of accession: June 2006
Scale of contributions: 0.05 per cent (49)
Area: 14,026 km² (48)
Population: 630,548 (48)
GDP per capita in international dollars at PPP rates: 3,800 (51)²¹
GDP growth: 8 per cent (11)
Armed forces (active): 5,800 (45)
Memberships and forms of co-operation: CoE (2007), EAPC, PfP (2006), SAA (2007), Stability Pact for South Eastern Europe, CEFTA, CEI (2006), SECI, SEECP.

37. Netherlands

Date of accession: June 1973
Scale of contributions: 4.36 per cent (9)
Area: 41,526 km² (40)
Population: 16,491,461 (14)
GDP per capita in international dollars at PPP rates: 38,500 (8)
GDP growth: 4 per cent (33)
Armed forces (active): 45,608 (18)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

38. Norway

Date of accession: June 1973
Scale of contributions: 2.05 per cent (15)
Area: 323,802 km² (14)
Population: 4,610,820 (35)
GDP per capita in international dollars at PPP rates: 53,000 (2)
GDP growth: 4 per cent (33)
Armed forces (active): 15,800 (34)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU Association Agreement (1996), Associate Member of the

19 2006 (estimated).

20 2000 (estimated).

21 2006 (estimated).

WEU (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

39. Poland

Date of accession: June 1973

Scale of contributions: 1.35 per cent (17)

Area: 312,679 km² (15)

Population: 38,536,869 (10)

GDP per capita in international dollars at PPP rates: 16,300 (34)

GDP growth: 7 per cent (16)

Armed forces (active): 127,266 (11)

Memberships and forms of co-operation: OECD (1996), CoE (1991), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU (1999), Observer to the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, CEI (1991).

40. Portugal

Date of accession: June 1973

Scale of contributions: 0.98 per cent (19)

Area: 92,391 km² (26)

Population: 10,605,870 (17)

GDP per capita in international dollars at PPP rates: 21,700 (28)

GDP growth: 2 per cent (49)

Armed forces (active): 42,910 (19)

Memberships and forms of co-operation: OECD (1961), CoE (1976), NATO (1949), EAPC, EU (1986), WEU (1990), Stability Pact for South Eastern Europe.

41. Romania

Date of accession: June 1973

Scale of contributions: 0.6 per cent (23)

Area: 237,500 km² (18)

Population: 22,303,552 (13)

GDP per capita in international dollars at PPP rates: 11,400 (38)

GDP growth: 6 per cent (21)

Armed forces (active): 74,267 (12)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2007), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEI (1995), SECI, SEECF, BSEC.

42. Russian Federation

Date of accession: June 1973

Scale of contributions: 6 per cent (6)

Area: 17,075,200 km² (1)

Population: 142,893,540 (2)
GDP per capita in international dollars at PPP rates: 14,700 (36)
GDP growth: 8 per cent (11)
Armed forces (active): 1,027,000 (2)
Memberships and forms of co-operation: G8 (1998), CoE (1996), EAPC, PfP (1994), NATO-Russia Council (2002), CIS (1991), Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, BSEC, CSTO, SCO.

43. San Marino

Date of accession: June 1973
Scale of contributions: 0.125 per cent (40)
Area: 61 km² (54)
Population: 29,251 (55)
GDP per capita in international dollars at PPP rates: 34,100 (17)²²
GDP growth: 5 per cent (27)²³
Armed forces (active): none
Memberships and forms of co-operation: CoE (1988).

44. Serbia

Date of accession: June 1973
Scale of contributions: 0.14 per cent (39)
Area: 77,474 km² (30)
Population: 9,396,411 (22)
GDP per capita in international dollars at PPP rates: 10,400 (42)²⁴
GDP growth: 7 per cent (16)
Armed forces (active): 24,257 (27)
Memberships and forms of co-operation: CoE (2003), EAPC, PfP (2006), SAA (2008), Stability Pact for South Eastern Europe, CEFTA, CEI (1989/2000), SECI, SEECP, BSEC.

45. Slovakia

Date of accession: January 1993
Scale of contributions: 0.28 per cent (30)
Area: 48,845 km² (37)
Population: 5,439,448 (30)
GDP per capita in international dollars at PPP rates: 20,300 (30)
GDP growth: 10 per cent (6)
Armed forces (active): 17,129 (33)
Memberships and forms of co-operation: OECD (2000), CoE (1993), NATO

22 2004 (estimated).

23 2004 (estimated).

24 2006 (estimated).

(2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEI (1990/1993).

46. Slovenia

Date of accession: March 1992

Scale of contributions: 0.22 per cent (32)

Area: 20,273 km² (47)

Population: 2,010,347 (45)

GDP per capita in international dollars at PPP rates: 27,200 (24)

GDP growth: 6 per cent (21)

Armed forces (active): 5,973 (44)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1996), Stability Pact for South Eastern Europe, CEI (1992), SECI.

47. Spain

Date of accession: June 1973

Scale of contributions: 4.58 per cent (8)

Area: 504,782 km² (8)

Population: 40,397,842 (9)

GDP per capita in international dollars at PPP rates: 30,100 (20)

GDP growth: 4 per cent (33)

Armed forces (active): 149,150 (9)

Memberships and forms of co-operation: OECD (1961), CoE (1977), NATO (1982), EAPC, EU (1986), WEU (1990), Eurocorps (1994), Stability Pact for South Eastern Europe.

48. Sweden

Date of accession: June 1973

Scale of contributions: 3.24 per cent (10)

Area: 449,964 km² (10)

Population: 9,016,596 (23)

GDP per capita in international dollars at PPP rates: 36,500 (12)

GDP growth: 3 per cent (42)

Armed forces (active): 24,000 (28)

Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

49. Switzerland

Date of accession: June 1973

Scale of contributions: 2.81 per cent (12)

Area: 41,290 km² (41)

Population: 7,523,934 (26)
GDP per capita in international dollars at PPP rates: 41,100 (5)
GDP growth: 3 per cent (42)
Armed forces (active): 3,900 (49)
Memberships and forms of co-operation: OECD (1961), CoE (1963), EAPC, PfP (1996), EU Association Agreement (rejected by referendum), Stability Pact for South Eastern Europe.

50. Tajikistan

Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 143,100 km² (21)
Population: 7,320,815 (28)
GDP per capita in international dollars at PPP rates: 1,800 (55)
GDP growth: 8 per cent (11)
Armed forces (active): 8,800 (42)
Memberships and forms of co-operation: EAPC, PfP (2002), CIS (1991), CSTO, SCO.

51. Turkey

Date of accession: June 1973
Scale of contributions: 1.01 per cent (18)
Area: 780,580 km² (5)
Population: 70,413,958 (4)
GDP per capita in international dollars at PPP rates: 12,900 (37)
GDP growth: 5 per cent (27)
Armed forces (active): 510,600 (3)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1952), EAPC, EU Candidate Country, Associate Member of the WEU (1992), Stability Pact for South Eastern Europe, SECI, SEECP, BSEC.

52. Turkmenistan

Date of accession: January 1992
Scale of contributions: 0.05 per cent (49)
Area: 488,100 km² (9)
Population: 5,042,920 (33)
GDP per capita in international dollars at PPP rates: 5,200 (48)
GDP growth: 12 per cent (3)
Armed forces (active): 22,000 (30)
Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991).

53. Ukraine

Date of accession: January 1992
Scale of contributions: 0.68 per cent (22)

Area: 603,700 km² (7)
Population: 46,710,816 (8)
GDP per capita in international dollars at PPP rates: 6,900 (46)
GDP growth: 7 per cent (16)
Armed forces (active): 129,925 (10)
Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), NATO-Ukraine Charter/NATO-Ukraine Commission (1997), CIS (1991), CEI (1995), BSEC.

54. United Kingdom

Date of accession: June 1973
Scale of contributions: 9.35 per cent (2)
Area: 244,820 km² (17)
Population: 60,609,153 (6)
GDP per capita in international dollars at PPP rates: 35,100 (15)
GDP growth: 3 per cent (42)
Armed forces (active): 180,527 (7)
Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), WEU (1954), Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

55. USA

Date of accession: June 1973
Scale of contributions: 11.5 per cent (1)
Area: 9,826,630 km² (3)
Population: 298,444,215 (1)
GDP per capita in international dollars at PPP rates: 45,800 (3)
GDP growth: 2 per cent (49)
Armed forces (active): 1,498,157 (1)
Memberships and forms of co-operation: G8 (1975), OECD (1961), NATO (1949), EAPC, Observer to the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, NAFTA.

56. Uzbekistan

Date of accession: January 1992
Scale of contributions: 0.35 per cent (29)
Area: 447,400 km² (11)
Population: 27,307,134 (12)
GDP per capita in international dollars at PPP rates: 2,300 (53)
GDP growth: 10 per cent (6)
Armed forces (active): 67,000 (14)
Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991), CSTO, SCO.

Sources:

Date of accession:

<http://www.osce.org/about/13131.html>

Scale of contributions:

PC.DEC/850, 15 May 2008 (<http://www.osce.org/item/31117.html>)

Area:

<https://www.cia.gov/library/publications/the-world-factbook/rankorder/2147rank.txt>

Population:

(estimated as of July 2008) <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2119rank.txt>

GDP per capita in international dollars at PPP rates:

(estimated as of 2006, unless stated to the contrary)

<https://www.cia.gov/library/publications/the-world-factbook/rankorder/2004rank.txt>

GDP growth:

(estimated as of 2007, unless stated to the contrary)

<http://www.cia.gov/cia/publications/factbook/rankorder/2003rank.txt>

Armed forces (active):

International Institute for Strategic Studies (ed.), The Military Balance 2008, London 2008

OSCE Conferences, Meetings, and Events 2007/2008

2007

19-20 July	2007 OSCE Workshop on the Implementation of Ministerial Council Decision No.7/03 on Travel Document Security, Vienna
25-27 July	Conference on Good Governance in Customs in Central Asia, Almaty
10-12 September	HCNM visits Serbia and Kosovo
10-11 September	OSCE/OCEEA, First Preparatory Conference to the 16th OSCE Economic and Environmental Forum on “Maritime and inland waterways co-operation in the OSCE area: increasing security and protecting the environment”, Helsinki
10-11 September	Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Conference on Assistance to Trafficked Persons: We Can Do Better, Vienna
13-14 September	ODIHR/Spanish OSCE Chairmanship, High-Level Meeting on Victims of Terrorism, Vienna
20-21 September	SPMU, Combating sexual exploitation of children on the internet, Vienna
24 September-5 October	ODIHR/OSCE Chairmanship, Human Dimension Implementation Meeting, Warsaw
29 Sept.-1 Oct.	OSCE PA’s annual Fall Meetings, Portoroz
7-8 October	Chairman-in-Office visits Moldova (Chişinău)
8-10 October	HCNM visits Kazakhstan
9-10 October	OSCE Chairmanship, Conference on Intolerance and Discrimination against Muslims, Cordoba
10-12 October	OSCE Secretary General visits Serbia
10-12 October	HCNM visits Kyrgyzstan (Bishkek and Osh)
11-12 October	South Caucasus Media Conference, Tbilisi
15-17 October	OSCE/OCEEA in co-operation with the Financial Integrity Network, International seminar on combating terrorist financing, Switzerland
18-19 October	ODIHR, Supplementary Human Dimension Meeting: Combating Sexual Exploitation of Children, 18-19 October 2007, Vienna
19-20 October	OSCE Chairmanship/OCEEA/Secretariat Training Section/University of Geneva/UNEP, Intensive course in environmental diplomacy, Vienna

23-24 October	OCEEA, Conference on transit transportation through Central Asia, Dushanbe
25-26 October	Conference on Preventing Trafficking in Human Beings: Challenges and Solutions, Vilnius
29 Oct.-2 Nov.	HCNM visits Georgia
30-31 October	Conference on land degradation and soil pollution in Central Asia, Tashkent
1-2 November	OSCE Representative on Freedom of the Media, Central Asia Media Conference on “Developing Media Self-Regulation in Central Asia – Towards independent and responsible media”, Dushanbe
5-6 November	OSCE Chairmanship, Madrid Youth Forum, Madrid
16 November	SPMU, Police experts review workshop on the OSCE community policing framework, Vienna
20 November	SPMU, Police Experts workshop “Good practices in Basic Police Training - curricula aspect”, Vienna, Austria
21 November	Conflict Prevention Centre, Meeting with national focal points to the OSCE Network on Border Security and Management, Vienna
21 November	Inauguration of the OSCE Secretariat’s new headquarters in Vienna
29-30 November	15th OSCE Ministerial Council, Madrid

2008

1 January	Finland takes over the OSCE Chairmanship from Spain. Foreign Minister Ilkka Kanerva becomes Chairman-in-Office
10-15 January	HCNM investigates inter-ethnic situation in Kosovo, Prishtine/Priština
16-17 January	OSCE Chairman-in-Office visits Moldova
21-24 January	HCNM visits Russia (Moscow)
28-29 January	OSCE/OCEEA, 16th Economic and Environmental Forum, part 1, on “Maritime and inland waterways co-operation in the OSCE area: increasing security and protecting the environment”, Vienna
28-30 January	HCNM visits the former Yugoslav Republic of Macedonia (Skopje and Tetovo)
11-13 February	HCNM visits Romania (Bucharest and Cluj-Napoca)
21-22 February	OSCE PA Winter Meeting
25-27 February	HCNM visits Hungary (Budapest)
26 February	SPMU, Police experts workshop on good practices in building police-public partnership, Vienna

29 February	Event: 10th anniversary of the OSCE Representative on Freedom of the Media: Present and future challenges to media freedom and free expression in the OSCE region, Vienna
6-7 March	Second Preparatory Conference to the 16th OSCE Economic and Environmental Forum on “Maritime and inland waterways co-operation in the OSCE area: Increasing security and protecting the environment”, Ashgabad
7 March 2008	Court of Conciliation and Arbitration, Meeting of the Bureau, Geneva
8-10 March	OSCE Mission to Serbia and the Zikic Foundation supported by the Finnish OSCE Chairmanship, Conference on the 30th anniversary of the CSCE’s Belgrade Follow-up Meeting, “From Helsinki to Belgrade”, Belgrade
10-11 March	OSCE Centre in Ashgabad in co-operation with the OCEEA, Technical workshop on oil spills response and remediation, Turkmenbashi
25-28 March	HCNM meets Ukraine’s leadership and national minority communities (Kyiv and Simferopol)
31 March-1 April	Gender Section of the Office of the Secretary General, Gender focal points meeting, Vienna
31 March-3 April	HCNM visits Uzbekistan
7-11 April	HCNM visits Georgia (Tbilisi and Sukhumi)
7-9 April	SPMU-UNODC workshop on strengthening international legal co-operation among member states of the OSCE to combat transnational organized crime, Vienna
17-18 April	HCNM-sponsored meeting on improving minority education standards in Central Asia through distance learning and IT, Ashgabad
20-22 April	OSCE Mission to Serbia, Regional Meeting of Heads of OSCE Missions in South-Eastern Europe, Vrsac
21-23 April	HCNM visits Latvia (Riga and Daugavpils)
14-15 May	SPMU-UNODC workshop on combating human trafficking and migrant smuggling in Central Asia, Tashkent
14-16 May	ODIHR, Human Dimension Seminar on Constitutional Justice, Warsaw
19-21 May	OSCE/OCEEA, The 16th Economic and Environmental Forum – part two on “Maritime and inland waterways co-operation in the OSCE area: Increasing security and protecting the environment”, Prague
20-22 May	HCNM visits Turkmenistan (Ashgabad and Lebap Region)
26-27 May	OSCE Secretariat/Office of the Special Representative and Co-ordinator for Combating Trafficking in Human

29-30 May	Beings, Conference on “Child trafficking: responses and challenges at local level”, Vienna ODIHR, Supplementary Human Dimension Meeting: The Role of National Institutions against Discrimination in Combating Racism and Xenophobia with Special Focus on Persons belonging to National Minorities and Migrants, Vienna
16-17 June	ODIHR/Finnish OSCE Chairmanship, Meeting of national points of contact on combating hate crime, Helsinki
24-26 June	OSCE Chairmanship/Government of Ukraine, with support from the OCEEA and the OSCE Project Coordinator in Ukraine: International expert conference on navigation safety and environmental security in the Black Sea basin, Odessa
27-28 June	HCNM attends Finno-Ugric Congress, Khanty-Mansiysk
29 June-1 July	HCNM visits Kazakhstan
29 June-3 July	17th Annual Session of the OSCE Parliamentary Assembly 2008 focusing on the theme of “Transparency in the OSCE”, Astana
1-2 July	OSCE Chairmanship, 2008 Annual Security Review Conference, Vienna
5-8 July	OSCE Secretariat, Model OSCE Conference for more than 140 young people from 30 OSCE participating States, Vienna
8-11 July	HCNM visits Moldova
9-11 July	SPMU/OCEEA, Workshop on seizing, confiscating, and sharing/returning of proceeds/instrumentalities of crime transferred to foreign jurisdictions, Almaty
10-11 July	ODIHR, Supplementary Human Dimension Meeting: Sustainable Policies for Roma and Sinti Integration, Vienna
17-18 July	SPMU/UNODC, OSCE expert conference on international co-operation to combat trafficking in illicit drugs and chemical precursors, Vienna
21-22 July	CiO Seminar on Election Related Issues, Vienna

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Abbreviations

ABM Treaty	Anti-Ballistic Missile Treaty
ACMF	Advisory Committee on Management and Finance
ADB	Asian Development Bank
AIAM	Annual Implementation Assessment Meeting
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
ASRC	Annual Security Review Conference
ATU	Action against Terrorism Unit
BOMCA	Border Management Programme for Central Asia (EU)
BSEC	Black Sea Economic Co-operation
BSMC	Border Security and Management Concept
CARI	Central Asia Research Initiative
CBMs	Confidence-Building Measures
CBSS	Council of the Baltic Sea States
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEEA	Co-ordinator of OSCE Economic and Environmental Activities
CEFTA	Central European Free Trade Agreement
CEI	Central European Initiative
CFE Treaty	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy (EU)
CICA	Conference on Interaction and Confidence-Building Measures in Asia
CICR	Committees for Inter-Community Relations
CiO	Chairman-in-Office
CIPDD	Caucasus Institute for Peace, Democracy and Development
CIS	Commonwealth of Independent States
CLMN	Constitutional Law on National Minorities (Croatia)
CoE	Council of Europe
CORE	Centre for OSCE Research
CPC	Communist Party of China
CPC	Conflict Prevention Centre
CPC/OS	Conflict Prevention Centre/Operations Service
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe (since January 1995 OSCE)
CST	Collective Security Treaty
CSTO	Collective Security Treaty Organization

DAAD	Deutscher Akademischer Austausch Dienst/German Academic Exchange Service
DGAP	Deutsche Gesellschaft für Auswärtige Politik/German Society for Foreign Policy
DPA	Democratic Party of the Albanians (FYROM)
DUI	Democratic Union for Integration (FYROM)
EAPC	Euro-Atlantic Partnership Council
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ECRI	European Commission against Racism and Intolerance (Council of Europe)
ECHR	European Convention on Human Rights
EED	Economic and Environmental Dimension
EEF	Economic and Environmental Forum
EESC	Economic and Environmental Subcommittee
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood and Partnership Instrument
ENVSEC	Environment and Security Initiative
EOM	Election Observation Mission
ESDP	European Security and Defence Policy
EST	Election Support Team
EU	European Union
EU BAM	EU Border Assistance Mission to Moldova and Ukraine
EUJUST	
THEMIS	EU Rule of Law Mission to Georgia
EULEX	European Union Rule of Law Mission in Kosovo
EUMM	European Union Monitoring Mission
FCO	Foreign and Commonwealth Office
FERN	Free Elections Radio Network
FOM	Representative on Freedom of the Media
FRY	Federal Republic of Yugoslavia
FSC	Forum for Security Co-operation
FSD	Fondation suisse de déminage/Swiss Foundation for Mine Action
FYROM	The former Yugoslav Republic of Macedonia
G8	Group of Eight (Canada, France, Germany, Italy, Japan, Russia, UK, USA)
GDP	Gross Domestic Product
HCNM	High Commissioner on National Minorities
HDIM	Human Dimension Implementation Meeting
HDZ	Hrvatska Demokratska Zajednica/Croatian Democratic Union
HESP	Higher Education Support Programme
HRT	Hrvatska radiotelevizija
ICBMs	Intercontinental Ballistic Missiles

ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICG	International Crisis Group
ICJ	International Court of Justice
ICPDR	International Commission for the Protection of the Danube River
ICO/EUSR	International Civilian Office – European Union Special Representative
ICR	International Civilian Representative
ICRC	International Committee of the Red Cross
ICT	Information and Communications Technology
ICTY	International Criminal Tribunal for the Former Yugoslavia
IDPs	Internally Displaced Persons
IFAS	International Fund for Saving the Aral Sea
ILO	International Labour Organisation
IMF	International Monetary Fund
IOM	International Organization for Migration
ISAF	International Security Assistance Force (Afghanistan)
ISG	International Steering Group for Kosovo
JCC	Joint Control Commission
JPKF	Joint Peacekeeping Forces
JRI	Judicial Reform Index for Tajikistan
KAZGU	Kazakh National University
KFOR	Kosovo Force
KSIP	Kosovo Standards Implementation Plan
MBFR	Mutual and Balanced Force Reductions
MANPADS	Man-Portable Air Defence Systems
MAP	Membership Action Plan
MFA	Ministry of Foreign Affairs
MoJ	Ministry of Justice
MRT	Macedonian Radio Television
NAFTA	North American Free Trade Area
NATO	North Atlantic Treaty Organisation
NGOs	Non-Governmental Organizations
NPT	Nuclear Non-Proliferation Treaty
NRC	NATO-Russia Council
NSDP	New Social Democratic Party (FYROM)
OADW	Ost-Ausschuss der Deutschen Wirtschaft/Committee on Eastern European Economic Relations
OAS	Organization of American States
OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Co-operation and Development

OHCHR	Office of the (UN) High Commissioner for Human Rights
OHR	Office of the High Representative
OSCE	Organization for Security and Co-operation in Europe
OTR	Occupancy/Tenancy Rights
PA	Parliamentary Assembly
PACE	Parliamentary Assembly of the Council of Europe
PC	Permanent Council
PCA	Partnership and Cooperation Agreement
PDK	Democratic Party of Kosovo
PDP	Party for Democratic Prosperity (FYROM)
PfP	Partnership for Peace (NATO)
PISG	Provisional Institutions of Self-Government (Kosovo)
PLIP	Property Law Implementation Plan
PPP	Public Private Partnership
RATS	Regional Antiterrorist Structure (SCO)
REC	Regional Environment Centre
RFOM	Representative on Freedom of the Media
RSC	Regional Security Complex
RSCT	Regional Security Complex Theory
RSK	Republika Srpska Krajina
RTS	Radio Televizija Srbije
SAA	Stabilization and Association Agreement (EU)
SALW	Small Arms and Light Weapons
SAP	Stabilization and Association Process (EU)
SCO	Shanghai Co-operation Organization
SDSM	Social Democratic Union of Macedonia
SDSS	Independent Democratic Serbian Party (Croatia)
SECI	Southeast European Co-operative Initiative
SEECF	South Eastern European Co-operation Process
SGT	Strategic Group on Transition
SIC-ICWC	Scientific Information Centre of the Interstate Commission for Water Co-ordination
SIWI	Stockholm International Water Institute
SME	Small and Medium-Sized Enterprises
SPMU	Strategic Police Matters Unit
SPS	Socialist Party of Serbia
SRS	Serbian Radical Party
SRSG	Special Representative of the UN Secretary-General
START	Strategic Arms Reduction Treaty
TACIS	Technical Assistance for the CIS (EU)
TANDIS	Tolerance and Non-Discrimination Information System
TLE	Treaty Limited Equipment (CFE Treaty)
UÇK/NLA	Ushtria Çlirimtarë Kombëtarë/National Liberation Army (FYROM)

UN/UNO	United Nations/United Nations Organization
UNCERD	United Nations Committee on the Elimination of Racial Discrimination
UNCHR	United Nations Commission on Human Rights
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNESCAP	United Nations Economic and Social Commission for Asia and the Pacific
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCHR/ UNOHCHR	United Nations High Commissioner for Human Rights/UN Office of the High Commissioner for Human Rights
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
UNODC	United Nations Office on Drugs and Crime (former UNODCCP)
UNOMIG	United Nations Observer Mission in Georgia
UNOSEK	United Nations Office of the Special Envoy for Kosovo
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
VD	Vienna Document
VMRO- DPMNE	Internal Macedonian Revolutionary Organization – Democratic Party for Macedonian National Unity
WCO	World Customs Organization
WEU	Western European Union
WHO	World Health Organization
WMD	Weapons of Mass Destruction
WTO	Warsaw Treaty Organization
WTO	World Trade Organization
ZIF	Zentrum für Internationale Friedenseinsätze/Centre for International Peace Operations

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