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Relations Running Hot and Cold: The Reopened OSCE Mission in Minsk and Its Political Prospects¹

Historical Background

Belarus' relations with the OSCE have a different structural foundation to its relations with the EU. After achieving sovereignty in 1991, Belarus automatically became a member of the Organization, thereby committing itself to the Organization's values and principles. The Helsinki Final Act and the Charter of Paris are thus politically binding documents for Belarus.

As far as Belarus' relations with the OSCE are concerned, the constitutional crisis of 1996 was the critical moment. After dissolution of the freely elected 13th Supreme Soviet in 1997 and the appointment of a parliament hand-picked by President Alexander Lukashenko, the OSCE urged that a mission be established in Minsk.

The OSCE Advisory and Monitoring Group was established at the beginning of 1998 with Ambassador Hans-Georg Wieck as Head of Mission. According to its mandate, the Mission, in co-operation with the Belarusian authorities and other international organizations, was to fulfil the following tasks:

- To assist the Belarusian authorities in promoting democratic institutions and in complying with other OSCE commitments
- To monitor and report on this process.²

The Advisory and Monitoring Group was the first OSCE Mission in which human dimension commitments were in the foreground.

A key role was played by the OSCE's Istanbul Summit Meeting in November 1999, where a great deal of effort was expended in persuading President Lukashenko to sign the Summit Declaration, Paragraph 22 of which contained a commitment to enter into political dialogue with the opposition and to uphold the rule of law and freedom of the media.

In the run-up to the parliamentary elections of 15 October 2000, Ambassador Wieck and the OSCE Mission in Minsk worked intensively to promote free and fair elections as a means of solving the constitutional crisis. They faced a truly mammoth task. Existing electoral laws could not have guaranteed free and fair elections. And despite intensive consultations with the government, only marginal improvements were achieved. Lukashenko

1 This article covers the period up to August 2003.

2 Cf. Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 185, PC.DEC/185, 18 September 1997.

pressurized the opposition and did not allow it access to the state media. An agreement between Lukashenko and the opposition parties on access to the media, which was made possible by the exceptional efforts of Ambassador Wieck, never came into force. The dialogue between the government and the opposition was perverted by Lukashenko into a “Public Political Dialogue” open to not only the opposition, but to any and all civil groups and organizations – and above all those loyal to Lukashenko.

The conflict reached its climax when the opposition largely boycotted the elections. Only Nikolai Statkevich’s Social Democrats participated and were punished for this by the rest of the opposition parties.

This highlights a serious problem with which the Advisory and Monitoring Group was confronted, namely the political immaturity and deep disunity of the opposition parties. It is truly one of Ambassador Wieck’s greatest achievements to have succeeded in bringing all these discordant, antagonistic groups together at a single table. He was able to unite them to create a “Consultative Council of Opposition Political Parties” that was capable of reaching agreement and (at least most of the time) speaking with one voice.

This is, however, also the reason for Lukashenko’s profound dislike – one could even say his outright hatred – of the OSCE Mission and Ambassador Wieck. The degree of aversion increased when the Advisory and Monitoring Group succeeded in establishing a network of independent, national election monitors, whose work and election analyses uncovered numerous manipulations in the parliamentary elections of 2000. Lukashenko accused Ambassador Wieck of working on behalf of foreign intelligence services and of conspiracy against Belarus.

Although the OSCE Office for Democratic Institutions and Human Rights (ODIHR) did not carry out comprehensive election monitoring but sent only a “Technical Assessment Mission” alongside 194 international monitors and observers from the Parliamentary Troika (consisting of the European Parliament and the Parliamentary Assemblies of the OSCE and the Council of Europe), it was clear that these elections were not conducted in a free, fair and transparent manner.

This clearly did nothing to improve Belarus’ relations with the EU, the Council of Europe and the OSCE.

At the same time, Lukashenko’s harassment of the Mission in Minsk intensified. Ambassador Wieck was no longer granted access to the government. He was also accused of failing to consult with the government, something Minsk described in terms of a violation of the Mission’s mandate. Using excessive language, Lukashenko repeatedly threatened to close the Mission.

The then Minister of Foreign Affairs Mikhail Khvastov was somewhat more moderate in his choice of words. Nevertheless, during a visit of the Working Group of the OSCE Parliamentary Assembly, he refused to meet us in the presence of Ambassador Wieck. When we countered this by refusing to

meet Khvostov without the Ambassador, he offered to meet me, as the Head of the Working Group, privately. This offer I also refused. Later, he apologized to me in a letter saying that it was all an administrative “misunderstanding”.

The Year 2002 and the Negotiations on a New Mandate for the OSCE Mission

Ambassador Wieck left Minsk in December 2001 at the end of his term in office. He did not wish to extend his period in office, as co-operation with the Belarusian government was no longer possible. It had already become evident during 2001 that the Belarusian government wanted complete control over the Mission’s projects, and Minsk now demanded the right to approve each proposal. The mandate of 18 September 1997 had established an Advisory and Monitoring Group, which was to perform its tasks “*in co-operation with Belarusian authorities*”.³ The new mandate of 30 December 2002 states that the OSCE Office in Minsk – the new official name of the Mission – is to “perform its tasks and carry out its activities, in a transparent way, *in close co-operation and consultation with the Government of Belarus*”.⁴ There is no mention of official approval by the Belarusian government.

The “interpretative statement” of 30 December 2002 by the Delegation of Belarus to the decision on the new mandate indicates that this point of contention has still not been conclusively settled; the statement specifies the following:

In connection with the adoption of the decision on the OSCE Office in Minsk our Delegation would like to make the following interpretative statement.

1. The procedure of the implementation of all projects and programmes of the OSCE Office in Minsk in accordance with the Permanent Council Decision No. 486 of 28 June 2002 foresees prior consultations with the Government of the host country. We understand that these consultations should result in the agreement by the Government to implementation of any project or programme. Any activity financed through extra-budgetary contributions cannot be carried out without the agreement of the host country.

2. The OSCE Office in Minsk should carry out monitoring on the basis of factual data and using in a balanced way all sources of information. The coverage of any event or fact without presenting an official position of the Government of the host country would be unacceptable.

3 Ibid. (author’s emphasis).

4 OSCE, Permanent Council, Decision No. 526, OSCE Office in Minsk, PC.DEC/526, 30 December 2002, p. 1 (author’s emphasis).

3. The OSCE Office in Minsk in its activities should be guided, *inter alia*, by the principle of political neutrality and non-interference in the internal affairs of Belarus.

4. Former international and local members of the Advisory and Monitoring Group in Belarus can not be integrated in the work of the OSCE Office in Minsk. Persons who are or were engaged in the activities of intelligence services or any other activity directed against national interests of the Republic of Belarus cannot also be employed as the members of the Office.⁵

The question of whether the Mission is required to seek the *approval* of the government of Belarus or is merely obliged to *consult* with it may thus continue to be a source of friction and so to impede the work of the new Office. For example, the Deputy Minister of Foreign Affairs, Alexander Sychev, who is in charge of co-operation with the Office, made this topic the subject of discussion in a meeting with Ambassador Eberhard Heyken, the Head of the OSCE Office in Minsk, in February 2003.

Another point had already become clear in discussions during 2001: the extension of the mandate to economic issues and environmental projects. The new mandate accommodates this desire on the part of the Belarusian side. In addition to the tasks it has fulfilled to date, that is, assistance in promoting the building of democratic institutions, the consolidation of the rule of law and the development of relations with civil society, the mandate now also covers efforts to develop economic and environmental activities.

After Ambassador Wieck's departure from Belarus at the end of 2001, it became clear that, although the Mission then did not have a specific time limit, the Belarusian government was aiming to "starve it out". Minsk rejected the candidate proposed to succeed Ambassador Wieck and demanded new negotiations on the mandate. While the visas of one international Mission member after another were allowed to expire, forcing them to leave the country, the negotiations on the mandate dragged on at snail's pace or came to a complete halt. A tug-of-war had begun.

The Road to a New OSCE Office

The OSCE repeatedly announced its willingness to normalize its relations with Belarus. Portugal, which held the OSCE Chair in 2002, signaled on several occasions that the OSCE was striving to reach a consensual solution to the conflict surrounding the future of the Advisory and Monitoring Group in Minsk and that it was by all means ready to compromise on this issue.

5 Interpretative Statement under Paragraph 79 (Chapter 6) of the Final Recommendations of the Helsinki Consultations, OSCE, Permanent Council, Decision No. 526, cited above (Note 4), Attachment 1.

There was quite a good chance that an OSCE presence in Minsk with a new name, new personnel and an enlarged and possibly modified annually renewable mandate would be acceptable to all OSCE participating States.

On 8 March 2002, the then Portuguese Foreign Minister Jaime José Matos da Gama appointed retired Ambassador Eberhard Heyken as “Special Envoy for matters related to OSCE co-operation with Belarus”. At the same time as being informed of this appointment, the Belarusian Ambassador to the OSCE, Viktor Gaisenak, was also made aware that, following the completion of Heyken’s planned discussions in Vienna and Minsk on the Mission’s future programme of work, he would be proposed as Head of Mission. This gave Belarus a chance to save face. The selection of this German diplomat, who had been friendly with Belarus for many years, was the Organization’s answer to the Belarusian desire for Ambassador Wieck to be succeeded as Head of Mission by an experienced German diplomat who was willing to engage in dialogue. In informal talks held in Vienna, Heyken and Gaisenak made significant progress towards drafting a programme to supplement the existing mandate. However, the Belarusian leadership did not at that time give an official response to the results of these talks or to the OSCE’s offer to conduct a dialogue between the Belarusian government and Ambassador Heyken on future projects to be carried out by the Mission in Minsk.

After months during which Belarus ignored the OSCE’s offers, the OSCE Chair considered it was appropriate to get the EU involved. On 21 October 2002, the EU foreign ministers made a high-level appeal to the Belarusian leadership to abandon such a confrontational course. They also demanded, among other things, that the accreditation of the last international member of the OSCE Advisory and Monitoring Group be extended or that her successor be accredited and that immediate talks on a future OSCE presence in Belarus take place. If Belarus were to refuse, the EU foreign ministers announced that further measures would be taken. After it became clear that no concrete progress would be achieved and the last international member of the Group was expelled, the EU met on 19 November 2002 to discuss visa restrictions on high-ranking members of the Belarusian government. The adoption of the Council Conclusions imposing these restrictions was only hindered by Portugal’s refusal. As a result, the remaining 14 EU member states came to a political agreement to refuse entry to eight of the most senior members of the Belarusian government. The sanctions against the President, the Prime Minister, the Head of the Presidential Administration, the Minister of Foreign Affairs, the Minister of Defence, the Minister of the Interior, the Minister of Justice and the Head of the Intelligence Service (KGB) became effective on 26 November 2002 with their entry in the Schengen Information System.

At a summit meeting with the Russian President Vladimir Putin on 27 November 2002, Lukashenko announced his readiness to enter into immediate negotiations with the OSCE on the question of a presence in Minsk. This

was confirmed by Foreign Minister Khvostov at the OSCE Ministerial Council on 6 and 7 December 2002 in Porto. Negotiations began in Vienna on 11 December 2002, and agreement on a new mandate was reached on 30 December 2002. The key points were the closure of the Advisory and Monitoring Group by 31 December 2002 and the opening of the OSCE Office on 1 January 2003. The EU's Working Parties on Eastern Europe and Central Asia (COEST) and on the OSCE (COSCE) decided, on 14 January 2003, to make the lifting of sanctions entirely dependent on the question of establishing the OSCE Office. The EU made no further political demands in this regard, nor did it pursue a policy of gradually lifting the sanctions. The only test to be fulfilled was the ability of the Office to carry out its work unhindered – over which time-period was not specified. On 20 and 21 January 2003, the Political Directors on the Political and Security Committee agreed that the new Head of Mission would have to verify that the Office was fully operative before sanctions could be lifted.

With the passing, on 21 January 2003, of the deadline for applications for the position of Head of Mission, the Dutch Chairmanship recommended retired Ambassador Heyken for the job of Head of Office. His appointment followed on 30 January 2003, after the Belarusian government had signaled its agreement on 29 January 2003. The new Head of Mission began work in Minsk on 10 February 2003.

The dispute over the Minsk Mission has been settled for the present. All now depends on whether the Office will really be able to carry out its work. The new mandate and the accompanying Memorandum of Understanding are broad enough to allow it to perform its mandate effectively. The new mandate differs from the old one by including economic and environmental activities – something that has long been desired by Belarus.

The criticism voiced by some opposition groups in Belarus that the OSCE has succumbed to Lukashenko's wishes is erroneous. On the contrary, undertaking economic and environmental activities presents the OSCE with an opportunity to expand its influence in Belarusian civil society. Co-operation with businesses and environmental groups can help create a broader base for democratic reforms.

The Role of the OSCE Parliamentary Assembly

Parallel to the conflict over the OSCE Advisory and Monitoring Group, itself a consequence of the attempt to solve Belarus' constitutional crisis, a dispute developed over Belarus' representation in the OSCE Parliamentary Assembly. Following President Lukashenko's dissolution of the 13th Supreme Soviet and his appointment of a hand-picked new parliament, the OSCE Parliamentary Assembly resolved to continue to reserve Belarus' seat in the Assembly for the 13th Supreme Soviet, which it considered to be the legally

elected, legitimate parliament of Belarus – and whose electoral period was due to run until 2000. Only a new legally elected parliament would be able to claim this seat in the OSCE Parliamentary Assembly. However, the elections held in 2000 were not adjudged free, fair and transparent to the satisfaction of the OSCE. Many national parliaments that had also recognized the 13th Supreme Soviet as the legitimate parliament in 1997, refused to engage in official contacts with the Belarusian National Assembly.

There followed a dispute over the recognition of the newly elected parliament. The National Assembly – now once more an elected body – demanded a seat in the OSCE Parliamentary Assembly (and in the NATO Parliamentary Assembly). At the same time, however, this seat was also still claimed by the deputies of the 13th Supreme Soviet.

This dispute developed into a conflict *within* the Parliamentary Assembly, one that was very closely entangled with the escalating struggle over the Advisory and Monitoring Group. Even after the regular electoral period of the 13th Supreme Soviet had ended, its delegation claimed that it represented Belarus' only legally elected parliament.

Politically, the two topics – the seat in the Parliamentary Assembly and the continuation of the Mission – were closely connected. This linkage could not, however, be allowed to affect the decision-making procedure of the Parliamentary Assembly, which must act in line with its own rules. Accordingly, it was legitimate to grant the Belarusian seat to the delegation of the 13th Supreme Soviet until the end of its official parliamentary term on the grounds that the official Belarusian parliament had been appointed rather than elected. The case of the parliament elected on 15 October 2000 is somewhat different: While it was the result of manipulated elections, the same could also be said of other parliaments in states in transition.

The ad hoc Working Group

The OSCE Parliamentary Assembly established this Working Group in 1998 in response to the constitutional crisis. Under the Chairmanship of the former Romanian Foreign Minister Adrian Severin, it was given the task of supporting democratization in Belarus and monitoring developments in the country. I have chaired this Working Group since 2001.

The reports of the Working Group to the Standing Committee of the Assembly have influenced the dispute over Belarus' seat in the Parliamentary Assembly. EU and OSCE ambassadors have also paid careful attention to the opinion of the Working Group.

During the crisis over the Advisory and Monitoring Group, I accounted for my position to the ambassadors in Vienna and Brussels on more than one occasion and found them open to my arguments. At the same time, however, there was no shortage of attempts to influence the decision of the OSCE Parliamentary Assembly regarding Belarus' seat.

The Wrangling in the OSCE Parliamentary Assembly

After the election of a new Belarusian National Assembly in the year 2000, the seat in the OSCE Parliamentary Assembly initially remained vacant.

The delegations could not agree on whether the fact that the 2000 parliamentary elections had been manipulated meant that the 13th Supreme Soviet would still be entitled to a seat. The delegates of the former 13th Supreme Soviet continued to receive invitations to attend as guests. The Standing Committee of the Parliamentary Assembly decided in advance of the Assembly's 2002 Annual Session in Berlin to continue their policy of leaving the Belarusian seat empty, even though the Secretariat had issued a legal expert opinion in which the right to exclude a delegation for political reasons was rejected.

The Winter Session of the Parliamentary Assembly held in Vienna in February 2003 rejected a proposal by the US delegation to again postpone the decision until the Annual Session in Rotterdam in July 2003. A proposal by the Swedish delegation to exclude the Belarusian delegation was also dismissed.

Despite the political misgivings of various delegations, in February 2003, the OSCE Parliamentary Assembly admitted a Belarusian delegation consisting of representatives of the newly elected parliament.

The Standing Committee thus took the course I had recommended. Including Belarusian parliamentarians within the Parliamentary Assembly in order to enter into dialogue with them seems a sensible course to take, all the more so as the rules of procedure of the Parliamentary Assembly do not allow any other alternative.

The OSCE will continue to keep a critical eye on Belarus' political shortcomings. The activity of the Working Group will ensure that the opposition remains included in the discourse.

The Working Group held its first round-table discussions with parliamentarians of the National Assembly and representatives of the opposition in Berlin in 2002. This kind of an informal dialogue can and should become a permanent institution.

The admission of the Belarusian delegation to the OSCE Parliamentary Assembly can and hopefully will help the work of the OSCE Office in Minsk. In any case, the last-minute agreement on the OSCE representation in Minsk played a major role in the Assembly's positive decision and increased their willingness to conduct a dialogue despite the lack of political progress.

A New Start – A New Potential?

The contradictions of Belarusian politics remain apparent even after the agreement on a new mandate for the OSCE representation in Minsk.

The agreement between Belarus and the OSCE on closing the Advisory and Monitoring Group on 31 December 2002 and opening the OSCE Office on 1 January 2003 should have enabled the designated Head of Office, Ambassador Heyken, to assume his post immediately. Instead, Belarus insisted on re-advertising the position, with the result that Ambassador Heyken was only appointed on 30 January 2003 and could only assume his post on 10 February.

On 14 April, the 14 EU states withdrew visa restrictions after Ambassador Heyken had determined that the Mission was fully operative and that the Belarusian government was willing to co-operate. His report of 25 March 2003 is positive about the conditions under which the Mission is working and the willingness of the Belarusian government to co-operate. However, he is extremely critical of developments in the political situation.

Acts of repression against what remains of the independent trade-union movement, the free press and journalists have continued; freedom of religion has been drastically restricted; the evidence of manipulation in the March 2003 local elections is as strong as in the case of the 2000 parliamentary elections and the 2001 presidential elections. Increasingly, civil society is also coming under pressure through the obstruction and mistreatment of NGOs.

Positive Signals

The rapid accreditation of Ambassador Heyken by the Belarusian government, which was enacted on 11 February 2003, only a day after his arrival in Minsk, is welcome. After assuming his new position as Head of the OSCE Office, Ambassador Heyken was promptly received by high-ranking representatives of the Belarusian government. The fact that the then Foreign Minister Khvostov expressed President Lukashenko's interest in the Mission and promised full co-operation was also an important indication of the good prospects for co-operation between the government and the OSCE Office.

The Central Election Commission offered to propose a revised working programme on electoral legislation and to place the new electoral law, which will be decisive for the implementation of free, fair and transparent elections, on the parliamentary agenda by May 2003. The Chairperson of the Central Election Commission, Lidiya Yermoshina, also expressed a favourable opinion of a proposed joint EU-ODIHR project on electoral legislation. A mechanism for co-operation was agreed during the first weeks of the Office's existence.

The Minister of Information, Mikhail Podgainy, agreed to present the OSCE and the Council of Europe with a draft new media law for their examination – a promise that he had already made to the Working Group over a year before, but had not kept.

The Deputy Foreign Minister Sychev proposed the creation of working groups on civil society matters, institution building and economic and environmental questions. These working groups were to be open to NGOs and other interested parties – an extremely significant suggestion in view of the customary exclusion of these groups. In the course of the same discussion, however, Sychev again insisted that projects be submitted for government approval.

By the end of March 2003, the working groups on the following topics had already been constituted:

- Institution Building and the Rule of Law
- The Environment
- Economics
- Civil Society.

In the meantime, Belarus has produced a list of 60 project proposals. It is hoped that this is not a strategy of “killing by overenthusiasm”. In any case, the Office’s relatively modest budget and its limited number of personnel make the setting of priorities imperative.

Reading the reports made by the Office, one can only be amazed by the enormous volume of work that it has accomplished in such a short period of time. The positive resonance this has found within the Belarusian government is a hopeful sign. There are a number of further phenomena that should be viewed with cautious optimism. For example, two journalists from the newspaper *Pahonya* who had been given prison sentences of several years were released early and a number of judgements against journalists have been reversed on appeal.

Despite this, however, Lukashenko’s repression of the opposition continues. He publicly accused the group *Respublika*, an amalgamation of several independent representatives in the Belarusian National Assembly, of engaging in subversive activities. On 20 May 2003, the Belarusian public prosecutor’s office instigated criminal proceedings against the group’s Chairman, Sergei Skrebets. On 4 April 2003, the parliament further restricted the right to demonstrate. Moreover, the last two trade unions not toeing the government line were facing disciplinary action. Lukashenko gave the Minister of Industry Anatoli Kharlap two months to solve the “problem”. The gap between *de facto* government policies and the official policy of co-operating with the OSCE Office is widening.

The extent to which we really can speak of “new potential” remains to be seen.