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Institute for Peace Research and Security Policy
at the University of Hamburg / IFSH (ed.)

OSCE Yearbook 2005

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



Nomos

Die Deutsche Bibliothek – CIP Einheitsaufnahme

Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://dnb.d-nb.de> abrufbar.

Die Deutsche Bibliothek – CIP Cataloguing-in-Publication-Data

Die Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available in the Internet at <http://dnb.d-nb.de>

ISBN 3-8329-1881-7

1. Auflage 2006

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Preface by the Chairman-in-Office

To be asked to pen the foreword to one of the most consistently informative books on the OSCE is a great honour for me. As a writer it gives me pleasure to practice my old “profession”, but especially in my present dual role as Chairman-in-Office of the OSCE and Foreign Minister of Slovenia, I feel I have a special duty to try to express some thoughts on what this means both for myself and my country.

As everyone appreciates, the year 2005, marking six decades since the dramatic end of World War II, is full of important anniversaries related to that key event. The OSCE is marking two events of its own, namely the signing of two landmark documents: the signing of the Helsinki Final Act, 30 years ago, on 1 August 1975, and the signing of the Charter of Paris for a New Europe, 15 years ago, on 21 November 1990. These two documents are the keystones in the security architecture of post-World War II Europe. And over the last 30 years they have come to provide both the foundation and the impetus for a more united and secure continent.

The OSCE will also remember the signing of these two documents in December when the Foreign Ministers of the 55 participating States gather in Ljubljana for the annual meeting of the OSCE Ministerial Council. I hope that when I greet them there, they will also be able to look back on a year that has seen significant progress made in meeting the goals and priorities of both the OSCE and the Slovenian Chairmanship.

As I write these lines in the early summer, I have already been privileged to witness great strides towards democracy taken in two OSCE States: Ukraine and Kyrgyzstan. After disputed elections, which were fairly and transparently monitored by the OSCE’s own acclaimed election specialists, the Office for Democratic Institutions and Human Rights, the OSCE was able to play a role in reducing post-election tensions and encouraging the peaceful transfer of power. Thus, in January, I was able to make my first foreign trip as Chairman-in-Office to visit the newly elected President in Kyiv. In April, I was able to talk personally to the authorities in Bishkek and encourage them to settle their difference at the ballot box, but this time with important changes in order to secure a free and fair process.

Neither of these events had figured in my plans as I looked forward to assuming the Chairmanship. But the way that the OSCE played a vital role in both simply underlined for me the enormous value of this marvellously flexible and resourceful body. The fact that the events occurred on my watch meant that I could be proud to have been a part of the process of encouraging the peaceful spread of democracy.

Now as I look forward to the rest of the year, I expect it will leave me with yet more memories of further important steps along the road to the fulfilment of the OSCE's mandate. While the OSCE helps to keep a lid on potential conflict situations in Georgia and Moldova and between Armenia and Azerbaijan, supports stability in South-eastern Europe, and particularly Kosovo, and performs many other less loudly trumpeted tasks, it can hope to encourage States to adhere to their military confidence building agreements, to firmly anchor human rights on the bedrock of the rule of law, and to develop good governance and encourage the kind of economic prosperity that will eventually lead to peaceful relations between neighbours across the whole vast region from Vancouver to Vladivostok.

Foreword

Thirty years ago in Helsinki, on 1 August 1975, the heads of state or government of 35 countries, among them the USA and Canada, signed the Final Act of the Conference on Security and Co-operation in Europe (CSCE). This was not only the culmination of a series of high-level diplomatic conferences that had begun two years earlier almost to the day, but also the start of a unique success story.

During the 1970s and 1980s, the CSCE, more than any other institution, enabled and embodied the dialogue between two highly armed and hostile blocs – a dialogue on security in the midst of the Cold War, a dialogue on co-operation between antagonistic economic and social systems. At a time when the two major military alliances appeared to be the only relevant international actors in the field of security, the Helsinki process represented an intelligent alternative and a well-nigh revolutionary instrument for the creation of security.¹

In its special focus section, the current OSCE Yearbook looks back at the Helsinki process. Eye-witnesses such as Egon Bahr and John Maresca evoke the atmosphere of the 1970s, describing the sense of potential that accompanied the start of the negotiations over the Final Act, but also the tension associated with the Cold War and which, at times, placed the success of the CSCE in doubt.

The allure of the CSCE was its new and comprehensive concept of security. At a time when security was almost exclusively defined with reference to the external security of states, inter-state relations, and military threats, the Helsinki Final Act linked politico-military security with two additional dimensions: the economic-environmental and the human. This was an unlikely departure given that, in an era of military confrontation between blocs, human rights and fundamental freedoms were not necessarily considered to be genuine security issues. However, the human dimension in particular played an extraordinary role from the start. Such, at least, is Peter Schlotter's assessment of 30 years of the Helsinki Final Act: "The basis of the CSCE accords was a trade-off: The Western states complied with the desire of the Soviet Union and its allies for recognition – political and under international law – of the post-War territorial status quo. In return, the West sought to bind

¹ There is possibly no more concise or original treatment of the OSCE's 30-year history than the document produced by my colleagues Frank Evers, Martin Kahl, and Wolfgang Zellner and published in the summer of 2005, *The Culture of Dialogue. The OSCE Acquis 30 Years after Helsinki*, CORE/Centre for OSCE Research/Institute for Peace Research and Security Policy at the University of Hamburg (IFSH), which I not only wish to mention here, but will refer to throughout this foreword.

Soviet foreign policy to norms and rules”, something that was to be achieved by means of the respect for human rights in particular: “It was assumed that internal liberalization of the Communist regimes would also affect their conduct in the area of foreign policy, thereby contributing to *détente* and the peaceful working-out of differences.” The thesis that democracy within states and respect for human rights are key prerequisites for peaceful relations between states finally found direct expression in the Helsinki Final Act: “The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.”

The linking – not only as a negotiating tactic – of traditional questions of security policy such as the inviolability of borders or military confidence building with respect for human rights and fundamental freedoms was irrevocable. In retrospect, it proved to be not only a dynamic element of the negotiations, but, finally, a successful one, at least when considered not just in terms of *détente*, security, and co-operation, but also with respect to the overcoming of the Cold War. The dynamism of the human dimension can be accounted for, among other things, by the fact that the existence of the CSCE as a governmental institution always also had consequences for individuals and groups. It was of particular significance for the human rights groups and civil rights movements – such as Prague-based Charter 77 – that emerged in Eastern Europe in the 1970s. With the Helsinki Final Act, dissidents could now appeal to a document that committed their governments – who had signed it – to respecting human rights and fundamental freedoms, including freedom of thought, conscience, and religion or belief. How dangerous and strewn with obstacles this path was, however, is described by the former dissident Jiřina Šiklová, and is documented in Andrei Zagorski’s detailed account of the relationship of the Soviet Union to the human dimension of the OSCE from 1989 to 1990.

The historical review of 30 years of the CSCE/OSCE is not only the topic of our special focus section, but runs like a thread through the entire Yearbook, whose structure also mirrors the Organization’s history. In November 1990, just 15 years after the Final Act was signed, the Charter of Paris declared that the “era of confrontation” was over. With the outbreak of bloody conflicts in the Soviet Union and the disintegrating state of Yugoslavia, the euphoria that found echo in the wording of the Charter quickly evaporated. At the Helsinki Summit Meeting in 1992, the participating States expressed their shock that war was being waged on European soil for the first time in decades. They reacted immediately (and faster than other organizations), creating a comprehensive array of mechanisms and instruments for conflict prevention, crisis management, and post-conflict rehabilitation, including, above all, the OSCE’s many and varied field operations. From its first fact-finding and *rapporteur* missions and the first long-term missions in

the early 1990s, the OSCE has built up a network of highly effective missions, centres, and offices of all sizes in most areas where conflict has raged. In accordance with the Organization's co-operative credo, which essentially consists in helping states to fulfil their commitments rather than punishing them for non-fulfilment, the missions' tasks include acting as a mediator in peace negotiations, as well as promoting the establishment of democratic institutions and respect for human rights in general. The specific focuses of individual field operations include refugee return, democratization projects, and assisting in the drafting of legislation. As always, the second section of the Yearbook contains up-to-date reports on selected OSCE field activities.

One of the highlights of the Helsinki process was the groundbreaking declaration, contained in the 1991 Moscow Document, that the commitments undertaken within the scope of the human dimension are "matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned". In Prague, in 1992, this was expanded to include the option that "appropriate action may be taken [...] if necessary in the absence of the consent of the State concerned, in cases of clear, gross and uncorrected violations of relevant CSCE commitments". Both decisions undoubtedly marked decisive progress towards securing universal respect for human rights. However, as we celebrate the 30th anniversary of the Final Act and enjoy a sense of satisfaction at all that has been achieved so far, we should not lose sight of the serious deficiencies that have accompanied the pursuit of noble goals. Flawed implementation – or even the deliberate infringement – of written agreements is especially tragic where the human dimension is concerned. Not only do a large number of OSCE States – and this by no means excludes those "West of Vienna" – continue to commit grievous human rights violations, governments in Europe and North America are increasingly resorting to dispatching "terror suspects" to countries where torture and abuse are commonplace. In so doing, they appeal to specious "diplomatic assurances", which deny allegations of torture in the countries in question. According to the contribution of Benjamin Ward of Human Rights Watch to the current volume, a change in thinking is essential here. The OSCE has a particular calling to ensure that human rights are not disregarded within the scope of activities to combat terrorism.

However, this – justified – foregrounding of the human dimension was itself a cause of the vehement criticism of the OSCE in recent years by, in the first instance, Russia and the other CIS countries, which has precipitated a deep sense of crisis. The criticisms have been discussed often and at length in previous OSCE Yearbooks and need not be repeated in detail here. The key complaints concern perceived geographic and thematic imbalances in the Organization's activities: its tendency to focus on the states of the former Soviet Union and Yugoslavia, and the stress it lays on the human dimension – at the expense of the politico-military and economic-environmental dimensions. These allegations are once again taken up in the current volume.

A further recent development is the emergence of “new”, largely trans-national threats alongside “traditional” international and inter-state conflicts. These are coming ever more to dominate the agendas of international organizations. Mentioned briefly in the Final Act and its key follow-up documents, “international terrorism” was first identified as one of the most significant future threats to global security in the 1999 OSCE Istanbul Charter. Since 11 September 2001, it has also become one of the OSCE’s key operational concerns. In response, the Organization has adopted a number of documents, including the Bucharest Plan of Action for Combating Terrorism of December 2001 and the Bishkek Action Programme from the same year, the OSCE Charter on Preventing and Combating Terrorism, which was adopted at the Porto Ministerial Meeting in 2002, and the Sofia Ministerial Statement on Preventing and Combating Terrorism of December 2004. In these documents, the OSCE assumes primarily the task of encouraging and supporting the participating States in ratifying and implementing the twelve UN conventions and protocols relating to terrorism. The Organization is also stepping up its activities in the areas of border security, combating the financing of terrorism, and controlling the proliferation of small arms and light weapons. The extent to which these documents may provide an effective framework for fighting terrorism is explored in the current volume by Christophe Billen with regard to Central Asia.

Alongside international terrorism and violent extremism, other new and serious threats to the security of the OSCE States and their populations that have been identified are organized criminality, human trafficking, and the illegal trades in drugs and weapons. These topics have grown in importance since the Istanbul Summit Meeting and dominated the Ministerial Council Meetings in Porto, Bucharest, Maastricht, and Sofia. The Organization has also responded in this case and has made the fight against human trafficking one of its major priorities. In 2003, the Maastricht Ministerial Council endorsed the Action Plan to Combat Trafficking in Human Beings and created the position of Special Representative on Combating Trafficking in Human Beings. Helga Konrad was appointed to this role by the Bulgarian Chairmanship in May 2004 and is supported by the Anti-Trafficking Assistance Unit.

With the adoption of the Charter of Paris in November 1990, respect for human rights was joined by a commitment to democracy, rule of law, and political pluralism. The Paris Charter also heralded a comprehensive institutionalization, as did, in particular, the Decisions of the Helsinki (1992) and Budapest (1994) Summit Meetings. This eventually led to the CSCE being recast as the Organization for Security and Co-operation in Europe, effective as of 1 January 2005, and created the OSCE’s current organizational structure and such valuable institutions as the Warsaw-based Office for Democratic Institutions and Human Rights (ODIHR). ODIHR’s key responsibility is to monitor and support the fulfilment of commitments arising from the OSCE’s human dimension. One of the key means it uses to achieve this is comprehen-

sive and critical election monitoring, as illustrated in this volume with reference to the monitoring of the Albania presidential elections in Summer 2005 and a foundational analysis by Victor-Yves Ghebali of the OSCE's standards for elections and election monitoring.

The OSCE considers itself to be above all a community of values. However, thanks to the fact that its resolutions have merely political and not legal force, it cannot enforce these values. This frequently leads to complaints of ineffective implementation, especially with respect to the human dimension. The OSCE is and will remain a governmental organization. It cannot devote itself to a cause with the unconditional fervour of an NGO but has a correspondingly greater influence on the governments of its participating States. The pros and cons of this have been discussed at length in the OSCE Yearbook in the past. In the current volume, Eric Manton concludes by noting that "the OSCE human dimension has expanded the reach of an international body into the internal affairs of each participating State, in terms of extent and content, further than any other international organization. The evolving formula that the OSCE has employed to fulfil its human dimension mandate, while definitely not perfect, has been more appropriate, and thus more effective, than other European or global organizations in dealing with the actual challenges to human rights in those areas where they are most often and most severely violated [...] In its human dimension commitments, it has [...] developed human rights standards that are among the most progressive of their kind in the world [...] This is the success story and value of the OSCE that should be celebrated in this anniversary year." In the end, perhaps the inclusive approach towards states that violate the norms of a community of values offers more hope than does excluding them. The OSCE undoubtedly has its limits – but do they necessarily represent missed opportunities? Simply the fact that 55 states continue to discuss these issues and reach collective agreements is a good sign and a worthwhile – if difficult – exercise.

The conviction that the security of states also depends upon the security of individuals was one of the great achievements of the dialogue held during the Cold War. Over three decades and under the most diverse historical conditions, the OSCE has succeeded – as my colleagues put it – in creating a "Culture of Dialogue" that has made an essential contribution to security and co-operation in Europe. As they argue, multilateral dialogue remains the key characteristic and driving force of the OSCE today – not only the dialogue among the 55 participating States, but also the dialogue with civil society, with national and international NGOs, with international partner organizations, and with the OSCE's Partners for Co-operation in Asia and Africa – a dialogue that is carried out in times of peace and in times of war, crisis, and conflict. It depends upon the willingness of the states to discuss, collectively and openly, all the issues that make up the complex agenda of the OSCE, to make decisions, and to find common solutions to problems. This dialogue ensures that the OSCE will remain indispensable in the future.

The OSCE Yearbook 2005 considers a wealth of current and perennial themes, by no means all of which can be treated adequately in a short foreword. The editors would here merely like to thank all our authors for their dedicated, erudite, and lively contributions, which, as always, have ensured that the OSCE Yearbook remains far more than merely a report on activities.

I.

States of Affairs – Affairs of State

OSCE: Developments and Prospects –
Focus on 30 Years of the Helsinki Final Act

Germany's *Ostpolitik* and the Road to Helsinki

To some extent, it is a miracle that, 30 years after the Helsinki Final Act, there is anything to commemorate at all.

Previous events made it appear unlikely that a conference would ever be founded in the first place. In 1954, Vyacheslav Molotov, the then Soviet Foreign Minister, had proposed a pan-European security conference. This proposal, which aimed in part at disrupting the accession of the Federal Republic of Germany to NATO, set to take place the following year, could easily be rejected, as it – quite unrealistically – did not provide for the participation of the USA. In 1964, when Poland proposed to the United Nations that discussions should be held on a system of European security, this was considered to be a reflection of that country's interest in *détente*. Two years later, the Warsaw Pact adopted a "Declaration on Strengthening Peace and Security in Europe", which was approved by the Communist parties at a meeting several months later. NATO now reacted by producing the Harmel Report, which asserted the complementarity of *détente* and defence.

After the erection of the Berlin Wall, Willy Brandt had consistently argued that co-operation with the East needed to follow West Germany's integration in the West. In his view, there were several reasons why it was in the interest of both Germany and the peoples of Eastern Europe to promote economic co-operation and facilitate human contacts. He saw closer European links as necessary for improving Germany's prospects. Furthermore, Brandt was not willing to accept that the West should leave the "peace initiative" entirely to the East, arguing rather that the West needed to take up the challenge by interpreting the word "peace" in its own way and making its own proposals. He had therefore already argued in favour of "active coexistence" in the USA in the 1960s and believed that a European conference would be feasible if the USA were to participate and the West could agree on unified and distinctive positions.

In 1969, two new factors changed the situation. In the summer, the Soviet Union proposed a conference to improve East-West relations. Because the proposal envisaged the participation of the USA, America was now called upon to respond. In the autumn, Brandt became Chancellor, having expressed his determination to pursue a deliberate policy of *détente* and *rapprochement* with the East (*Ostpolitik*). Germany's European allies did not want to leave Germany alone in this. Or, to put it undiplomatically: It was easier to control German-Russian talks when Europe acted collectively. This was especially true for Washington. Once the Germans had taken the initiative, the road to Helsinki was open.

In Bonn, people started to believe that the conference would become a reality. While this was welcome, it was also dangerous, as it naturally entailed East Germany becoming an equal partner in discussions, allowing it to achieve its international breakthrough while remaining obdurate with regard to all of our wishes. It was therefore necessary to conclude the treaty on basic relations between the two states (Basic Treaty) and the agreement on civilian transport links with Berlin (Transit Agreement) in advance. Bonn had to work to ensure that the conference did not come about too quickly. The three Western occupying powers understood this. In addition, they calculated that it was far from certain that West Germany's bilateral treaties would be concluded, and that Brandt would remain Chancellor. In this case, all the risks associated with *détente*, including the conference, would be avoided. This aspect of the vote of no confidence Brandt had to face in April 1972 was clear to only a very few.

After this obstacle had been overcome, the Treaty of Moscow ratified, and the Berlin transit question answered so effectively that it never again became an acute issue while Germany remained divided, the way was clear for the signing of the Basic Treaty and preparations for the conference could begin. Brandt had already found an acceptable formula for conventional force reductions with Leonid Brezhnev in Orianda in 1971. Negotiations on mutual and balanced force reductions (MBFR) commenced in 1973. The start of these negotiations smoothed the way for the conference; it received the name CSCE, being renamed the OSCE in 1995.

However, at this point, there was still no certainty that this process would finally result in a joint document. The West began to get a taste for the topic, made its own substantive contributions to the negotiations, and pressed the Soviet Union – which wanted to ensure that “its” conference was a success – to make compromises that neither Moscow nor Washington had expected at first. The core issue within the “security basket”, namely the status of the borders of all states in Europe, had already been decided by the Treaty of Moscow. This declared that they were not “inviolable”, nor “sacrosanct”, nor “unchangeable”, nor “immovable”, but that they could be amicably and peacefully changed in accordance with the principle of non-violence. This was a key legal and political prerequisite for German unification.

The discussion of human rights and fundamental freedoms turned into a marathon series of negotiations which were carried out with great subtlety and could only be followed by experts. This led a frustrated Brandt to comment that the Communists could not be induced to negotiate themselves out of existence. His preference would have been for more easily achievable, simpler wordings, especially since his aim was to set in motion a process and he did not consider the Kremlin to be merely kind of district court. The eventual outcome allowed Lech Walesa and Václav Havel – and, with some delay, also civil rights activists in the German Democratic Republic – to appeal to the Helsinki Final Act. Only with the conclusion of this document did

the word “dissident”, whose use had previously been restricted to a religious context, take on a political meaning. It is not possible here to examine the extent to which Helsinki is responsible for overcoming the division of Europe, but it certainly played an indispensable role.

In retrospect, the resistance to the Final Act is astonishing. Although the USA, Canada, and 33 European states (including the Holy See, and excluding only Albania) were gathered together, the German opposition rejected the result on the grounds that it would cement the division of both Germany and Europe. The opposition in the USA was more important. Ronald Reagan, who was to stand for the Republican presidential nomination in 1976, criticized incumbent President Gerald Ford, saying: “I’m against it and I think all Americans should be against it.” The New York Times wrote that the conference should not have taken place, arguing that Ford had crossed the line between *détente* and appeasement, while Aleksandr Solzhenitsyn made a public attack on the USA, claiming that Eastern Europe was effectively being abandoned to its fate by Western Europe. Under this barrage of public criticism, the US President hesitated considerably over whether he should travel to Helsinki at all. On their arrival, they found that Brezhnev was clearly suffering from the after effects of his recent stroke.

There is no doubt that the participants had differing expectations of the Final Act. Some – and clearly not only those from the East – expected a consolidation of the *status quo* and long-term relief from the *querelles allemandes*. Bonn was banking on a process favourable to German and European development. The amazing thing was that the majority were wrong. But equally amazing were the effects of a document that was not even a valid treaty under international law, but merely a statement of intention with some ceremonial trappings.

When founding the United Nations in San Francisco in 1945, President Harry S. Truman declared that the organization could bring peace to the world “if the governments are willing”. The comparison with the OSCE is obvious. It may be weaker than the UN, but it is no less dependent on the wills of governments. And they left it weak and without the powers, the means, or the personnel that would have enabled it to perform its tasks and achieve its goals. This was the result of the shifting interests of the “great powers”. Although the Soviet Union sometimes pushed for progress, Russia was later less well disposed towards interference in its sphere of influence. There was but a single area in which the interests of all the parties involved could be united – and it was no coincidence that this was arms reduction. On the basis of a process that – following years of effort – appeared to have run out of steam, Mikhail Gorbachev was able to get the ball rolling again. In November 1990, the heads of state or government of the two alliances agreed on measures to reduce conventional forces and signed the CFE Treaty. This led to the largest reduction of conventional armed forces in history. Over 50,000 weapons systems were destroyed, and 2,400 mutual inspections have

taken place. The desired “balance” – the effective inability to attack by means of conventional weapons – was achieved, putting in place a key precondition for German reunification. However, this balance was calculated on the assumption that Germany would remain divided, which meant that later developments rendered this success obsolete. Little thought was given to the possibility of German reunification, and, more critically, even less to the end of the Soviet Union, which was soon to follow. The result was something no one had sought: The 3:1 superiority enjoyed by the East was transformed, in the space of five years, into a 3:1 superiority for NATO over Russia. The East German National People’s Army paid the price of Germany’s arms reduction commitments with its dissolution.

At the end of 1990, this hardly impinged upon German consciousness. The same was true of the Charter of Paris, which was passed in November of the same year. It adopted the formula on the peaceful change of all borders regardless of when they were established any by whom directly from the Final Act, turning this principle into a cornerstone of peaceful stability in Europe. It was neither the CSCE’s nor the OSCE’s fault if governments did not act appropriately when Yugoslavia collapsed into a state from which it will be unable to return to stability as long as there are no internationally recognized and guaranteed borders.

Without any means of applying pressure, without the ability to impose sanctions or to enforce solutions to matters of its concern or to demand compliance with its decisions, the OSCE has produced impressive results. To do so it has had to engage in persuasion and win over its partners with arguments. Its activities are low-key and quiet. It makes no headlines. War is noticed, but the avoidance of war, the peaceful resolution of a conflict, garners little attention. The successes of the OSCE occur in the lee of world politics. In our noisy, excitable times with their lurid colours and hysterical disputes, this further disadvantages peoples and states that could receive more help from the OSCE if governments would allow the Organization to act or use it accordingly.

The most outstanding success story, one worthy of a Nobel Peace Prize, if only it were granted the international recognition it deserves, is the work of the OSCE’s High Commissioner on National Minorities. When the position was conceived and voted into existence in 1992, it was at first debated whether it would even be necessary to provide the holder with a secretary. The first task faced by the High Commissioner was to establish a foundation to raise money to support his work. That, despite the fact that more than 90 per cent of military conflicts in the last 25 years were caused by the escalation of problems associated with minorities. The High Commissioner has discovered that extreme demands for self-determination target national and religious minorities, creating new conflicts by creating new minorities. The same applies to autonomy arrangements when these are understood as or can be feared to be a stepping stone to secession.

In the meantime, the strategy of seeking to reach agreement on the integration of minorities in the states in which they live by defining rights and duties that are acceptable to the majority while offering good prospects to the minority has proved itself many times over. Such arrangements are so successful because they promise every citizen the opportunity for peaceful development and prosperity. All minority rights ultimately derive from my human right to decide what ethnic identity I feel I have and to express it freely, including in terms of the language my children learn and the schools they attend, while remaining loyal to my state. The formula that needs to be found is the right combination of these elements – a different formula in each case.

Anyone examining the potential conflict hot spots within the territory of the OSCE States where violence has not already broken out will be struck by the extent to which the OSCE's historical legacy is under-utilized and a potential exists that is provided with inadequate support. The consequences have still not been drawn from the insight that prevention is better and cheaper than UN peacekeeping efforts and that both are better and cheaper than using force to end a conflict – quite apart from questions of blood, suffering, and devastation. Weapons can end violence, but cannot compel the creation of peace.

Strangely, the end of the Cold War also created difficulties for the work of the OSCE. The new situation should have enabled pan-European cooperation to replace the armed balance of terror. But the habits of thought formed during 50 years of East-West conflict has still not been overcome, not by states and societies, nor by governments and individuals. Time is needed for the European body to expel the poison with which it was injected – in the West as well as the East. This process is continuing.

As the Soviet Union collapsed, its successor republics assumed its obligations under international law, including the goals and principles of the Final Act and all the rules agreed upon since. That was a positive development. It promised stability and predictability in the form of a pro-European attitude on the part of the new subjects of international law. That these obligations and rules were only adopted at a formal level became clear when it emerged that the new republics did not always associate the concepts and values of the OSCE with the content they were assumed to contain by the founding states. The new states, from the Black Sea to the Chinese border, developed rather different interests and orientations depending on their environments, histories, and religious orientations.

This variety of approaches was unwittingly encouraged by the failure of the established OSCE States to give the new participants a feeling that they were welcome additions to an expanding family. The existing OSCE States should have seen more of the new republics' duties in terms of rights, while the new participating States should have understood more of their rights as obligations. This did not come about, as the problem was simply not recognized by the governments of Europe, who failed, both individually and col-

lectively, to formulate a policy on Central Asia. The OSCE missed its historic opportunity to play a decisive (European) role in this region. Today, it is no longer possible to overlook the fact that these states, to various degrees, and in line with the ironclad laws of geography, are aligned with either Russia or America, and, with the exception of the countries of the Black Sea region, look more to China than to Europe. The task facing Europe – including Russia – in addressing these regions is consequently more significant.

These days, the question of Russia's involvement is rarely considered in terms of the Soviet Union's key role as a founding member of the CSCE. Instead, Moscow appears as a defender of its own interests and a competitor in these potentially explosive regions, and as a partner in the NATO-Russia Council. This entails the risk of forgetting that, without Russia, there can be no security and stability in Europe. The idea, also tied up with the name of Helsinki, of building a common security space between Lisbon and Vladivostok is hardly discussed any more. These days, there would be little concern over the possibility of America being excluded. Nowadays, that is simply unthinkable. The "E" in OSCE stands for Europe and the European interest in common and self-determined security; new life needs to be breathed into this idea, which should be put to work again – together with and by means of the OSCE.

There is one major lesson we can learn from that which was created at Helsinki: The diplomacy of 30 years ago gave birth to a model of the enormous power that non-violence has to redraw borders and that co-operation, human and minority rights have for peaceful change. This is directly related to the contemporary debate over *hard power* and *soft power*. The use of force could not have achieved what has been realized using non-violence. Soft power can in fact be harder than hard power. The stable development of the CSCE that was guaranteed by two superpowers would now have to be provided by the sole remaining superpower. In any case, it must remain the natural interest of all weaker parties to replace might with right, to use preventive diplomacy and treaties to avoid preventive wars, in short, to strengthen soft power so that the use of force becomes unnecessary. If Helsinki has a single key legacy that remains relevant today, it is the strengthening of Europe's peaceful power.

The CSCE at Its Inception: 1975 in Myth and Reality

I confess to having had a thirty-year love-hate relationship with the CSCE.

Perhaps I am unique among those who were responsible for the negotiation of the Final Act of 1975 because of my long association with the CSCE in the years that followed. After the Final Act was signed in Helsinki, I returned to Washington to head the State Department office responsible for the CSCE. In that capacity, I pursued the commitments of the Final Act by establishing an annual report on their implementation and pressing NATO to commission a similar report. I then returned to the first follow-up meeting of the CSCE in Belgrade in 1979. I published a book entitled “To Helsinki”¹ on the negotiation of the Final Act. And I returned once again to the CSCE as head of the US Delegation when the Conference re-convened in Vienna in 1989. In Vienna, we negotiated the “Charter of Paris for a New Europe”, signed at the Summit in 1990 to symbolically close the Cold War.

On the one hand, my involvement in the CSCE was clearly one of the dominant experiences of my diplomatic career. But the ambiguity of American views towards this sprawling negotiating process, the political battles related to it in Washington, and the effects of all this on me personally, left scars each time I worked directly with the CSCE. And the ups and downs of successes and dead-end failures in the CSCE process itself have been difficult not only to judge, but also to live through.

It was always professionally and psychologically dangerous – a kind of high-wire act – because the American negotiators had virtually no instructions, no real communication with the political leadership in Washington and no back-up. If you made a misstep, there would be no one there to catch you. And in the end it became physically dangerous too, at least for me.

In the early 1990s I flew “nap of the earth” style into war zones in the Caucasus in rickety old Russian Army helicopters. “I’ll be back at five o’clock”, my Russian Army pilot said to me once, as I disembarked on a CSCE mission in the middle of God-only-knew-where. “And I’ll wait for five minutes.” Few people in Washington knew what I was doing, and even fewer cared. The result for me has been that, while sharing the fascination that other Helsinki hands have felt for this sporadic negotiating process, I have also tried to distance myself from it.

1 John J. Maresca, *To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975*, Durham, NC 1985.

It was August 1975 in Helsinki and I was indeed “the only American who understood what was going on in the negotiations”, as the Assistant Secretary of State for European Affairs, Arthur Hartman, put it to Henry Kissinger at the time of the Summit. And Hartman was right – I understood it all: the complex relationships between the different issues, the key personalities involved, what was at stake and how to resolve the various Gordian knots so that the result would be acceptable. The Final Act was acceptable, it was done and Gerry Ford and Leonid Brezhnev and all the others signed it.

Unfortunately for me, the CSCE was always something of a political football in Washington – the Republicans embarrassedly disowning it despite the fact that the main events happened on their watches; the Democrats trying hard to blame the Republicans for ignoring the CSCE’s potential, while also trying desperately to take the credit for making it work, particularly with respect to Russian Jewish emigration and East European hopes for independence, issues that resonated among the American electorate.

Looking back over the thirty years that have passed since the Final Act was signed, during many of which I was deeply involved in CSCE negotiations and activities, I ask myself again that question we all posed in Helsinki in the summer of 1975: What is the real significance of the Final Act?

This remains the central question for those of us who participated in the negotiations, who observed them and measured the results against the historical forces at work in Europe at the time. The heart of the matter is the extent to which this negotiation, this event, this document, this historical episode, had something to do with the unraveling of the Communist system in the USSR and its satellite governments in what was then called Eastern Europe.

The specifics of what was negotiated were modest, especially to the experienced analytical reader. In the autumn of 1975, I was invited to speak on the Helsinki Final Act to an assembly of interested professors at the Harvard Faculty Club. The first question after my presentation was from an indignant professor who had only heard of our negotiations when President Ford announced that he would participate in the signing: “Why were we not informed that these negotiations were going on?” In reply, I said that everything we were doing was public and that at least two American professors I knew had followed the negotiations closely, out of personal interest. The real question, I threw back, was why American academics in general, so focused on nuclear negotiations and other strategic matters, were not interested in our conference.

A second, only slightly more respectful question was this: “With all this paper, all this complex language, was this two-year negotiation really worth it?” As it happened, just the week before the State Department had arranged for the reunification of two Czechoslovak children with their parents, on the basis of the family reunification provisions of the Final Act. I told the story, and then added: “If one child is reunited with his or her parents because of our effort, then it was worth it.”

But such reunifications were rare, sporadic successes in a much broader situation, which had not changed, and did not change in any fundamental way for another dozen years.

It is tempting, now that the Cold War is over and Europe has evolved into such a different place, to exaggerate the importance of the Final Act and its role in bringing about the historical changes that took place towards the end of the century. I have heard many people do this, especially those who were involved in the CSCE negotiations of that period. It is also tempting to exaggerate the importance of the roles played by oneself or one's group. I have also observed this recently, at so-called "oral history" sessions, and in myself, too. But is it correct?

Certainly the CSCE had its place in the historical evolution of that time, but was it a force for change or a reflection of it?

The content of the Final Act is, in fact, rather thin. Taking a look at what was vaunted by the Western group at the time as the Basket Three "Family Package" of freer travel, marriages between nationals of different states, family contacts, and reunification, one wonders why these modest points should have been considered so threatening by the Communist countries that they resisted accepting them at the negotiating table for two years. And the Final Act's simple allusion to human rights must be contrasted with the fact that human rights were already laid out very fully in the Universal Declaration of Human rights of 1948, which is legally binding for all signatories of the United Nations Charter, unlike the commitments of the CSCE, which were purely political. The CSCE really added very little to the existing obligations in this field.

And yet the Soviet Union did indeed ferociously resist every positive adjective, every clarifying comma, and carefully sought to add qualifiers and weaken the verb forms to avoid any sense of real obligation in the "freer movement" sections of the document. The Soviets, so it appeared, deeply feared those adjectives and verb forms. The reality was that the low priority attached to these initiatives by Western governments, particularly the administration in Washington, had led the Soviets to conclude that they did not need to accept them and could get to Helsinki without doing so. These "freer movement" ideas had been dreamed up and drafted on paper at the working level, primarily in the Political Committee at NATO, in Brussels. While they had been officially endorsed by Western governments, no senior Western political personality was in a position to argue them out with the Soviet leadership.

The Soviet Basket Three negotiator took advantage of this situation. He was a master of the techniques of bullying, ridiculing, and humiliating his Western counterparts and did so whenever possible. He held the line against all those threatening stronger adjectives and verb forms right up to the last moment. He even resisted the urging of his fellow delegation members, even the chief of his own delegation. This was recounted to us regularly by his

colleagues in the corridors of the negotiation and afterwards. And it was also noted in an article I published in 1996, in the now-defunct magazine "Transition", by the chief Soviet negotiator, Anatoly Kovalev, shortly before his death. The Soviet Basket Three negotiator resisted those adjectives until he was overruled by the Kremlin and the Politburo of the Communist Party itself, at the very last moment, in order to make way for the Summit Meeting in Helsinki that Leonid Brezhnev so ardently wanted. Why such fierce resistance? It seems absurd today.

Ironically, though, it almost did not matter what we put into the Final Act. All of our efforts on specific proposals and airtight wording were irrelevant. What mattered – perhaps the only thing that mattered – was that there was a Final Act and that it seemed to represent some sort of consensus agreement on human rights and "freer movement of people and ideas". As we learned in the months and years that followed, the dissidents in the USSR and Eastern Europe would have agitated on the basis of almost any CSCE document. And it was, finally, the agitation of the dissidents and the yearnings of ordinary people that brought down the Communist system.

This real impact of the Final Act was only revealed later, and it was both dramatic and singular, as well as complex, multi-faceted, subtle, and unexpected. What we found as the Cold War drew to a close was that the Final Act had created a new dynamic, based on a newly universalized set of values. And, perhaps most importantly, it had created a new dimension, a new space, in which to pursue these values.

The Final Act created a new space, a space in which new kinds of events were possible. And we did not realize this until history demanded such a space, because the events that took place later were unthinkable in 1975.

The drama came in Central Europe in the sultry summer days of 1989. At that time, a number of East Germans, on vacation in Hungary, sought exit visas to cross the border into Austria. They knew that if they could reach the West German Embassy in Vienna, a short distance from the Austro-Hungarian frontier, they would immediately be issued West German passports, and be free. Free.

The Hungarian government, itself evolving in response to popular demands, was caught in a dilemma. A bilateral treaty with the German Democratic Republic (GDR) precluded it from issuing such exit visas to GDR citizens without the prior consent of the GDR government. But Budapest's reading of the Helsinki Final Act was that the Hungarian government was required to allow persons to leave the country if they wished to do so. For whatever combination of reason and rationale, the Hungarian government decided that it was more important in 1989 to respect their commitments under the Final Act than it was to respect their bilateral obligations to the GDR.

The result was that thousands of East German vacationers joyously crossed the border into Austria and made their way, as fast as they could, to Vienna and the West German Embassy. At the time, I was the American ambassador to the CSCE meeting in Vienna, and I well recall the astonishment and pleasure we all felt at seeing those tiny East German “Trabant” cars left by the side of the road. The East German families that had been driving them simply abandoned them when they ran out of gas, and hitchhiked the rest of the way to Vienna and the West German Embassy, where the queues of passport applicants stretched around the corner.

But those East Germans abandoned more than just their cars. They were so anxious to reach freedom that they left behind all of their possessions, their apartments, and their relatives, without any real hope of ever seeing them again. It was a moving historical moment. One could sense that this was indeed the tiny trickle coming through the dyke and that the dyke itself would collapse very soon.

Events rushed ahead that year as East Germans clambered over the walls of the West German Embassy in Prague, leading to the collapse of East Germany, of Soviet domination of Eastern (now again called Central) Europe, and even the disintegration of the USSR itself. My Austrian colleague sent me a section of the demolished barbed wire fence that had sealed the frontier with Hungary. I still have it, twisted and rusty, in my office. Farmers once again began ploughing long-unused fields that crossed the border.

In 1989, I participated in a meeting of American ambassadors in Europe, held in Berlin, where the discussion was on the implications of these events. Most of the ambassadors present thought that Moscow would crack down and suppress this latest round of agitation for freedom, as it had in the past. But three of us, Henry Grunwald, Dick Walters, and I, argued that there was something different at work here and that it would be very difficult for the Soviets to walk this cat back.

Even more surprising developments began to take place in this new space. One day, Albania, isolated from the rest of Europe since the 1940s, asked to become a member of the CSCE. In Vienna the Conference was caught by surprise by this unexpected *démarche*. Albania had been invited to join the original CSCE negotiations in 1973, but had never responded; no one doubted that they were eligible to join. But how to admit them to the CSCE space after so much had happened on the basis of commitments taken years before?

The key ambassadors conferred at the Hofburg Palace, where the CSCE met. We decided we needed a “snapshot”, meaning a report, of conditions in Albania at that moment, to be able to judge how the country would implement its commitments after becoming a member. But how to do this on behalf of the CSCE? Easy, I told my German colleague, since Germany held the rotating CSCE Chairmanship at the time: We will send a CSCE mission

to Albania to report on conditions there. How can we do that, he responded; the CSCE has never had a mission. If we decide to do it, I said, we can do it. That was the first CSCE mission. Since that time CSCE missions (now sometimes called “centres” of “offices”) have multiplied all over Europe and Central Asia, with different mandates and wide-ranging specialist staffing, giving the CSCE an entirely new dimension for encouraging respect for its values.

I was sent to Albania and the Newly Independent States as a special envoy, to evaluate the situation on behalf of the United States and to explain the basis for our bilateral relations. I met with the leaders of these governments, most of them quite surprised to find an American ambassador in their midst. In Tirana, the defence minister, a sophisticated engineer in his fifties, told me I was the first American he had ever seen.

The Charter of Paris for a New Europe, signed in 1990, established the CSCE’s Office for Democratic Institutions and Human Rights (ODIHR) in Warsaw, an important institution in its own right, which now helps to ensure, through election monitoring and other devices, that the democratic and human rights standards optimistically referred to in the Final Act of 1975, and in later CSCE agreements, are respected in practice.

Another example of what was made possible by the creation of this new dimension through the Helsinki Final Act was an obscure but important document called the “Joint Declaration of Twenty-Two States”. This document, negotiated in the lead-up to the Paris Summit of 1990, was signed at the Elysee Palace by all the members of NATO and the Warsaw Pact. It declared that the Cold War was over, and that there was no longer any reason for hostility among them. If there is a document that confirms that the Cold War was over, this “Joint Declaration” is it. Such a document could perhaps only have been negotiated in the unique CSCE space.

The Final Act had also held the door open for the reunification of Germany, through its language on possible peaceful changes of borders: “They [the participating States] consider that their frontiers can be changed, in accordance with international law, by peaceful means and by agreement.” This sentence was negotiated personally by Andrei Gromyko and Henry Kissinger on behalf of the West German government, for this specific purpose. As one striking example of the low esteem in which Washington held the CSCE, the negotiation of this key clause of the Final Act was ridiculed publicly by Kissinger as a negotiation over the “placement of commas”, though it was the placement of the two commas in this phrase that gave it its full significance: changes in frontiers *are* in accordance with international law if they are brought about by peaceful means and mutual agreement.

When the Cold War ended, there were indeed many changes in European frontiers, some peaceful, some convulsive, as history caught up with the evolutions that had taken place between 1945 and 1990. In Germany, in the USSR, in Yugoslavia, and in Czechoslovakia, borders were changed. Some

established states disappeared, some new ones appeared, and some old ones reappeared. Of course, the Final Act was not used as the basis or the rationale for the actions that led to these national changes, but the Final Act nonetheless did foreclose many questions, or even possible obstacles, that might have been raised against them.

One day, my East German colleague, whose place at the conference table, in alphabetical order, was right next to mine, told me he was saying goodbye. He was an engaging man, to whom I had once tried to explain what “market forces” are. We wished each other well, as ambassadors do when one is transferred. But the next day there was no longer an East German at our conference table.

And the CSCE had not yet reached the limits of how it could surprise and respond to new developments. When the USSR dissolved into independent republics, the first issue posed for the CSCE was how to treat the Newly Independent States that had been parts of the USSR. The answer was clear for those new states that were physically within geographic Europe – Lithuania, Latvia, Estonia, Belarus, Ukraine, and Moldova, plus of course Russia. They were indisputably eligible for CSCE membership. But what attitude should the CSCE adopt towards the new states of the Caucasus and Central Asia – Georgia, Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, and Kyrgyzstan?

Many Europeans argued that these new countries were “not European” and therefore could not rightly belong to a European conference. But my view was that these countries had been members of the CSCE from the beginning as parts of the USSR, which was one of the Conference’s original participating States. They had thus already accepted and were bound by the commitments of the Final Act, unless they chose to renounce them as independent countries. So not receiving them as CSCE participating States would be tantamount to throwing them out, an action for which there was no justification.

Moreover, I argued that if these countries had the vocation to adhere to the Final Act’s commitments, we should welcome that and seek to ensure that these commitments were respected after independence. In the end, these new countries were all invited to join the CSCE in their own right, and today the OSCE and its missions (or centres or offices) are active throughout these states, and in former Yugoslavia, giving the new states important ties with Europe and the West.

It can be argued, I believe, that the evolution of these states since their independence has been influenced by their membership of what is now the OSCE. OSCE observers from ODIHR in Warsaw have watched over and commented on their elections (as they have also done in the most recent American presidential election), and OSCE Centres and Offices in many of these states offer a glimpse of the system of values recognized in the Final Act. That these Newly Independent States should be linked – even by so

fragile a thread as the OSCE – with transnational standards of human rights and democratic governance is a positive element for their development. Indeed, we have heard echoes of Helsinki in events in the Baltic states, in the Caucasus, and most recently in Ukraine, as these countries have pursued their destinies.

Even the much ridiculed “arms control junk food” of CSCE military security commitments, the so-called Confidence and Security-Building Measures (first called Confidence Building Measures, CBMs, which later evolved into CSBMs), have had a certain underappreciated importance. This family of modest gestures towards military *détente* first appeared in the Final Act and was developed and expanded in later CSCE negotiations. It was in one of those later negotiations that agreement was first reached on a no-notice military inspection regime between NATO and the USSR, opening the door to other such inspection regimes in relation to nuclear missiles and conventional forces.

The CSCE has had its failures, too, but that is to be expected. The Final Act contained hopeful language on the peaceful settlement of disputes, later developed into a “mechanism” for resolving interstate disagreements. But this has remained on paper only, and the CSCE mechanism has never been used for specific dispute resolution.

It is true that the CSCE has sometimes been able to enter situations in a “good offices” role, when other organizations could not. This was true, for example, of its missions to Chechnya. But it has not done well at conflict mediation thus far. I can bear witness personally to this, since I was a part of the CSCE’s first mediation effort – between Armenians and Azerbaijanis in relation to the conflict over Nagorno-Karabakh. That initiative, oddly called the “Minsk Group”, is still going on, still without any real success. This mediation, which was politically – and also physically – dangerous at a time when the vicious conflict in the area was still raging, has been a failure, at least thus far. Or is this failure actually because the United States government has not really pressed for a settlement, in view of its own conflicting political interests in the region?

When Yugoslavia began its descent into the inferno of ethnic cleansing and ruthless civil conflict, the CSCE was unable to muster an adequate response. There were discussions in CSCE meetings, and resolutions were passed. But in those early days, the United States thought this should be a “European problem”, and pushed the European Union to take the lead in dealing with it. And the Europeans, who could not even agree on a general approach, were slow, inept, and lacking in the essential political will. Under the circumstances, the CSCE was reduced to adding some symbolic CSCE representatives to the EU’s all-but-useless “observer force”.

But perhaps the CSCE and its varied emanations have avoided conflicts, which have not surfaced because of the efforts of its institutions. This was the intent of the CSCE in establishing a position called the High Commissioner

on National Minorities. The two persons who have held this position, former Dutch Foreign Minister Max van der Stoep and, currently, Rolf Ekéus, a Swedish diplomat, have concentrated their work in countries where there is potential for internal conflict, and their interventions have apparently had positive effects. While it is of course impossible to know what might have happened without these efforts, even if only one conflict has been avoided this would be no small achievement in view of the number of wars that have broken out in Europe after the close of the Cold War.

How should we understand this vast panorama of events in the CSCE's "space", which opened in August of 1975 and has not yet closed, though shifting priorities may yet sideline it? In my book about the negotiation of the Final Act, I suggested that the Final Act was a kind of ersatz peace treaty, substituting for the formal peace treaty, which would most likely never be signed, to close the Second World War. Now, many years later, I realize that I was at least partly wrong. My analysis at that time was too simple, too instantaneous, and perforce did not take account of the evolution that has taken place in the thirty years that followed.

The way I would summarize it now is this: The Final Act opened a vast political and historical dimension of opportunity, in which it became possible to settle the remaining issues from World War II. The Cold War, it now appears, was a lingering and long-unresolved final battle of that war. Only when the Cold War battle ended was it possible to say that the Second World War had truly been closed.

The "peace treaty" ending the Second World War is, in fact, a complex of documents that includes the Final Act, the Charter of Paris, the Joint Declaration of Twenty-Two States, the agreements on German reunification, and many other less central instruments. And now, when one can move freely across the German plains through Poland into Ukraine and even Russia, Europe is indeed whole again, free of the legacies of the war.

Much of this history took place within the new "space" created by the Final Act. Perhaps it would be an exaggeration to say it could *only* have taken place after the Final Act. The peoples of Europe are really the force that changed the situation from that of the Cold War to what Europe has now become. But I believe it is fair to say that the progression was eased thanks to the effects of the CSCE.

From the time in 1973 when George Vest called me to ask if I would join him in the US Delegation to the negotiations in Helsinki, I was fascinated by the CSCE. I have always had a great admiration for Vest, a truly talented and original multilateral negotiator, with a folksy style all his own. "If you just sit there, and are prepared to listen to people," Vest used to say, "people will

come and talk to you.” I can see him now, straddling a backless leather bench in the lobby of the CSCE Conference Centre, with other ambassadors circling about, waiting to have a word with him.

And perhaps, after all, this is the main strength – and the legacy – of the CSCE: a place where people will listen, and therefore a place where people can talk. Is this a modest achievement, or is it the key to finding solutions?

The Final Act of Helsinki as Seen through the Eyes of a Witness from Czechoslovakia¹

In December 2004, I was in Geneva at a conference for representatives of non-governmental organizations preparing for the “Beijing Plus Ten” World Conference on Women, which was held in New York City in spring 2005. During a discussion at one of the sessions, I remarked that 2005 would be the 30th anniversary of the signing of the Final Act of the Helsinki Conference on Security and Co-operation in Europe and that this agreement, which was also signed by representatives of the Soviet bloc, including Czechoslovakia, began what became known as the Helsinki process. It helped to raise the significance of international agreements, contributed to upholding human rights in totalitarian regimes, encouraged the spontaneous founding of civic initiatives (Charter 77 was an example within Czechoslovakia), which appealed to this document, and finally contributed to the fall of totalitarian regimes throughout the entire Soviet bloc. I proposed that we try to establish a similar arrangement now, one which would be signed by states where human rights – and human rights include the rights of women – are abused today. This would create a situation analogous to that of 30 years ago, where civic initiatives could appeal to these international agreements and thereby indirectly force governments to uphold the commitments they have undertaken. Quite simply, I wanted to introduce my experience and that of people from Czechoslovakia’s dissident community into the activities of current women’s organizations, to have this experience transcend a particular time and place, and, at the same time, to remember an important anniversary.

My proposal to the Geneva meeting was met with almost no response. I was unsuccessful. For the younger delegates of women’s NGOs, the Helsinki accords were unfamiliar territory. Older delegates from the West – that is, those who even saw a need to react to my comments – scornfully referred to Helsinki as an “agreement of the establishment of the time”, an agreement among the powerful. Some even said it was meant to mislead people. Several delegates from Poland, Russia, and Ukraine, however, agreed that we should at least try to work towards establishing a similar agreement with governments of current totalitarian regimes. Nevertheless, this well-intentioned proposal was not pursued further.

This experience and the invitation to contribute to the OSCE Yearbook motivated me to record my own viewpoint – which I share with other Czechoslovak dissidents – on the beginnings of the Helsinki process. To do this, I drew on contemporary texts by Czech authors that were published “in

1 Translated from the Czech by Linda A. Mastalir.

exile". The point of view I shared with my friends and fellow dissidents was certainly coloured by the reality in which we lived. We existed in a totalitarian system, controlled by the Communist Party of Czechoslovakia, which, according to Article 4 of the Constitution, was superior to the government and the so-called Socialist Parliament. Moreover, all this was under the direct influence of the Central Committee of the Communist Party of the Soviet Union. By 1975, there was also increased political oppression in Czechoslovakia. It was then a mere seven years since the Prague Spring, which was interpreted by the post-1968 leadership of the Communist Party of Czechoslovakia as a counter-revolution and direct disobedience vis-à-vis the Soviet Union. This attempt at "Socialism with a Human Face" was also interpreted by the Soviets as a counter-revolution and punished with what they called "international brotherly assistance", an invasion of half a million soldiers from Warsaw Pact forces that entered our country in August 1968. For another twenty years, the Soviet Army "temporarily" stationed 200,000 soldiers inside Czechoslovakia – with equipment for twice that number.

Following August 1968, there was another wave of emigration and many who stayed lost their jobs during a vetting process in which they were required to acknowledge that there had been a counter-revolution and that the assistance of Warsaw Pact troops was therefore justified. In 1970, political trials were revived and a further 300,000 to 400,000 people emigrated. Members of the Communist Party who had supported reforms in 1968 were expelled from the Party (this affected about 750,000 people); they lost their jobs and their children were persecuted.² These changes affected a great number of people, and they all took place without any perceptible intervention by the West. Sympathies were on our side, and much was written about the tragedy of Czechoslovakia – which Heinrich Boell called "the Biafra of the Soul" – but diplomatic negotiations in our favour were not embarked upon by Western states.

Only in 1975 did the position of the Western states slowly begin to change – at least from our isolated perspective here in Czechoslovakia. After some 30 months of negotiations between the Western states and the Soviet Union and its satellites, the Final Act of the Helsinki Conference was signed. Many Western politicians, intellectuals, and publicists considered the Helsinki agreements an affirmation of the post-war situation and the gains made by the Soviet Union. In fact, Alexander Solzhenitsyn called it a new betrayal and a new Munich.³

We saw things a little differently. Of all the details of the Helsinki accords, most important for us was the fact that our government had also acknowledged the Universal Declaration Of Human Rights (albeit only formally), though its publication here was not officially sanctioned. The declar-

2 Cf. Milan Šimečka, *The Restoration of Order*, London 1984 (English edition; original: *Obnovení pořádku*).

3 Cf. Josef Pokštefl, Helsinki – a co dál?, in: *Listy* 7/1975, pp. 33-59.

ation was not even published in Czechoslovakia following the official signing of the accords, but if we managed to duplicate the document ourselves then the Communist Party of Czechoslovakia could not label it a subversive act. Perhaps it is also because of this fact that I consider the Helsinki Final Act to be one of the most important turning points of the last quarter of the Twentieth Century. Its political consequences, especially in the realm of renewing civic initiatives in totalitarian countries, have not yet been adequately evaluated.

The official state press (there was no other sort in Czechoslovakia) publicized the Helsinki Declaration in the pages of the daily *Rudé Právo*, but interpreted it above all as securing peace and economic co-operation. There was hardly a mention of the “third basket”, which dealt with human rights issues. In Czechoslovakia, as in all of the Communist countries at that time, the press was under the watchful eye of the Central Committee of the Communist Party. The media was strictly censored, and only information that agreed with the official party line could be published – and this also needed to match the official viewpoint of the Communist Party of the Soviet Union. For example, although the Helsinki Conference was a topic in our newspapers, any information was published only after it had been disclosed in the USSR, and the censors ensured that Czechoslovak newspapers did not devote more space to matters of Helsinki than did the official Soviet newspaper, *Pravda*.⁴

We regarded whatever was written in *Rudé Právo*, the official daily of the Communist Party of Czechoslovakia, as propaganda. Therefore, we only began to pay attention to the Helsinki document once mention of it was made in the Czech press in exile; that is, in periodicals published for us (which often included contributions by authors writing under pseudonyms inside Czechoslovakia) and smuggled back into the country to be distributed unofficially. This process was another reason why we often had a delayed reaction to world events. Although given the timelessness in which we lived, this did not matter much.

The year 1975 was a pivotal one for our country not only because of the Helsinki accords. In April 1975, Václav Havel sent his “Open Letter” to the General Secretary of the Communist Party of Czechoslovakia, Gustav Husák,⁵ in which he outlined the unhappy state of our country, its demoralization and devastation, and informed Husák about the situation of political prisoners. This letter was sent officially to the General Secretary, and with the author’s approval, many copies were also distributed unofficially amongst the population. On their own initiative, people made multiple carbon copies of Havel’s letter, passed it on to others and discussed its contents. Sometimes I think that our citizens were more interested in information pertaining to

4 Cf. Pavel Tigrid, *Helsinky jako hůl*, in: *Svědectví* 50/1975, pp. 199-201.

5 Václav Havel, *Otevřený dopis Gustávu Husákovi, generálnímu tajemníkovi ÚV KSČ*, in: *Svědectví* 50/1975, pp. 377-394.

human rights when it was copied using carbon paper, than they are today when it is readily available printed and bound. By playing a role in copying and distributing Havel's letter, people risked their livelihoods, and many lost their jobs.⁶

Permeating this politically energized atmosphere were articles published in exile which focused on the Helsinki Final Act and especially the third basket, entitled "Co-operation in Humanitarian and Other Fields". Many editorials written by our people in exile were, of course, sceptical. Authors warned that the Final Act contained no provision for the enforcement of individual articles, and that there were no guarantees that they would be interpreted identically. However, it was pointed out that the agreements signed by our government could be used as a means for increasing freedom in Socialist countries – though only if "Western democracies had enough desire, strength and patience to use Helsinki as a cane against a dog who does not retrieve as he should, and as was agreed".⁷ From these texts written in exile we also learned that the Soviet Union was already violating conditions of the newly signed agreements in 1975, for example, by failing to announce military exercises in Eastern Europe. Other members of the Warsaw Pact also omitted to announce military manoeuvres, despite the fact that this approach violated article 2 of the first section of the Helsinki Final Act (Document on confidence-building measures and certain aspects of security and disarmament). We also knew that Leonid Brezhnev explained to American senators that some articles were more valid than others and that those articles comprising the third basket needed to be amended with "specific, additional agreements between the USSR and other states".⁸ Despite being alerted to the Soviet Union's interpretation that this agreement was the document affirming the post-World War II division of Europe, for which it had been waiting thirty years,⁹ we also realized that those details which were downplayed in our Communist press were precisely those which might be most important for us.

The Helsinki accords – and most specifically the third basket – codified certain principles by which states (including the Communist states) should abide in relations with their citizens. How well they did this was to be assessed in Belgrade in two years time. This gave us a certain hope that something would change, that something could change, and that, if our own government persecuted us, we could appeal to these agreements, which the government had signed. At the same time, the hope that conditions would change for us on the basis of some external pressure ended – there would be no revision of political spheres of influence. Although this was a sad realization, it also prodded us to recognize that we must help ourselves. Antonin J. Liehm, a political scientist and journalist in exile, wrote that the USSR, like all to-

6 Cf. Vilém Prečan, Introduction to *Kniha Charty*, in: *Index* 4/1977, pp. 5-28.

7 Tigríd, cited above (Note 4).

8 *Ibid.*, p. 199.

9 Cf. Antonin J. Liehm (under the pseudonym of Dalimil)/František Listopad (under the pseudonym of Portugalsko), Helsinki a Československo 1975, in: *Listy* 5/1975.

talitarian countries, was able to suppress all attempts at radically changing the system, but they could not so easily stop the efforts of those who appealed to a programme of simple “improvement”.¹⁰ As it happens, a slow loosening of the chains is exactly what most endangers Soviet-style systems. We knew that the Final Act was not ideal, that it lacked a means to force totalitarian governments to uphold their agreements, yet we were still filled with the hope of positive change. Helsinki stimulated courage in people. I recall that the former Foreign Minister, Professor Jiří Hájek, who was continuously watched by police because he called the entry of Warsaw Pact troops in 1968 an invasion, and František Kriegel, the only member of the Central Committee of the Communist Party of Czechoslovakia who refused to sign the protocol in Moscow in August 1968, participated in unofficial discussions about the Helsinki accords, and they both stressed that the third basket, pertaining to human rights, freedom of expression, and freedom of information, should be constantly emphasized in the West. Those of us who lived in Czechoslovakia realized that we could use these agreements to our benefit, that we could appeal to them and try to renew civic initiatives in their spirit. We saw, and we wanted to see, primarily the positive features of the Helsinki accords – those features that we could use to change our reality. This approach to the accords was the key difference for people who were in opposition to the regime, yet living in Eastern European states. The Helsinki accords were used similarly by opponents of the regimes in Czechoslovakia, Poland (where the KOR, the Workers Defence Committee, was formed), and even in the Soviet Union (the group surrounding the physicist Andrei Sakharov).

In such cases, even an imperfect agreement may be used towards a good end – in our case, for the protection of human rights, as a basis for criticizing the political regimes of the time, and for the expansion of freedom. I think that the governments of the Eastern Bloc underestimated their citizens when these agreements were signed. They certainly did not anticipate such a ground-level reaction. It is possible that not even the Western initiators of the third basket anticipated such a reaction from the East. Through unofficial channels we sent texts written here to the West (an act punishable even according to the Helsinki agreements), our friends in exile then printed the pieces and publicized them in broadcasts carried by Voice of America, Radio Free Europe, the BBC’s Czech section, and the German foreign service broadcaster *Deutsche Welle*, and via these sources our citizens were able to learn about their rights. These efforts always appealed to the fact that our government signed the Helsinki Final Act and should therefore uphold the commitments contained therein. Distributing these texts should no longer have been punishable, though it was; however, if a citizen knew enough to appeal to the Helsinki agreements, s/he was in a much better position than s/he would have been before the government had put its signature to the Final Act. For example, under the by-line of “Advocate of the Poor” an article ap-

10 Ibid.

peared in *Listy* (October 1976) entitled “A Citizen and the Administration (Or Instructions Regarding the Rights of Citizens and the Obligations of the Administration)”, and copies of this article circulated in Czechoslovakia. Other articles (published in *samizdat*) based on the Helsinki accords instructed people how to conduct themselves during an interrogation, what the StB (*Statni bezpecnost*; state security service) had a right to do and what it did not, how to apply for permission to leave the country, and what our rights were with respect to visiting relatives who had emigrated. It appears that government representatives of Eastern Bloc countries thought only of the first and second baskets when signing the agreements, and therefore only concerned themselves with questions of a military and economic nature, or perhaps with how to profit from scientific information and discoveries made in the West. They assumed that citizens of the Eastern Bloc states were so tired and bored with the procedure that they would not take notice of what was written in the third basket on humanitarian questions. I know from my own experience during StB interrogations that whenever I appealed to these rights and informed my interrogators that the approach of the state police went against the Helsinki accords, they always looked at me with astonishment and did not know how to react. Other dissidents had exactly the same experience.

The Helsinki Final Act was also the basis for the most important declaration made by the Czechoslovak opposition in the 1970s – that is, the declaration of Charter 77. The text begins by referring to the fact that “on 13 October 1976, the Collection of Laws of the Czechoslovak Socialist Republic (number 120) made public the ‘International Covenant on Civil and Political Rights’ and the ‘International Covenant on Economic, Social and Cultural rights’, which were [...] approved in the name of our country at Helsinki in 1975 and came into effect in Czechoslovakia on 23 March 1976. From this moment, our citizens have the right to conduct themselves accordingly, and our state has the obligation to abide by the agreements.”¹¹ The declaration of Charter 77 then continued to list the offences committed by the Czechoslovak government by failing to uphold the Helsinki agreements. For example, tens of thousands of citizens had been denied the right to work in their profession because they held opinions that differed from the official Party line, and others were persecuted and discriminated against for their religious beliefs. Freedom of speech was suppressed by central control of all means of mass communication. No philosophical or scientific opinion or artistic expression differing from the official ideology could be publicized. It was impossible to defend oneself against damaging accusations contained in official propaganda, false accusations could not be overturned, and even the second paragraph of Article 12 of the International Covenant on Civil and Political Rights, which guarantees a citizen the right to freely leave his country, was denied. I could cite numerous other examples from Charter 77. In conclusion,

11 Prohlášení Charty 77 [Declaration of Charter 77], at: http://www.totalita.cz/texty/ch77_dok_1977_01_01.php.

the signatories of Charter 77 appealed to the fact that these conditions were already agreed to and signed in Helsinki in 1975, and that they had been officially accepted by the Czechoslovak government. "With its symbolic name, Charter 77 emphasizes that it emerged on the threshold of the year which was declared The Year of Rights of Political Prisoners, and the year in which the Belgrade Conference should investigate whether the commitments made in Helsinki were being fulfilled."¹² Charter 77's founding declaration is dated 1 January 1977.

I am of the opinion that without the Final Act of the Helsinki Conference on Security and Co-operation in Europe, we would have lived under much worse conditions back then, and that despite a number of reservations, this agreement contributed significantly to the expansion of freedom inside Czechoslovakia. However, what was most important was that we did not view this agreement as one which concerned only states, but used the text to fulfil civic initiatives.

Therefore, my evaluation of the significance of the Helsinki accords differs greatly from the reactions and evaluations of those whom I cited at the beginning of this recollection. It is my opinion that the Final Act had great significance for shaping Europe's future, and that it was not simply a scrap of paper precisely because it was understood by citizens at the grassroots level. On the occasion of this year's anniversary, we should also remind ourselves of the importance of civic initiatives that force "the establishment" to stand by its declarations, to fulfil that which it has promised, and to adhere to those conditions to which it has made a commitment. In this sense, the Helsinki Final Act continues to have meaning today.

12 Ibid.

The Clash between Moscow and the Human Dimension of the CSCE: From Vienna to Copenhagen (1989-1990)

Introduction

In the late 1980s, the debate over the human dimension of the CSCE played an important role not only in Soviet CSCE policy, but also in Moscow's internal power struggles. By engaging in this debate, Moscow aimed to turn the agenda of relations with the West away from confrontation and towards co-operation. Against the backdrop of Mikhail Gorbachev's policy of *Glasnost*, and the beginnings of political reform in the Soviet Union in 1988, the debate on the human dimension at the Vienna Follow-up Meeting from 1986 to 1989 and at the three meetings of the Conference on the Human Dimension of the CSCE (Paris 1989, Copenhagen 1990, Moscow 1991) had two functions. The discussion of human rights, the rule of law, and free and fair elections played an important role in giving substance to Gorbachev's democratization policy. At the same time, the relevant CSCE commitments became an important argument to be deployed in the internal Soviet dispute on democratization.

In its efforts to bring one of the three meetings of the Conference on the Human Dimension of the CSCE to Moscow despite the resistance of the USA, the UK, and Canada, the Soviet leadership was ready to make concessions, some of which found their way into the Concluding Document of the Vienna Meeting.¹ However, Washington, London, and Ottawa attached a number of additional conditions to their agreement, which was secured a few days before the conclusion of the 1989 meeting: The three states agreed to participate only on the condition that tangible progress be achieved in the following areas between 1989 and 1991:

- A clear change of direction in Moscow's policy that would lead to the release of *all* political prisoners and the favourable treatment of *all* applications to leave the country rejected in previous years.
- The anchoring of Moscow's new policy in appropriate new legislation.
- Guaranteed access for non-governmental organizations, including Soviet human rights groups, to all CSCE meetings and, in particular, to the Moscow Meeting of the Conference on the Human Dimension of the CSCE.

¹ Concluding Document of Vienna, Vienna, 15 January 1989, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 327-411.

In Vienna, Moscow entered into a number of commitments, whose implementation was to be examined at the annual meetings of the Conference. They included the favourable review within six months following the conclusion of the Vienna Follow-up Meeting of all applications to leave the country that had been rejected for longer than five years. In addition, within the first year following the conclusion of the Meeting, all laws and regulations on freedom of movement were to be published and made accessible to the general public.

This set of issues largely determined Moscow's policy towards the three meetings of the Conference on the Human Dimension of the CSCE. At the same time, Moscow had failed to conclusively fulfil its "Vienna commitments" in most areas by the end of 1991. Although some progress was made in all areas, the issues mentioned above remained the objects of great controversy within the Soviet leadership and the ministerial bureaucracy. However, references to the provisions of CSCE documents and the need for their implementation did take on considerable force in several inter-ministerial and public debates at this time.

The current contribution summarizes the sections of the author's recently published book² that deal with the evolution of the discourse in Moscow on the human dimension and internal Soviet debates on implementing the resolutions from the Vienna Follow-up Meeting in the period up to the 1990 Copenhagen Meeting of the Conference on the Human Dimension of the CSCE.

Implementing the Commitments from the Vienna Concluding Document

The Vienna Follow-up Meeting opened an important phase in the development of the CSCE. The earlier positional war between East and West over the human dimension, in which each side stubbornly stuck to its own agendas and categorically rejected the other's perspective, appeared to have been largely overcome. In Vienna, the bulk of the humanitarian agenda that the West had introduced to the Helsinki process at the start of the 1970s had been accepted and was contained in the Concluding Document. However, until at least 1990, it remained unclear whether this would enable a convergence between East and West at the level of values and help to put an end to the hard bargaining that had characterized earlier CSCE negotiations.

The Vienna Follow-up Meeting did not produce a radical and decisive breakthrough, but merely a further compromise, which now needed to be implemented. In 1989, the political situations of a number of Eastern European states – Ceaușescu's Romania, Jakeš' Czechoslovakia, Honnecker's GDR, and Zhivkov's Bulgaria – were characterized by increasing internal tension

2 Andrei Zagorski, *The Helsinki Process: Negotiations within the Scope of the Conference on Security and Co-operation in Europe 1972-1991* (in Russian), Moscow 2005.

on the one hand, and strong resistance to new commitments in the human dimension on the other. The dramatic developments reached their first crescendo in 1989, and not even the Soviet Union could escape the effects.

The Concluding Document of the Vienna Follow-up Meeting was officially recognized as a “significant result” in the meeting of the Politburo of the Central Committee of the Communist Party of the Soviet Union, the centre of Soviet power, on 24 January 1989.³ The Politburo’s resolution also stated that the Vienna Meeting signified “an incontestable success of perestroika in international and domestic affairs and the accelerated roll-out of the new thinking”.⁴ This was the first time that Moscow had placed the negotiations in the human dimension of the Helsinki process in the foreground. The Politburo resolution went on to say that “the decision to hold a conference on humanitarian questions in 1991 is a further sign of the trust in perestroika in our country”.

Gorbachev’s public statements were conciliatory and encouraged optimism. In an interview with *Pravda* on the topic of the results of the Vienna Follow-up Meeting, he stressed that “by inviting others to make reasonable compromises, we ourselves have, in the past year, covered not inconsiderable ground towards reaching understanding and assessing several problems that have often been the objects of the greatest controversy in Vienna”.⁵ For the very first time, the Soviet leadership demonstrated a will to take concrete steps to bring Soviet laws in agreement with the USSR’s international commitments. The Politburo’s resolution also stated that “assuming that the Vienna agreements will be valid from the moment they are adopted, the relevant ministries and agencies of the USSR will be recommended to implement them immediately”. Put plainly, this meant that the provisions were to be implemented straight away without waiting for the law of the land to be harmonized with the CSCE provisions.

The course that future developments would take became clear at a press conference given by the head of the Department for European Co-operation in the Soviet Foreign Ministry, Ambassador Yuri Deryabin, on 30 January 1989. He confirmed that Soviet laws would be overhauled to bring them in line with the political commitments entered into by the Soviet Union in Vienna. Within six months, all the applications to leave the country rejected in recent years would be re-evaluated within the framework of “human contacts” and, within one year, all the laws and regulations required to guarantee freedom of movement would be published.⁶

3 After Mikhail Gorbachev’s election as President of the Soviet Union in 1990, the results of negotiations no longer needed to be presented to the Politburo for approval. The final decision was made by the President, who answered to the Supreme Soviet. The draft of the Charter of Paris was approved in this way in 1990.

4 *Pravda*, 26 January 1989 (this and all other citations from Russian sources translated by the author).

5 *Pravda*, 17 January 1989.

6 Cf. *Pravda*, 31 January 1989.

At that time, no one was aware of how difficult it would be to turn the serious intention to implement the Vienna Commitments into effective action. Just a few days after the end of the meeting, however, it became clear where the problems lay. For example, on 24 January, the Politburo finalized the text of its public declaration on its resolution. Only a few hours later, the Soviet diplomats responsible for CSCE issues were told that the recommendation to implement the Vienna agreements immediately after they were adopted had been struck from the text of the declaration, which was to be read out during the evening television news. Only after the intervention of Foreign Minister Eduard Shevardnadze was this key element restored to the statement before the broadcast. For those in the know, this incident provided a foretaste of the coming clashes with the “opponents of Vienna” within the Soviet *nomenklatura*.

The success of the Vienna Follow-up Meeting encouraged optimism at the prospects of a transformation of East-West relations. Clearly, this also impacted the Soviet Union, which had publicly praised the breakthrough in the human dimension. The public discussion of human rights issues was no longer taboo, and critical views began to appear in media outlets with close links to the ruling party and the government.⁷ The Soviet constitution had already been changed at the end of 1988; the structure of the organs of power was comprehensively overhauled and a new electoral law adopted. Admittedly, the new electoral system was still very far from democratic. The one-party system was retained, and there were no direct elections to the Supreme Soviet. Rather, according to the law, the Congress of People’s Deputies would be elected first and would then elect the members of the Supreme Soviet out of its own ranks. Only some of the people’s deputies were to be elected in general elections. A large number were to be directly delegated by the Communist Party, trade unions, Communist youth movement, and other “social organizations”, thus guaranteeing the Communist Party a majority.

Nonetheless, in 1989, the first elections took place in the Soviet Union for 70 years in which citizens had the opportunity to choose between candidates. A kind of political pluralism began to develop, even if this did not yet take the form of a multi-party system. The elections introduced political competition and the first signs of public political life. In June 1989, the whole country sat in front of their television screens, captivated by the debates in the Congress of People’s Deputies, despite the fact that the independent people’s deputies, who had organized themselves into an “interregional group”, were in a clear minority. The new politicians and journalists continually referred to the provisions of the Concluding Document of the Vienna Follow-up Meeting – mostly when resolutions were to be taken on democra-

7 Cf. e.g. T. Sinyukova/V. Sinyukov, *Prava Cheloveka: vremya novykh reshenii* [Human Rights: Time for a New Approach], in *Kommunist* 7/1989, pp. 30ff.; Yuri Kolovov, *K novomu etapu mezhdunarodnogo sotrudnichestva v gumanitarnoi oblasti* [On a New Phase in International Co-operation on Humanitarian Matters], in: *Sovetskoe gosudarstvo i pravo* 2/1988, pp. 95ff.

tization. But while the CSCE was extremely popular in Moscow at that time, the Helsinki process also had many opponents.

The elections to the Polish senate in June 1989, which were agreed to at a round table meeting attended by representatives of the opposition, heralded an even further-reaching transformation in Eastern Europe. They led to the removal from power of the Polish United Workers' Party; *Solidarność* received 99 of the Polish senate's 100 seats. The government of Tadeusz Mazowiecki was the first non-Communist regime in Eastern Europe.

However, the radical political transformation of Eastern Europe only began in earnest in autumn 1989 and was thus barely reflected in the CSCE's most important meetings of that year. In fact, in the first half of the year, one couldn't avoid the impression that the CSCE had once again entered a period of stagnation, similar to the one after the Belgrade Follow-up Meeting from 1977-78. Right up to the end of the year, it remained uncertain whether the Conference would be able to take further steps following the progress made in Vienna.

A number of Warsaw Treaty countries (Romania, the GDR, Czechoslovakia, and Bulgaria) had already exhausted their room for manoeuvre in the areas of human rights and humanitarian co-operation in Vienna. Some even claimed that they had considerably exceeded their limit in this respect. They categorically opposed the adoption of any new commitments and formed a large coalition within the Warsaw Treaty against further progress within the scope of the CSCE. The strongest resistance came from Bucharest, which continued its policy of obstructing the human dimension. In contrast to the other Warsaw Treaty states, Romania ignored all requests on questions relating to the human dimension that were directed at it within the scope of the first procedure of the Vienna Human Dimension Mechanism.

The issue of implementing the Vienna agreements and earlier commitments entered into within the scope of the CSCE remained acute. The conservative governments of Eastern Europe were content to make mere cosmetic changes while insisting that measures to protect human rights had long been implemented.⁸

In the Soviet Union, there were also problems with the implementation of the Vienna agreements. To make the Soviet Union's commitments effective, an agenda was drawn up that would have required the passing of more than 50 new laws. The Foreign Ministry was tasked with ensuring that new legislation complied with Moscow's international commitments, including those entered into within the scope of the CSCE. However, the bulk of the draft laws directly relevant to the Vienna agreements became caught up in a logjam of bureaucratic consultation procedures before ever reaching the new parliament. This concerned, above all, new laws concerning entry to and exit from the USSR (freedom of movement), the press and mass media (freedom of opinion), and religious organizations (freedom of religion), as well as so-

8 Cf. *Neues Deutschland*, 1 June 1989.

cial associations and political parties (freedom of association). The conservative Constitutional Law Department of the Central Committee of the CPSU examined the draft laws minutely and amended them at will. In most cases, the department received the support of the no less conservative Committee on Legal Affairs of the Central Committee and the head of the KGB, Viktor Chebrikov.

Despite repeated attempts to accelerate the drafting of new laws – especially with reference to CSCE commitments⁹ – the process dragged on well into 1990. The new law on entry to and exit from the Soviet Union was not passed until 20 May 1991. In particular, the proposed time limit for limitations to the freedom of movement of individuals deemed to have “information constituting a state secret” to five years was vehemently opposed by the Ministry of Defence and the other ministries of the military industrial complex. Even after the controversy was resolved, the law’s coming into effect was delayed a further two years until 1993. The Chairman of the Supreme Soviet, Anatoly Lukyanov, publicly considered new restrictions, such as the introduction of quotas of people allowed to exit the country each year.¹⁰

In other cases, the promised amendments to the law were compensated for by the tightening of other provisions, such as in the case of the Criminal Code of the Russian Federation, which was amended on 8 April 1989. As late as the start of the Vienna Follow-up Meeting in 1986, the Soviet side would still refer to the proposed changes whenever the subject of political prisoners in the Soviet Union was raised. Three years later, the most contentious articles of the Criminal Code – those that enabled the criminalization of dissidents and activists with a range of different beliefs – were eliminated. At the same time, Article 11-1 was introduced, which provided for prosecution for “defaming the state”.¹¹ In the West, it was rightly feared that the application of the new article would hardly differ from that of the old one on “anti-Soviet agitation and propaganda” and the article on the “dissemination of anti-Soviet materials”. The controversy over Article 11-1 thus remained on the agenda of the CSCE.

After the Vienna Follow-up Meeting, the Soviet leadership announced its readiness to continue on a reformist course. However, the reforms were mostly limited to political decisions made or guaranteed by Gorbachev, most of which were not made effective in law in 1989 nor 1991. As a result, a re-

9 Cf., for example, the debate in the Supreme Soviet in Autumn 1989, in: *Izvestiya*, 28 September 1989.

10 Cf. *Izvestiya*, 17 May 1991.

11 According to Ambassador Yuri Reshetov, then the head of the Department for International Humanitarian Co-operation and Human Rights in the Soviet Foreign Ministry, the draft of the amended Criminal Code and the related regulations were discussed by the Politburo of the CPSU in early April 1989. The draft presented was accepted as a baseline text to be amended in accordance with the results of the discussions. Article 11-1 was not included at that time. It was only added when the law was amended while Gorbachev and Shevardnadze were in London. The draft law was signed in their absence by most of the Politburo, which, at the time, was enough to pass it. Following his return, Gorbachev had no choice but to accept the new text (source: the author’s journal).

turn to unlimited arbitrariness in bureaucratic decision making could not be ruled out.

The Soviet Union took the following steps after the Vienna Follow-up Meeting: The six-month time limit (up to 18 July 1989) for reviewing rejected applications for travel abroad as agreed in the Concluding Document was respected. A total of 1,855 applications were reviewed. Permission to leave the country was granted in 1,556 cases, but withheld in a further 299 cases.¹² Applications rejected in the name of protecting state secrets were referred to a special committee of the Supreme Soviet for further review. In the first half of 1989, virtually all new applications to travel abroad for private purposes – 1.7 million in total – were approved. While 108,000 Soviet citizens were allowed to emigrate in 1988, the number had already grown to 230,000 by 1989.¹³

Although the new law on freedom of conscience and religious organizations was initially not passed, the statistical record registers a more liberal application of the older laws. In the first eight months of 1989, 2,235 new religious communities were founded, including 800 Russian Orthodox churches, and 174 Muslim, 98 Catholic, and 89 Protestant communities – twice as many as in the whole of 1988. In 1989, 1,700 places of worship were handed over to religious communities; in 1988-89, the erection of 211 new buildings was approved.¹⁴

By the end of 1989, the unrestricted circulation and purchase of foreign periodicals was permitted. Restrictions on the reception of satellite television from abroad, and the import, purchase, and use of photocopiers were lifted. Other commitments from the Concluding Document of Vienna, however, were not observed. For instance, the laws and regulations relating to freedom of movement were not published.

Soviet Preparations for the Paris Meeting of the Conference on the Human Dimension of the CSCE

The Paris Meeting (30 May to 23 June 1989) was the first of the three meetings of the Conference on the Human Dimension of the CSCE that took place between 1989 and 1991. Only four and a half months separated the Vienna CSCE Follow-up Meeting and the Paris Meeting of the Conference on the Human Dimension of the CSCE. For this reason alone, none of the participating States expected that substantive new resolutions would be passed in

12 Cf. Andrei Zagorski/Yuri Kashlev, Chelovecheskoe izmerenie politiki [The Human Dimension of Politics], in: *Mezhdunarodnaya Zhizn* 2/1990, p. 69; cf. also *Izvestiya*, 28 July 1989.

13 Yuri Kashlev, *Helsinki protsess 1975-2005: Svet i teni glazami uchastnika* [The Helsinki Process 1975-2005: Light and Shade in the View of a Participant], Moscow 2005, p. 148.

14 Cf. *ibid.*

Paris or that a fundamental analysis of the application of the Vienna Human Dimension Mechanism would be possible.

Nonetheless, all delegations prepared conscientiously for the meeting. The Soviet representatives were charged with eliminating as much as possible the outstanding humanitarian problems that were hampering its good relations with the West, and especially with the USA. This proved to be no easy task. As well as the legal reforms that had been put on ice, the Soviet Union found itself faced with a number of further serious problems in connection with the implementation of the decisions made in Vienna: the release of all political prisoners, the favourable review by 18 July 1989 of all applications by Soviet citizens to leave the country refused in recent years, the guarantee of access to the Paris Meeting for Soviet human rights activists (i.e. the right to travel abroad), and the response to requests made of Moscow within the scope of the Vienna Human Dimension Mechanism.

The issue of *political prisoners* concerned, in most cases, individuals who had not only been arrested as a result of now obsolete political elements of Soviet criminal law, but also in connection with “non-political” charges. This meant that the political nature of the conviction was not always explicitly discernible. Before the start of the Paris Meeting, Moscow did not know exactly how many cases this affected. At an inter-ministerial meeting held in the Soviet Foreign Ministry on 25 April 1989 and chaired by the ambassador appointed to lead the USSR delegation to Paris, Yuri Kashlev, and the head of the Department for European Co-operation in the Soviet Foreign Ministry, Ambassador Yuri Deryabin, contradictory figures were mentioned. Representatives of the Department for International Humanitarian Co-operation and Human Rights listed 22 cases, while a KGB representative spoke of only four – a number that, however, all those present immediately agreed was unrealistic. The situation was clarified when Robert Shifter, then an Assistant Secretary of State, travelled to Moscow in late April 1989¹⁵ to hold bilateral talks on pending humanitarian cases. He brought with him a list of political prisoners 50 names long.¹⁶

The discussion over the precise number of cases, however, turned out not to be the main sticking point. In the above-mentioned inter-ministerial meeting on 25 April, the KGB representative advised the head of the Soviet delegation to assume that it would be impossible to resolve the issue in its entirety. In his opinion, there was no way that all cases could be revised, irrespective of the length of the list of alleged political prisoners. He also added that new cases could be expected in the foreseeable future. The KGB therefore did not see the goal as being to resolve all controversial cases, but rather

15 Among his other responsibilities, Shifter had headed the US delegation to the 1985 CSCE Meeting of Experts on Human Rights and Fundamental Freedoms in Ottawa.

16 In a separate meeting with Ambassador Kashlev, the representatives of the Department for International Humanitarian Co-operation and Human Rights acknowledged the accuracy of this list.

looked for convincing arguments to explain that, in certain cases, no favourable solution was possible.¹⁷

As already mentioned, the list of those who had been *forbidden to leave the USSR over a period of several years* contained 1,855 names. Shifter brought a list of 680 names to Moscow. The prompt handover of this list helped the Soviet delegation in preparing for the Paris discussions. Nonetheless, Moscow did not necessarily feel under pressure on this issue. The deadline for a “favourable review” was 18 July 1989 – three weeks after the conclusion of the Paris Meeting. The topic would thus have no immediate effect at Paris.

A completely new topic that arose during the preparations for the Paris Meeting was the question of the *participation of Soviet human rights groups* in the fringe events that have been organized by non-governmental organizations in parallel to CSCE meetings since the Madrid Follow-up Meeting (1980-1983). According to the law effective at the time, the foreign travel plans of Soviet human rights advocates and activists would only receive approval upon production of a private invitation.

Representatives of several Soviet human rights groups from Moscow, Leningrad (St Petersburg), Sverdlovsk (Yekaterinburg), and Kyiv informed the Foreign Ministry of their intention to attend the Paris fringe meetings. They made it clear that, although they could easily arrange for private invitations, they deliberately did not want to do this, but intended rather to apply for permission to travel to Paris specifically in order to participate in the events organized to coincide with the CSCE meeting. In making their case, they appealed to the statement of the Chairman of the Vienna Follow-up Meeting on mass media and public access to the CSCE. Under the provisions of this statement, Soviet human rights advocates should have been granted unhampered access to the fringe events.

The question was raised in a meeting with Ambassador Kashlev on 15 May 1989, which was also attended by the head of the department of the Soviet Interior Ministry responsible for issuing foreign-travel permits, Rudolf Kuznetsov, who was due to join the Soviet delegation in Paris. Kuznetsov declared that, under Soviet law, no one could be granted approval for foreign travel on such grounds. Nor, he added, could he get hold of information on the number of such applications, as the responsible local offices of the Soviet Interior Ministry rejected all applications not accompanied by a private invitation out of hand, keeping no records. Kuznetsov saw only one possibility, namely to wait until the Soviet legislation was revised to accord with CSCE regulations.

In this case, the Politburo’s resolution of 24 January 1989 that the decisions of the Vienna Follow-up Meeting should apply in the Soviet Union from the moment they were passed came into play. After a long discussion, Kuznetsov backed down and proposed a solution: He needed a resolution of

17 Source: the author’s journal.

the “*instantsiya*” (authorities) – as the Central Committee was referred to in Soviet bureaucratese – to allow the human rights advocates to travel to Paris. This would allow the Interior Ministry to approve of the travel requests while turning a blind eye to the absence of private invitations. It would in any case have been impossible to prove in retrospect that private invitations had not been received, as they would have been returned to the applicants.¹⁸

The necessary resolution of the “*instantsiya*”, which was applied for by the Foreign Ministry, was passed. But nonetheless, few human rights activists from the USSR travelled to Paris. Even in the days immediately prior to the meeting, it remained uncertain if any would be able to travel at all. US Senator Dennis DeConcini and the head of the US delegation, Morris Abram, placed considerable emphasis on the issue at a press conference on the eve of the Paris Meeting. The small number of Soviet human rights advocates who were able to travel to Paris included Ludmilla Alexeeva (the current leader of the Russian Helsinki Group), Oleg Rumiantsev (then chairman of the “Democratic Perestroika” club and co-ordinator of the preparatory committee for a social democratic association), and the author and civil rights activist, Lev Timofeev.

Initially, it appeared that Moscow’s first *experience of the CSCE’s human dimension mechanism* would also lead to headaches during the preparations for the Paris Meeting. Moscow observed carefully as it was applied to other Warsaw Pact states – particularly the Czech Republic. It affected the Soviet Union itself in March 1989. The Foreign Ministry received a diplomatic note from the British embassy, which made direct reference to the Vienna Mechanism and asked why a certain Mr. George Samoilovich had once again been refused permission to travel abroad. The multiple applications to emigrate he had made since 1972 had been consistently turned down. On this occasion, he was seeking to travel to the UK to receive cancer treatment. The Foreign Ministry initially discussed whether to give a written or an oral reply to the British embassy. When the information arrived from the KGB that Mr Samoilovich’s application had been turned down again, the decision was made to give an oral reply.

The case took a new turn when the British took it directly to Gorbachev – shortly before his visit to the UK in April 1989. The case was immediately resolved, and this also helped ensure a generally positive assessment of the Vienna Mechanism in Paris. Nonetheless, the dispute continued in Paris, as now Samoilovich’s wife and son were denied permission to join him in London.

The Soviet delegation was also pessimistic with regard to the preparation of the new legislation. Passages discussing in detail the laws needing amended and the importance of harmonizing them with the Vienna commitments and other international obligations of the USSR were added to a draft of the speech to be given by Shevardnadze at the opening of the Paris Meet-

18 Source: the author’s journal.

ing. By having the importance of this task stressed by a member of the Politburo who, though hated by many conservatives, was close to Gorbachev, it was hoped that the necessary process could be accelerated. Nonetheless, in the view of the Foreign Ministry, there was still a great danger in summer 1989 that the new laws were inadequate and did not conform with the Soviet Union's international commitments.

Soviet Preparations for the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE

The second meeting of the Conference on the Human Dimension of the CSCE was scheduled to take place in Copenhagen from 5-29 June 1990. The participating States used the twelve months since the conclusion of the Paris Meeting for intensive preparations. The USSR worked its way through all the suggestions made in Paris. Particular attention was paid again to settling Moscow's "outstanding debts" from Vienna – e.g. by passing the promised laws and solving the problems of political prisoners and foreign travel. The agenda also included several current problems.

During the run-up to the Copenhagen Meeting, the representatives of the Soviet Union held several rounds of bilateral talks. In consultations with their French colleagues, in particular, they attempted to produce a joint document based on a French and British proposal in the area of *rule of law*, which the Soviet Union could co-author.¹⁹ Bilateral consultations with the USA focused, in the first place, on the attempt to modify the American proposal on *free and fair elections*, which had been made shortly before the end of the Paris Meeting, and to reword the passages that were problematic from the Soviet point of view. In Paris, the Soviet delegation had declared the US proposal to be unacceptable. Within a year, however, the Soviet position changed considerably on this issue, too, and the demand for a multi-party system was now acceptable to Moscow.

Although disunity ruled among political circles in Moscow on numerous questions of detail that were being dealt with by the Conference on the Human Dimension of the CSCE, on the eve of the Copenhagen Meeting, the Soviet delegates did not foresee major difficulties in continuing to develop the proposals that had been made in Paris. Copenhagen was not expected to bring any major surprises. Building on, among other things, the Vienna decisions of 1989, the results of 1989's elections, and the annulment of Article 6 of the Soviet constitution on the "leading role" of the Communist Party, democratization had gained noticeably in momentum by 1990. As a result, the

19 Considerable progress had already been made here when the EC states had formulated a joint proposal, brought by Ireland in the name of the EC Twelve (CSCE/CHDC.16). The USSR backed this proposal, as did many other states.

Soviet delegation had received flexible instructions, giving them a certain room to manoeuvre.

The progress made in implementing existing commitments was less satisfactory. Passing new laws on entering and leaving the country, freedom of conscience and religious organizations, the press and mass media, and social associations was proving particularly problematic. Although the relevant draft laws had been proposed in the Supreme Soviet in autumn 1989, they were not discussed in the autumn session of that body. Most of the key laws – in terms of CSCE commitments – had not been passed by the start of the Copenhagen Meeting. On 12 May 1990, Gorbachev had only signed the law on press and mass media. The draft laws on freedom of conscience and freedom of association only received their first reading in May and were published in draft form during the meeting. The draft law on freedom of movement was still with the Supreme Soviet.²⁰ Together with the lists of political prisoners and those denied permission to travel abroad – which still existed, even if they had grown shorter in the meantime – this shortfall provided an adequate basis for Western criticism of the Soviet Union's failure to fulfil its commitments.

The political upheavals in the states of Eastern Europe since the end of 1989 had also changed the position of the Soviet Union relative to other countries. While Romania, Czechoslovakia, Bulgaria, and the GDR had been at the centre of Western criticism in Paris, it was now seen as necessary for the Soviet Union to catch up. It was therefore expected that Moscow would be the focus of greater attention in Copenhagen. While the West still had many questions for Bucharest, it wanted to wait until after the Romanian elections.

The Soviet delegation prepared itself for the debate on implementation by compiling documents on the developments within Soviet legislation, restrictions on freedom of movement, political prisoners, and the abuse of psychiatry. In contrast to the Paris Meeting, they presented virtually no dossiers on human rights violations in the West.

Shortly before the start of the Copenhagen Meeting, Moscow's economic blockade of Lithuania became more relevant. While seeking not to endanger their relationship with Moscow as a whole, the Western states made it clear that Moscow's pressure on Vilnius was unacceptable and that the dispute should be resolved by diplomatic means. Following the developments of 1990 in Lithuania and the rapidly growing centrifugal tendencies within the Soviet Union in general, the status of the Baltic countries grew once more in relevance and was discussed directly by the CSCE for the first time.

During the preparations for the Copenhagen Meeting, Moscow had to decide once again whether or not it should support the production of a joint document. The Soviet Union delayed answering this question for a long time. The problem was not one of whether to enter into new commitments in Cop-

20 Cf. *Izvestiya*, 4,5, and 20 June 1990.

enhagen, but rather whether, in Moscow's view, it was appropriate to sign a new document at all.

The only significant argument against passing a substantive document was Moscow's will to "withhold" the most important matters of substance for a document to be passed by the Moscow Meeting, making the Moscow Meeting the climax of the three phases of the Conference on the Human Dimension as planned in Vienna. However, the fact that the Copenhagen Meeting was to take place on the eve of the inaugural congress of the ultra-conservative Communist Party of the Russian Soviet Federated Socialist Republic and shortly before the 28th congress of the Communist Party of the Soviet Union, the preparations for which took place against the background of an offensive by the conservative elements in the CPSU against the Soviet Union's democratization policy, gave cause to doubt the effectiveness of this approach. In addition, Moscow's awareness that, following the democratic revolutions in Eastern Europe, a policy of obstruction in Copenhagen could quickly lead to the Soviet Union becoming isolated also played a role. This in turn would have been greatly to Moscow's disadvantage, particularly with respect to the preparations for the planned autumn 1990 Paris CSCE Summit, which were due to commence immediately after the Copenhagen Meeting.

As a result of this discussion, the Soviet delegation left Moscow with clear instructions to take an active part in the production of a substantive document at the Copenhagen Meeting. Many Western delegations arrived in the Danish capital with similar goals, but without knowledge of Moscow's intentions.

A further important feature of the preparations for the Copenhagen Summit was the lack of co-ordination between the Warsaw Pact states. In a routine session of the Information Group of the Eastern Bloc states, representatives of the Soviet Union suggested holding a preparatory meeting in Moscow before the start of the Copenhagen Meeting. However, only the representative of the GDR supported this proposal. The representatives of other states claimed that they needed to seek instructions from their capitals on this question. The Hungarians simply kept silent. A favourable answer later came from Czechoslovakia – to Moscow's great surprise. Nevertheless, the proposed consultations did not take place, as there were no replies from other Warsaw Pact states. This proposal was never again taken up – neither at Copenhagen nor in connection with other CSCE meetings. As a result, the Warsaw Treaty group – the Eastern Bloc – effectively ceased to exist within the CSCE.

Immediately before the start of the Copenhagen Meeting, the winds of change could also be felt blowing through Moscow, if weakly at first. After Boris Yeltsin's election as Chairman of the Supreme Soviet and later as President of Russia, it became possible to detect the emergence of a second, competing power structure at the heart of Soviet power. Human rights proponents played an important role in the Russian pro-democracy movement.

Yeltsin asked to be briefed by the International Helsinki Federation on the Paris Meeting of 1989 and showed interest in the Copenhagen Meeting. Some of the people involved in Moscow's preparations for the meeting, and later in the delegation itself, were at that point already oriented towards the new power in Moscow.

Conclusions

The Soviet Union did not succeed in fulfilling all the commitments arising from the Vienna Concluding Document before the Moscow Meeting of the Conference on the Human Dimension. Several Western delegations, including those of the USA, the Netherlands, and Sweden, were given the opportunity in 1991 of visiting the political prisoners remaining at the prison camp in Perm and in various prisons. Three of the inmates were pardoned by President Yeltsin during the Moscow Meeting. On the other hand, the Soviet authorities hesitated to take further similar steps even after the failure of the coup attempt in August 1991. The implementation debate revealed continuing deficits in the Soviet policy on travel abroad. Much of the criticism, however, was directed at the human rights policies of various Soviet republics that had already declared independence.

Nonetheless, it was precisely during this period, between 1989 and 1991, that the CSCE had its strongest influence on Soviet policy in the area of the human dimension. The CSCE commitments not only helped to shape the agenda of democratization, but also established benchmark standards for all political actors seeking comprehensive reform in the Soviet Union. This was also a period in which Soviet diplomacy acted in an extremely co-operative manner, as a result of which Western doubts as to the effectiveness of participating in the Moscow Meeting ceased to play an important role. The participation of the West – apart from during the three days of the Moscow coup attempt – was no longer in doubt.

However, very soon after the third meeting of the Conference on the Human Dimension, the enthusiasm Moscow had brought to the CSCE began to wane. The Soviet Union collapsed. Other questions and other policy instruments were the order of the day. The CSCE had reached its zenith.

The OSCE's Contribution to "Democratic Peace" – 30 Years of the Helsinki Final Act

When the Heads of State or Government who had gathered in Helsinki ceremonially signed the Final Act of the Conference on Security and Co-operation in Europe on 1 August 1975, they had no way of knowing that, 15 years later, Soviet dominance in Central and Eastern Europe – and even the Soviet Union itself – would crumble. This heralded the end of Communist ideology's claim to offer a universal alternative to liberal-democratic capitalism. The hopes of Socialist party leaderships that *détente* would stabilize or even strengthen their system in their ideological struggle with "imperialism" proved to be illusory.

In signing the Charter of Paris in November 1990, all CSCE participating States subscribed to a document that solemnly affirmed precisely the norms and values of a *zone of democratic peace* that the Socialist countries had so vehemently opposed at the start of the CSCE process. Fully in the Kantian liberal tradition, the Final Act sees democracy within states and respect for human rights as central prerequisites for peace between states. This condition is joined by two others: International organizations facilitate the peaceful resolution of conflicts between states, and economic interdependencies encourage all sides to promote trade and social welfare ahead of power politics and military might.

In the following discussion, I examine the role played by the OSCE within this "triad of democratic peace" in bringing about the non-violent end of the Cold War. I further consider the contemporary significance of the OSCE for the peaceful management of both international and domestic conflicts and the expansion of democracy.

The CSCE Process and the End of the Cold War

The CSCE was something like a "permanent institutionalized dialogue" in the course of which, starting in the mid-1980s, the Socialist countries gradually adopted ever more Western norms. Under pressure from the human and civil rights movements, the leaderships of the Soviet Union and its Warsaw Pact allies gradually accepted central elements of the notion of "democratic peace".

The original idea of the CSCE had a completely different thrust. By signing the Helsinki Final Act in 1975, the members of the two alliances and the non-aligned states of Europe had agreed upon norms and rules for the peaceful conduct of the Cold War. They created the CSCE in order to realize

both *shared* interests (restraining the self-destructive tendencies of both nuclear and conventional arms) and *conflicting* interests (above all with regard to interpretations of human rights). The basis of the CSCE accords was a trade-off: The Western states complied with the desire of the Soviet Union and its allies for recognition – political and under international law – of the post-War territorial status quo. In return, the West sought to bind Soviet foreign policy to norms and rules in an effort to increase transparency and “stability of expectation”. This was not only to be achieved by means of the agreements contained in the CSCE decalogue and the three “baskets”, but also through the observation of human rights. It was assumed that internal liberalization of the Communist regimes would also affect their conduct in the area of foreign policy, thereby contributing to *détente* and the peaceful working-out of differences.

By signing the Final Act, the Socialist states had subscribed to a system of norms whose basic structure – despite all the diplomatic vagueness of the various clauses – was located firmly within the Western-liberal value framework, especially where human rights and fundamental freedoms were concerned. East and West were able to reach agreement because there was enough of an overlap to underpin joint programmatic declarations – as a result of the common origin of liberal and socialist ideas in the Enlightenment – with the differences focusing merely on matters of *implementation*. The Communist party leaderships believed that they could deal tactically with the norms and rules of the Final Act. If problems arose, they would keep them under control – using force if necessary. However, by acknowledging that domestic situations could be the legitimate objects of CSCE negotiations, they entered into a dialogue on their form of government. Their arguments in this area, however, were unconvincing, as the ways they implemented CSCE agreements – especially as regards respect for human rights and fundamental political freedoms – generally conflicted with *the letter of the Final Act*. They were also unable to develop a consistent strategy of opposition to Western “discursive hegemony”, as this would have required them to refrain from insisting on the principle of “non-intervention in domestic affairs”.

From the very start of the CSCE process, the Helsinki Monitoring Groups, which had formed following 1975, were severely persecuted. However, since the debate on human rights had been internationalized by the CSCE agreements, it was not possible to suppress all critical discussion within Socialist societies. The Western media ensured that the demands of the Eastern civil rights movements were disseminated widely, and – more importantly – influenced the policies of the Western CSCE States and the USA in particular. Thanks to the CSCE, the Eastern European human rights groups had gained a direct channel to the Western democracies, which were open to civil-society initiatives. Hence, the Western states – foremost among them the USA with its powerful immigrant lobbies – confronted the Socialist states at CSCE conferences with the demands of the dissident groups.

After Mikhail Gorbachev's assumption of office in 1985, the new Soviet leadership began to pursue an agenda of domestic reform. This also opened new opportunities for the USSR's allies – to the extent that their leaderships wanted it. This confirms the liberal theory that co-operation between states only leads to a stable peace when democracy, or at least the rule of law, prevails within the states in question – and the Soviet Union was moving in this direction. In addition, it can also be shown that the degree of compliance with the CSCE agreements varied in accordance with the level of civil society development in the various Socialist states and the extent to which their human rights, civil rights, and peace movements were integrated in the transnational networks that had arisen during the period of *détente*. There were four ways in which the leaderships of Socialist countries reacted:

- a) In states where there was no potential for opposition, there was no need for repressive measures.
- b) In states where human and civil rights movements enjoyed a comparatively high level of communication with Western social actors or political parties but whose hard-line leaderships were opposed to reform (as in the GDR), the CSCE agreements were effective inasmuch as the party and state apparatus was unwilling to totally disregard them for fear of endangering the spirit of *détente*.
- c) In the case of countries such as Hungary and Poland, whose leaderships were open to reform and/or had comparatively strong opposition movements, there were signs of the CSCE negotiations' success.
- d) The CSCE process had an immediate effect in the Soviet Union, where the norms and rules were not adopted in the context of an emergent civil society, but whose new political leadership after 1985 attempted to implement the CSCE's norms within both state and the society "from above" – often making explicit reference to the Conference.

If Gorbachev wanted to implement his reform programme, he could no longer merely react to Western demands for human rights reforms in a tactical manner. But also in Hungary and Poland, and (as a result of the specific German-German situation) to some extent in the GDR, the interplay between Western governments (particularly the US), domestic opposition, and emerging transnational networks of non-governmental groups helped create a situation where party and state leaderships increasingly found themselves on the defensive – both domestically and on the international stage. They came under ever more pressure to bring the way they implemented their domestic and social policies in practice in line with their history of asserting that they were complying with the CSCE agreements. A further factor was that "human contacts" within the scope of the CSCE process had developed a momentum of their own. The economic superiority and the political and cultural pluralism of the Western countries exercised a strong attraction on people in

the East, and this only grew as more frequent contacts created opportunities to compare the image of the two systems portrayed in state propaganda with the reality. This increasingly undermined the Communist Party's claim of a right to a monopoly.

The end of the process was the adoption of the liberal capitalist value system by the states of the Warsaw Pact, which by that point were either already in transition or remained Socialist in name only. At the Copenhagen Conference in 1990 and with the signing of the Charter of Paris six months later, all the states of Europe formally pledged themselves to uphold human rights and fundamental freedoms, the rule of law, pluralistic democracy, the right to private property, and pan-European institutions. In other words, they ascribed to all the basic principles of a zone of democratic peace.

In the course of the CSCE process, it had become apparent how important it was for de-escalation that the conflict was seen primarily as a social confrontation and only secondarily as a military one: The more the Western and non-aligned states could observe an improvement of the human rights situation in the Socialist countries, and the Soviet Union in particular, the stronger their expectation that the East would not (or no longer) behave in a militarily aggressive manner in terms of their foreign policy. This, in turn, influenced the conduct of the Western countries, who also became more co-operative.

At the same time, the Soviet leadership observed that it was unlikely that a military alliance of democracies would secretly plan and carry out an offensive war against the Socialist countries while both sides possessed nuclear second-strike capability and the Soviet Union enjoyed superiority in terms of conventional forces. This was a consequence of, among other things, the military confidence building that belonged to both the CSCE process and the *détente* period in general. Developments similar to those that characterized the human dimension could also be observed here. The Eastern side agreed on paper to Western demands for transparency, came under pressure to explain its lack of progress in implementation, and, as a result of contacts with Western experts and the influence of transnational peace groups, ended up assuming the position of its former opponents. This created a certain "basic trust", a fundamental mutual "stability of expectation". It also revealed the existence of a positive feedback mechanism: The more the perception of a mutual threat declined, the easier democratization processes in the East became, finally leading to the elimination of the antagonism between systems, thus bringing the Cold War to a peaceful conclusion. Nonetheless, it soon became clear that this did not lead immediately to the establishment of a zone of democratic peace.

According to the theory of democratic peace, stable democracies resolve conflicts among themselves peacefully. Yet before it is certain that state and society of a transition country will develop in a genuinely democratic direction, there is an elevated risk of internal and external violence. The democratic right to self-determination, in particular, which in many places has taken a nationally or ethnically exclusive form, has worked to destroy the existing system of states in the East of Europe and caused the collapse of the multinational Soviet Union and Yugoslavia. This placed war on the European political agenda once again – in the Balkans and the Caucasus especially – something for which the continent was by no means prepared.

In the exuberant hope of a democratic and peaceful Europe as expressed in the Paris Charter, the CSCE was supposed to play a central role in the reshaping of pan-European security. To support this, it was turned into an organization with permanent institutions for resolving the conflicts in the post-Communist world that were seen as belonging to a – merely temporary – phase of instability. When disputes associated with state disintegration and state formation erupted into violence, the OSCE had neither the power nor the tools to react effectively: It is only as effective as its participating States allow. However, the Western states were not willing to cede too much power to an *inclusive* organization that granted an equal say to states whose democratization process had stagnated or where civil wars were raging. This was particularly true when it came to discussing whether to use economic sanctions or military means to intervene in violent conflicts. The OSCE has neither the resources nor the decision-making apparatus necessary to play this role – after all, the countries that are targets of any potential intervention have a veto option. The OSCE, whose predecessor had debated the “big questions” of the Cold War, was thus quickly sidelined by *exclusively democratic* international institutions such as NATO and the EU.

Thus, the decision to deploy the Kosovo Verification Mission in the Autumn of 1998 was made not as a result of the deliberations of any OSCE bodies but was agreed at short notice by the US Ambassador, Richard Holbrooke, and Slobodan Milošević. Its failure – as a result of developments in the conflict, weaknesses in its mandate, and a lack of available resources – came as no surprise. As previously in Bosnia (after the Dayton Agreement, in the drafting of which the OSCE likewise played no part), the Organization was only delegated specific areas of responsibility in Kosovo from the summer of 1999 *following* the military intervention. Under this division of labour, NATO (recently replaced by the EU) was in charge of military security, the EU was responsible for economic and social reconstruction, the United Nations concerned itself with the return of displaced persons, and the OSCE took charge of establishing the rule of law and democratic institutions.

Clearly, this is sensible in view of the scarcity of financial resources and the need to avoid duplication and unnecessary competition. It was, however, not the result of a resolution negotiated largely in the OSCE context, but, in the last instance, of decisions made by NATO and the EU, which the OSCE merely followed.

The OSCE took on this role of a “delivery agency” within the scope of peacebuilding activities following an armed conflict that was ended by external intervention. Ultimately, it exercises the same role in cases where it decides autonomously to undertake preventive and post-conflict-rehabilitation activities. The work of the field missions and the High Commissioner on National Minorities (HCNM) is most effective when the state in question is willing to make use of the assistance offered by the OSCE, *and* when this interest is rooted in and supported by the prospect of EU membership. As the work of the HCNM in the Baltic states shows, his proposals have always had a better chance of succeeding when adopted into the conditions attached to EU membership during accession negotiations. The reports made by OSCE missions on the human rights situation in their respective host countries and the OSCE’s election monitoring reports also regularly feed into the progress reports produced by the European Commission on candidates for accession within the EU’s Stabilization and Association Process and, more recently, the European Neighbourhood Policy. It is therefore possible to give the OSCE’s work a largely positive evaluation with regard to the early recognition of escalation risks, the prevention of violent conflicts, and post-war peacebuilding, while noting, however, that it generally requires a strong actor such as the EU supporting it behind the scenes.

With regard to countries that have no prospects of being admitted to membership of the European Union in the foreseeable future – or at all – the OSCE is on difficult terrain, and it is hard to evaluate the Organization’s work. If a conflict does not break out, it is rarely possible to confirm the suspicion that this was the result of the OSCE’s preventive work. It is the nature of conflict prevention work to take place away behind the scenes. Publicity would disturb the confidentiality essential to dealing with complex conflicts, whose participants are often concerned to “save face”. It is also extremely difficult to measure the success of communication and learning processes, whose effects may only be observed after years or even decades. Even if external factors can be observed to influence the decisions of the parties to a conflict, it is incredibly difficult to determine how much credit is due to, e.g., the OSCE when other organizations such as the European Union or the United Nations as well as individual states are also active.

Because the prospect of EU membership cannot act as an incentive in these cases (which generally encourages political leaderships to accept the OSCE’s support for the transition process and the mediation of domestic and international conflicts), the Organization’s effectiveness depends critically upon the existence of the political and social will in these countries to make

use of it. The OSCE has had little success so far in resolving the numerous conflicts in the Caucasus and Central Asia and the conflict in Moldova precisely because of the absence of these factors. For this reason, and on account of the long time-scales involved, the chances of success for projects to promote democratization and the establishment of the rule of law and civil society are also extremely hard to estimate. Finally, the work of the OSCE is hindered by a lack of both incentives it can offer and sanctions it can threaten. In the absence of both “carrots” and “sticks”, the Organization must rely exclusively upon dialogue-based persuasion focusing on matters of *substance*. The major hope – in analogy to the success of the CSCE process – is that the OSCE will take on greater importance when domestic opposition groups appeal to it in their struggle against authoritarian rule and demand compliance with OSCE norms. Precisely this was the case in recent events in Georgia and Ukraine and – to a lesser extent – Kyrgyzstan.

The OSCE's Current Crisis and Future Prospects

The OSCE's regular election monitoring activities have proved to be its most significant contribution to spreading democracy and have secured the Organization considerable renown among democratic states. However, because taking the path to democratic peace is never a quick fix, but rather provokes resistance and conflict, the OSCE has entered into a crisis precisely on account of these successes, which it has achieved independently and not as a “delivery agency”. Besides the authoritarian post-Communist regimes that were directly affected, OSCE election monitoring and its “revolutionary” effects also led Russia, in particular, to perceive and act upon a Western threat to its sphere of influence.

The OSCE's vote of confidence that an election was free and fair is a ticket to join the community of democratic states. It also improves the prospects of states currently in transition to the rule of law and democracy growing closer to the EU and NATO. It is inevitable that authoritarian regimes will disregard or contest an unfavourable verdict on an election. However, they will only be successful in this when there are no socially significant groups that, drawing on the verdict of an international organization, place the issue of electoral manipulation on the domestic political agenda. In Georgia, Ukraine, and Kyrgyzstan, for instance, the strong criticism voiced by the OSCE election observers was taken up by the opposition and played a significant part in undermining the authority of the regimes in those countries and bringing about their end. Ever since these events, the Russian government has been attempting to water down the criteria for free and fair elections. The inclusive character of the OSCE and the consensus principle make this possible.

Aside from the all too transparent arguments that are mobilized by states with authoritarian governments in order to oppose effective election observation and which clearly violate the OSCE system of norms subscribed to by all participating States, Russia is correct in one respect: The OSCE's election monitoring activities – and its field missions – have only been applied in the former Communist states, as though the established democracies did not also have problems with electoral irregularities and the treatment of ethnic minorities. Russia thus raised the issue of the *hegemonial* – with respect to the non-democracies – character of the project of the extension of democratic peace.

Considered in normative terms, there can be no question of giving in to these demands, which would reduce election monitoring to a farce and force long-term missions to concern themselves with less important matters. To that extent, the democratic imperative laid down in OSCE documents may not be diluted. Election monitoring must remain a thorn in the side of authoritarian regimes. On the other hand, Russia has cast the OSCE into a deep crisis, one that will not be solved by the mere reiteration of norms and principles, but requires a political response. The Western states must make concessions to Russia and Russia's allies (of convenience) by correcting the imbalance that has so far prevailed, and thereby significantly raising the legitimacy of interventions in domestic and international conflicts. They need to accept that the OSCE is also mandated to concern itself with conflicts in that part of its territory that – while home to established democracies – is not free of the danger of violent conflict.

The OSCE's crisis is compounded by the enlargement of the EU and NATO and the export of stability that this represents. With its primary role of expanding democratic peace and carrying out conflict prevention and management, the OSCE finds itself called upon ever less often. However, if the theory of democratic peace, with its goal of a conceivably "perpetual peace", is correct, the significance of the OSCE is bound to fade over time. While democracies do value international organizations as means of ensuring peace among them, there are organizations in Europe that are more important in this regard than the OSCE. If, one day, the Organization is ever formally wound up on the grounds that it is no longer necessary for maintaining the zone of democratic peace between San Francisco and Vladivostock, it will have fulfilled its historical mission.

Congratulations: The OSCE Is Alive and Well

Since its birth in 1975 as the Conference on Security and Co-operation in Europe and rebirth two decades later as the Organization for Security and Co-operation in Europe, there have always been some eager to sound the death knell for the OSCE. Fortunately, despite some aches and pains, the OSCE is very much alive and well.

The OSCE Adapts

At its inception, the CSCE was a creature of the Cold War. Indeed, part of its original *raison d'être* was to resolve lingering border issues from World War II. The Cold War is long over and with it the post-World War II division of Europe into two heavily armed camps. Most post-War border disputes are long resolved. And yet the need for the OSCE is as great as ever. The Organization's substantive focus is expanding to include the crucial bundle of issues carried under the rubric of tolerance, migration, immigration, and integration. So, too, its geographic focus is shifting with the southward and eastward movement of democracy. But the OSCE's macro-focus on security, conflict prevention, and post-conflict rehabilitation is more vibrant and successful than ever, as the OSCE moves inexorably forward to extend the fruits of freedom and democracy to millions in Eastern Europe, the Caucasus, and Central Asia. They have come to sense the fruit's sweet taste, but have not yet had the opportunity to take a healthy bite. To them, the OSCE says: "Help is on the way."

Credit for the OSCE's mandate to pursue security through democracy and human rights belongs to the framers of the Helsinki Final Act. The OSCE vigorously promotes the values of freedom and democracy by developing the building pieces embodied in those broad principles – release from state sanctioned restraint, a vibrant civil society, a flourishing independent media, a democratic election process meeting widely agreed-upon standards, ethnic and religious tolerance and understanding, respect for human rights and the rule of law, competent civil administration, and a market economy. These are the immutable components of every democracy, of every OSCE participating State, because each has subscribed to these principles without reservation, without holdbacks, without exceptions. This is why, despite whatever obstacles some would like to lay in its path, the Organization for Security and Co-operation in Europe is making an important contribution to freedom within its 55 member community of nations and beyond.

The reason I am so optimistic about the OSCE is that it is proving, every day, that it has in its DNA the ability to adapt itself to new circumstances and challenges. During my tenure as US ambassador to the OSCE (2001-2005), indeed over the past decade, the Organization has shown time and again that it adapts to both new events and tectonic movements, and in new directions that had not previously been associated with the OSCE. With every significant change in the Euro-Atlantic environment, the CSCE/OSCE has successfully adapted and moved forward.

The OSCE Addresses New Challenges

The OSCE is valuable for the United States as a central, multilateral vehicle that can act on a regional basis to address regional needs. It is proactive and effective. It is able to address intra-state conflict, transborder threats to stability, and post-conflict transition. While it has continued to provide needed assistance to participating States as they solidify the foundations of democratic governance and the market economies that they have put in place during the past decade, the OSCE has also responded energetically to new threats and challenges that confront all participating States. Through the creative input of participating States, including the United States, it has tackled terrorism, trafficking in human beings, and intolerance based on religion and race.

The OSCE Combats Terrorism

As was the case with much of the world, the OSCE did not have a focus on terrorism prior to 11 September 2001. Not one person at the OSCE was dedicated to counter-terrorism efforts. Yet, exhibiting its trademark flexibility, the Organization moved swiftly to begin work on practical ways that the 55 participating States could act together in the global war on terror. The first step was the Bucharest Plan of Action for Combating Terrorism, adopted at the Ninth OSCE Ministerial Council on 4 December 2001. The Bucharest Plan is the blueprint for the Organization's comprehensive effort in the fight against terrorism. The Plan also mandated the establishment of the Action against Terrorism Unit (ATU) within the OSCE Secretariat in Vienna, which exists to respond rapidly and efficiently to requests from participating States for anti-terrorism assistance. The ATU has become an indispensable player in the war on terror, as it assists participating States in acceding to the UN's twelve protocols and conventions against terror and in helping states draft their own anti-terror legislation.

The OSCE has continued to be active in the war on terror. In each of the three subsequent meetings of the Ministerial Council, the OSCE has improved on the work begun in Bucharest. At the Porto Ministerial Council in

2002, OSCE foreign ministers adopted the OSCE Charter on Preventing and Combating Terrorism and a decision on Implementing the OSCE Commitments and Activities on Combating Terrorism. This decision recognized four areas for combating terrorism: policing, border security, anti-trafficking, and suppressing terrorist financing.

In Maastricht in 2003, OSCE foreign ministers took a decision on travel document security and established a Counter-Terrorism Network, which allows counter-terrorism practitioners to share information on counter terrorism programmes. At the December 2004 Ministerial Meeting in Sofia, the OSCE further refined its counter-terrorism efforts. The ministers adopted decisions concerning container security, combating the use of the internet for terrorist purposes, and reporting lost and stolen passports to Interpol.

In the future, the OSCE – with the strong support of the United States – will continue these efforts. In dealing with terrorism, where the only limit is man's mindless willingness to spew death and destruction, it is an unending challenge to stay a step ahead. But it is imperative that we do so. At the OSCE, we will co-operate with other participating States to destroy surplus conventional munitions and small arms and light weapons. We will redouble efforts to completely implement earlier decisions on tightening travel document security and combating terrorist financing, including the abuse of non-governmental organizations (NGOs) and charities as conduits for terrorist funds.

Terrorism was not on the minds of the drafters of the Helsinki Final Act. Yet, the OSCE, building on its fundamental principles as a grouping of countries that could agree about security, economic development, and basic political rights, was able to broaden its horizons and react properly and effectively when new types of problems presented themselves. Nothing is more important than anti-terrorism, but there are other issues that the OSCE has tackled in the last few years and which give me confidence that the Organization has the institutional flexibility to remain relevant and effective. Two of these are trafficking and intolerance.

The OSCE Tackles Trafficking

Trafficking in human beings has become one of the main priorities for the OSCE in recent years. The Organization's efforts to combat trafficking – one more area not anticipated in Helsinki – demonstrates another of its strengths: the ability to attack a problem from different angles. Trafficking in persons is a cross-cutting, multi-faceted problem that involves social and gender issues, crime, policing, corruption, economic development, and border security. The OSCE is active in all these areas. The OSCE has a Special Representative on Combating Trafficking, who is supported by the Anti-Trafficking Assistance Unit (ATAU) in the OSCE Secretariat. They, in turn, co-ordinate their efforts with the Anti-Trafficking Unit in OSCE's Office for Democratic Institutions

and Human Rights (ODIHR), the Co-ordinator of OSCE Economic and Environmental Activities, the anti-trafficking points of contact in OSCE field missions, the Strategic Police Matters Unit (SPMU), and the Senior Adviser on Gender Issues. As an example of how the OSCE's multi-pronged approach yields dividends, the Inspector General of the US Department of Defense briefed the OSCE Forum for Security Co-operation (FSC) on the US military's "zero tolerance" policy on activities supporting human trafficking. This was the first discussion of trafficking in persons in the OSCE's politico-military decision-making body.

Similarly, trafficking in arms and drugs is receiving attention from a wide variety of OSCE elements. In 2003, under the Dutch Chairmanship-in-Office, the focus of the Economic Forum was the economic impact of all forms of trafficking. This has led to the sponsorship of OSCE economic programmes to help people from falling into the hands of traffickers out of economic need.

The OSCE Develops a Tolerance Agenda

Intolerance is another area to which the OSCE turned its attention during my tenure as ambassador. The OSCE, with its broad membership and experience in human rights, is uniquely structured to handle this challenge, which is one of the most serious facing all participating States and which affects them all, both West and East of Vienna. No one country can solve the problem of intolerance by itself. As borders continue to open, the issues of migration, immigration, and tolerance become regional and must be dealt with regionally. Incidents of anti-Semitism, racism, intolerance, and discrimination against Muslims and other religious groups have been on the rise in the OSCE area. The OSCE and the United States are determined to reverse this trend.

The Anti-Semitism Conference in Berlin in April 2004 was a great success. The Berlin Conference issued a clear statement in its Declaration that no international developments or political issues justify discrimination against or hostility toward Jews, the scourge we call anti-Semitism, irrespective of what is taking place in Israel or elsewhere in the Middle East. In September 2004, the OSCE held a conference in Brussels on tolerance, which condemned any form of racism, xenophobia, or discrimination.

Most recently, the OSCE held a follow-up Conference on Anti-Semitism and on Other Forms of Intolerance in Córdoba, Spain. In Córdoba, I made the point that many areas of OSCE expertise and interest – legislation, law enforcement, data collection, education, and civil society development – all make a real difference in reducing intolerance and discrimination. I also noted that striving to combat intolerance is something that can unite 55 diverse countries. Despite whatever national positions we may have on other topics before the OSCE, we should all agree that tolerance – whether it is in

the context of ethnicity, religion, social class, or political views – is the bedrock of free and democratic societies.

Practical Extension of OSCE Values and Practices to the Mediterranean Partners

Another indicator of the overall good health of the OSCE is the extent to which its bedrock principles are being accepted by countries outside of the OSCE region.

The history of the Mediterranean Partners goes back to Helsinki in 1975, when “Questions relating to security and co-operation in the Mediterranean” became part of the Helsinki Final Act. Morocco, Algeria, Tunisia, Egypt, Israel, and Jordan were asked to participate in further meetings. At the Budapest OSCE Summit in 1994, the OSCE Heads of State or Government decided to enhance co-operation with the Mediterranean Partners. In addition to the 30-year relationship with the Mediterranean Partners, the OSCE has welcomed new relationships with a number of Asian countries over the last fifteen years. As recently as the 2004 Sofia Ministerial Council Meeting, OSCE foreign ministers welcomed Mongolia as the fifth Partner for Co-operation in Asia. The year before, Afghanistan, newly liberated from the grip of the Taliban, expressed its intentions to accept the principles, values, and goals of the OSCE and was welcomed as the fourth Partner for Co-operation, joining Thailand, South Korea, and the first Partner, Japan, which has played an involved, supportive, and welcome role in OSCE.

Increased Co-operation between the OSCE, the UN, NATO, the EU, and the Council of Europe

Notable also are the OSCE’s co-operative initiatives that extend beyond state partners and include other international organizations. One of the most important developments during my tenure has been the expansion of co-operation with other international organizations, notably the UN, NATO, the European Union (EU), and the Council of Europe (CoE). I strongly supported this development and welcomed discussions between the OSCE and the CoE on how to improve co-ordination between the two bodies and the close on-the-ground work that the OSCE is now doing with NATO on, among other matters, border management and security. It is important that all these organizations, which are sending common messages on common issues, work ever more closely and in a co-ordinated manner to maximize synergy. The argument of duplication is, in my view, overstated. The needs met by these organizations are so vast that even if there is some overlap it is much better than the reverse, which would be to leave some issues unaddressed.

Continued Focus on Traditional Mandates

While the OSCE has been able to take on new responsibilities to keep abreast of the changing environment of the twenty-first century, it has in no way neglected or abandoned its more traditional tasks. Among these are post-conflict stabilization, promotion of human rights and democratization, and implementation of confidence- and security-building measures. A prime example here, in the arena of post-conflict stabilization, is in Kosovo. The OSCE Mission in Kosovo (OMiK) continues to receive solid marks from international observers. It is working to solidify the twin pillars of a successful society – democratization and institution building. In Kosovo, as in other post-conflict societies, a secure environment is the bedrock without which nothing productive can happen. That is why one of OMiK's sterling achievements has been the training of a multi-ethnic police force of nearly 7,000 officers, which has earned the trust of the Kosovars. OMiK has also trained the staff of the Kosovo Central Election Committee and was able to hand over most election responsibilities to the Committee, including the responsibility for organizing and conducting the October 2004 Kosovo Assembly elections; these elections were conducted smoothly, with only minor problems. A third example is OMiK's work in preparing legislators to represent their constituents in a manner characteristic of democratic societies. OMiK's Assembly Support Initiative is teaching members of Kosovo's Assembly standard parliamentary procedures and the skills necessary to manage legislation. These skills and principles include constituent services, transparency, legislative review, budget preparation, media training, and committee work. All in all, OMiK has been a shining example of what OSCE can accomplish with a well-run post-conflict stabilization operation.

Continued Success of OSCE Election Monitoring

Another area where OSCE has made a world-class contribution to democracy building has been in election monitoring, where its expertise and its performance are the gold standard for elections that are democratic, free, and fair.

During 2004, the ODIHR, the arm of the OSCE that does the work of election monitoring, observed or assessed twelve elections in Europe, North America, and Central Asia. That included the 2004 presidential election in the United States and Afghanistan's first ever free election. During the first half of 2005, ODIHR participated in elections in Kyrgyzstan (parliamentary and presidential elections), Moldova, Albania, Bulgaria, Tajikistan, Macedonia, and the United Kingdom. The Afghanistan election also marked the first time ODIHR sent its experts to an election outside of the OSCE region.

In each case, ODIHR proceeded from the fundamental principle that election outcomes must represent the unimpeded will of the people. If elec-

tions do not, they are not legitimate and the resulting governments will lack legitimacy in the eyes of their people and the international community. That is the keystone standard that the OSCE, through ODIHR, employs to determine whether an election is free and fair. That standard consists not only of the technical conduct of casting and counting ballots, but also on the degree of access of opposition and independent candidates and parties to the election process, their right to raise and deploy – legally – campaign resources, and their access to the media and the public during the campaign period.

A few participating States have recently engaged in a campaign accusing the OSCE of using “double standards” when it conducts election monitoring, alleging that the OSCE’s post-election assessments are politically motivated. I categorically reject this notion. What we are facing here is not a double standard – there is only one – but rather that some participating States have decided to place two interpretations on that single standard because they do not like the impact or outcome of some of ODIHR’s election reports.

The Significant Contribution of the Politico-Military Dimension

Another of the OSCE’s traditional tasks that it continues to do well is implementing confidence- and security-building measures (CSBMs) as part of its security mandate. Under the auspices of the Forum for Security Co-operation, a wide variety of CSBMs continue to be undertaken. If the OSCE were not pursuing this type of work and, in fact, doing it so well that it often receives little notice, there would be a call to create an international body to do just that. In 2004, OSCE participating States conducted 88 inspections and 34 evaluation visits under the Vienna Document 1999, which established CSBMs among participating States, along with an additional eight inspections and 23 evaluation visits pursuant to their own bilateral and regional agreements.

OSCE military contact events also help to build confidence between the militaries of participating States. Most recently, the United Kingdom has invited all participating States and Partners for Co-operation to a demonstration of a new type of major weapon and equipment system in autumn 2005. The visit will show how a battle group, consisting of armour, armoured infantry, artillery, combat engineers, and combat aviation, conducts live-fire manoeuvres with close air support. Six participating States hosted similar military contact events in 2004, with many more planned before the current five-year period closes next year. As with so many OSCE activities, CSBMs usually achieve more than one objective with one exercise. For example, Belgium held a military contact with the Mediterranean Partners for Co-operation to encourage them to consider the value of instituting CSBMs in that region.

CSBMs also can demonstrate how the OSCE is able to co-operate with other multinational organizations on critical security concerns. The OSCE

and NATO have held a joint workshop in Kyiv with representatives of Georgia, Ukraine, Uzbekistan, Armenia, Azerbaijan, and Kazakhstan to find a comprehensive solution to the threat posed by the explosive missile fuel component known as “melange”. Melange was used for rockets and guided missiles in the former Soviet Union. It is a major threat to health and to the environment, because its components are extremely reactive, volatile, and highly toxic. Large stocks of melange were left throughout the territory of the former Soviet Union. Its disposal and neutralization requires considerable technical and financial resources, making it a perfect vehicle for international co-operation among states, as well as between international organizations. The OSCE Project Co-ordinator in Ukraine will arrange a visit of international experts who will assess the environmental and health risks and evaluate the best options to alleviate them. They will draw upon the experience of the OSCE Mission to Georgia, which successfully implemented a programme to eliminate the melange threat in that country.

Frozen Conflicts Can Be Thawed

In the world of the OSCE, there is much talk of “frozen conflicts”, the thawing and solving of which is an important goal of the Organization and receives significant attention. The conflicts are those in Nagorno-Karabakh involving Armenia and Azerbaijan, South Ossetia in Georgia, and Transdniestria in Moldova. Those less knowledgeable about the OSCE will, from time to time, question why the OSCE has not solved them after these many years. The answer is simple: It is not for lack of trying. Serious, dedicated professionals are engaged on a daily basis in finding solutions to these diverse conflicts, each of them unique. The problem is, ultimately, and notwithstanding some protestations to the contrary, that there has thus far been insufficient political will to find a solution. But situations and political environments change and I continue to believe that progress on some fronts will be made, maybe as early as 2006. History has shown that solutions which seemed impossible at one point become inevitable at another – and this development does not necessarily take years. The OSCE, and particularly the Chairman-in-Office, must be tireless in pursuing a solution through expert and high-level diplomacy. The OSCE must also continue to use its conflict prevention tools and early warning systems effectively to prevent the conflicts from erupting and should take comfort in the fact that, with isolated exceptions, peace has been maintained in these three situations, all of which clearly have explosive potential.

At the Sofia Ministerial Council, held in December 2004, OSCE foreign ministers recognized the need that every organization has to examine, improve, and change itself in response to the constant transformations of its environment. This does not mean the wholesale disposal of the past and present and the invention of a new future. Recognizing this, the ministers were determined to solidify the OSCE's position as one of the pillars of the Euro-Atlantic security architecture and to enhance its ability to respond to the challenges of the twenty-first century. To achieve this, the ministers established a Panel of Eminent Persons to review "the effectiveness of the Organization, its bodies and structures and provide an assessment in view of the challenges ahead". The Chairman-in-Office, Slovenian Foreign Minister Dimitrij Rupel, assembled a distinguished panel, which, in turn, produced a generally excellent finished product, as the saying goes, "on time and on cost". It represents, in my view, a report from which useful ideas can be taken and successfully implemented, enabling the OSCE to function more productively and effectively.¹

By the same token, the United States is clear that the OSCE's foundational principles, its *acquis*, are not negotiable and will not be dulled – if anything, they need to be sharpened in their acceptance by some participating States, and in their effectiveness. The fundamentals of freedom and democracy are non-negotiable and history has shown that, unlike any other system, they work! We will listen and discuss and be prepared to implement improvements in what the OSCE does and even how it does it, but we will never take any steps that will weaken the OSCE's precepts. Notwithstanding the clamour of some, the OSCE is doing just fine. The United States will never join a consensus to weaken the Organization in order to accommodate those who might not share its principles. Life teaches that when we compromise our principles to achieve something else, we wind up losing both.

The OSCE has always capitalized on its strengths – common values and flexible political decision-making – translating these into quantifiable achievements in a wide range of human rights, economic, and security areas. There are tough issues facing the OSCE – like those facing *all* international organizations, states, and regional organizations in today's difficult and constantly changing security environment – but the OSCE has the tools to overcome them and the assets to make a serious contribution to peace and stability for a long time to come.

1 The report is reproduced in this volume, pp. 359-379.

The OSCE States: Their Interests and Commitment

France and the OSCE

This year, as the OSCE commemorates the 30th anniversary of the Helsinki Final Act, it also enters a phase of uncertainty. If the Organization's *acquis* is to stand the test of time, it is necessary that the trust that once prevailed between Russia and its Western partners within the Organization be re-established. At the same time, however, it is thanks to this very crisis of trust that the OSCE, whose role in diplomatic consultations between the main capitals had significantly diminished, is now once again on the agenda in talks between European, Russian, and American high-ranking officials. France has contributed considerably to this by engaging in an intensive dialogue not only with Russia, but also with Germany, the USA, the UK, and its other partners in the European Union. This is also the context in which France's candidacy for the post of OSCE Secretary General should be seen.¹

The OSCE's Remarkable Acquis

Thirty years of the Helsinki Final Act have proven how important it was, and still is, to go down the path that has been followed since the passing of the Decalogue of Principles in 1975 – ten statements that have lost none of their relevance in 2005. Today, just as thirty years ago, refraining from the threat or use of force, commitment to the peaceful settlement of disputes, and acknowledging the inviolability of frontiers go hand in hand with respect for human rights and the fundamental freedoms of thought, conscience, and religion or belief.

However, even if the OSCE's common commitments may have lost none of their validity, they apply today to an "OSCE space" that has little in common with the Europe of 1975. The CSCE and – since the Budapest Summit Meeting of 1994 – OSCE have facilitated the provision of support to countries in Eastern and South-eastern Europe, the Caucasus, and Central Asia in their transition to democracy and respect for human rights. Equipped with the appropriate institutions, the OSCE was also able to contribute to ensuring that the participating States could fulfil their commitments. Since the beginning of the 1990s, for example, the Office for Democratic Institutions and Human Rights (ODIHR) has been gathering globally recognized expertise in the field of election observation. This proved particularly valuable in monitoring the elections of 2003, 2004, and 2005 in Georgia, Ukraine, and Kyrgyzstan, respectively, which were crucial for the democratic transforma-

1 On 10 June 2005, the French diplomat Marc Perrin de Brichambaut succeeded the former Secretary General of the OSCE, Ján Kubiš.

tion of those countries. France regularly provides ODIHR with short and long-term observers; it also dispatched staff to the Election Support Team during the presidential and parliamentary elections in Afghanistan, one of the OSCE's Partners for Co-operation.

Seventeen field missions in Central Asia, the Caucasus, and Eastern and South-eastern Europe are presently providing their host countries with assistance in a range of areas, including the destruction of small arms and ammunition, police-training, advising on media law and the law on political parties, inter-ethnic dialogue, and the fight against corruption. The OSCE Centre in Bishkek, for instance, was quick to offer Kyrgyzstan assistance in overcoming the crisis it faced in the spring of 2005. It played a significant role in preparations for the presidential elections, which had been brought forward, and enhanced its police-training activities in which France, at the request of the Senior Police Advisor to the OSCE, Richard Monk, has participated for many years, seconding both paramilitary (*gendarmerie*) and regular police. France has also provided other OSCE missions with personnel on a regular basis, including the heads of the OSCE missions in Kosovo (until March 2005) and Tajikistan. Furthermore, France has granted missions extra-budgetary funds for the financing of projects in connection with democratic governance (rule of law, combating corruption, trafficking in human beings) and has sent experts (e.g. on the destruction of ammunition in Tajikistan) to the missions. French embassies in host countries are required to work with the OSCE missions and to participate in joint projects.

New Commitments

To be able to respond to new challenges, the OSCE participating States have taken on a number of new commitments:

- *Action Plan to Combat Trafficking in Human Beings:* This plan aims to tackle the problem in countries of origin, transit, and destination. France vehemently opposes this new form of slavery, makes contributions to ODIHR administered funds to combat people trafficking, and has, on numerous occasions, welcomed the new OSCE Special Representative on Combating Trafficking in Human Beings, Helga Konrad, to Paris to inform her of its measures in this area. France held a regional conference on this topic in Bucharest in co-operation with Ms. Konrad.
- *Combating Anti-Semitism and Racism:* France's Jewish community is the largest in Europe; it also has a significant Muslim population. France has actively participated in the OSCE Conferences on Anti-Semitism and Racism in Vienna, Berlin, Brussels, and Cordoba. Both government representatives and public figures such as Simone Veil, Robert Badinter, the Deputy Pierre Lellouche, and Dalil Boubaker, Rec-

tor of the Muslim Institute of the Paris Mosque and Head of the French Muslim Council, warned against an increase in anti-Semitic and racist acts and expressed their support for the OSCE's efforts to persuade participating States to tighten their criminal laws and promote mutual respect. France has also supported the Programme on Tolerance and Non-Discrimination developed by ODIHR, whose Director, Christian Strohal, has been received in Paris many times.

- *Combating Terrorism:* French experts participate in workshops organized by the OSCE's *Action against Terrorism Unit* (ATU) and provide assistance to projects in countries hosting OSCE missions (such as a study of travel document security in Macedonia). France shares its experience in combating terrorism with other participating States. In April 2005, for instance, at the request of Brian Woo, the Head of the ATU, France gave a presentation in Vienna on co-operation between the French and the Spanish police and judiciaries.

The European Union within the OSCE Framework

The 25 member states of the EU, as well as the states associated with it, support the OSCE in the framework of complementary relations between Brussels and Vienna. The criteria that EU candidate countries must fulfil in the areas of democracy and rule of law, protection of human rights, and respect for and protection of minorities are, to a large extent, identical with the commitments that they have undertaken within the framework of the OSCE. Some of the objectives of both organizations – as well as those of the Council of Europe – are very similar.

France supports a more active role for the European Union within the OSCE, including, for example, the allocation of funds by the European Commission for the financing of certain high priority projects (economic reconstruction of South Ossetia, the destruction of small arms and ammunition, police assistance in Kyrgyzstan). For example, France included the OSCE Conflict Prevention Centre in a consortium that received subsidies from the European Commission under the programme Community Assistance for Reconstruction, Development and Stabilization (CARDS) with a view to helping the countries of South-eastern Europe secure their borders. The adoption of a document by the EU Council of Foreign Ministers in December 2004, in which the priorities of the 25 EU member states within the OSCE are laid out, was also borne of France's initiative.

Recently, and since 2003 in particular, relations between Russia and its Western partners have entered a phase of uncertainty that has compromised the OSCE's ability to function. At the Ministerial Councils of Maastricht in December 2003, Sofia in December 2004, and Ljubljana in December 2005, the participating States failed to reach a consensus and thus to adopt a common political declaration. In 2004, Russia and several other CIS states published two declarations (first in Moscow, and later in Astana) in which the signatories levelled strong criticisms at the OSCE and demanded that the Organization be reformed. The individual points of critique have since become widely known: accusations of "double standards" in assessing how states have implemented their commitments concerning democratic institutions and elections; criticism of an imbalance in the work of the Organization that favours the human dimension at the expense of the politico-military and economic-environmental dimensions; and a rebuke that the written reports of ODIHR election observers are excessively political instead of being limited to matters of fact. As a result, and following Russia's demand that its level of contribution to the Organization be significantly decreased, the OSCE found itself with neither a budget nor a scale of contributions in the spring of 2005. Furthermore, Russia terminated the OSCE Border Monitoring Operation (BMO) on the Georgian-Russian border.

The impasse caused by Moscow led some participating States – notably France – to start discussing ways of restoring the OSCE's functional capability. Foreign Minister Michel Barnier used the annual French-Russian consultations on security questions held in Moscow on 20 and 21 January 2005 to extensively discuss the OSCE with his Russian colleague, Sergei Lavrov. At the request of the ministers, the representatives of both countries have since met to discuss ways of solving the various problems.

These consultations helped to improve the atmosphere at the Ljubljana Ministerial Meeting, which was attended by Barnier's successor, Philippe Douste-Blazy, and where agreement was reached on the scale of contributions and the OSCE's budget, among other things.

The Organization's Trump Cards

In order to hold on to the OSCE's remarkable *acquis*, trust between Russia and its Western partners must be restored. This year, as we celebrate the 30th anniversary of the Helsinki Final Act, we need to grasp the opportunity to end the deadlock that is currently paralysing the Organization.

First, we should take a close look at the OSCE's trump cards:

- Under Chapter VIII of the Charter of the United Nations, the OSCE is the only regional security organization in which Russia, the entire EU, and all the countries of North America, Central Asia, the Caucasus, and South-eastern Europe come together as equals. While Russia has entered into dialogue with the EU and NATO, it has done so only as an external partner who does not belong to these organizations and has no wish to join.
- Due to its comprehensive concept of security, the OSCE is required to deal not only with a diverse spectrum of existing tasks within the three dimensions of security – the politico-military, the economic-environmental, and the human – but also to take on new challenges, such as combating terrorism, trafficking in human beings, racism, anti-Semitism, and much more. The OSCE is virtually tailor-made to deal with the new security threats to its participating States (border management concerns, ammunition stockpiles, money-laundering, organized crime, etc.).
- Finally, within the OSCE, there is the principle of consensus, which guarantees that all participating States are treated equally. Negotiations must continue until a compromise is reached that is acceptable to all. The consensus rule should contribute to building more trusting relations between the participating States, as the viewpoint of each state – even the smallest – must be given equal consideration.

Restoring Trust between Russia and the West

In order to restore the trust of all the participating States in the Organization, a first priority must be to strengthen the politico-military dimension, which is currently underdeveloped. With the failure to ratify the 1999 Adapted Treaty on Conventional Armed Forces in Europe (ACFE) and the lack of new initiatives on the part of the Forum for Security Co-operation, it may appear that the politico-military dimension is no longer moving forward. But the OSCE should certainly not be ashamed of its achievements with regard to military confidence-building and the establishment of transparency in the transfer of small arms and ammunition. On the initiative of France and the Netherlands, for instance, the Maastricht Ministerial Council adopted a document on stockpiles of surplus ammunition, which is currently being implemented on the ground in Tajikistan, Kazakhstan, and Kaliningrad. The OSCE should also do more to create awareness of the scope of its commitments in the politico-military dimension, particularly in the United Nations and other regional organizations, which might be interested in learning from the OSCE's experiences.

There is, however far more that needs to be done: Existing documents must be updated to cope with the new terrorist threats and problems such as the proliferation of weapons of mass destruction. In November 2005, France

proposed new initiatives to the Forum for Security Co-operation, such as curbing air-transport of trafficked SALWs and ammunition, sub-regional CSBMs, and the universalization of the Ottawa Treaty on anti-personnel mines. As already proposed by Russia, a seminar on military doctrines should be arranged to discuss, in particular, the possible adaptation of OSCE documents to new developments in military strategy and technology.

The OSCE could also expand its activities in the uncontroversial area of combating terrorism. Here, however, it is not the Organization's task to establish new norms that would only duplicate or create complications for those that have already been drawn up by the UN and other organizations. Instead, the OSCE could create a pool of national experts for each specific type of threat and offer assistance to states whose ability to react to threats is limited. In October 2005, therefore, at the suggestion of France, the OSCE organized an expert meeting on questions relating to the use of the internet for terrorist purposes, such as the collection of funds, recruitment of members, the spread of propaganda, and the preparation of terrorist acts.

In the area of conflict prevention and conflict management, the OSCE could become more involved in seeking a solution to the problems in South Ossetia, Transdniestria, and Nagorno-Karabakh. While the Organization alone cannot guarantee a solution to the so-called frozen conflicts, its role should not be underestimated. In South Ossetia and Transdniestria, it offers numerous confidence-building measures. The EU, which recently appointed a Special Representative for Moldova, could be more resolute in its support for the OSCE's efforts, particularly as regards financial support. The latest fact-finding mission to Nagorno-Karabakh, which was led by Germany at the request of the three co-chairs of the Minsk Group (the USA, France, and Russia), also represents a contribution to the restoring of trust.

The OSCE's economic-environmental dimension is lacking dynamism. Of course, the OSCE is not a development organization – in contrast to the EU, which has developed assistance programmes for its “new neighbours” in Eastern Europe, including the states of the Caucasus. Nonetheless, the Organization could offer its participating States support with matters such as the implementation of the United Nations Convention against Corruption and the establishment of modern border management practices to fight the various forms of trafficking by facilitating legal trade and passenger traffic. Russia's recommendation that the OSCE's 2006 Economic Forum deal with the issue of pan-European transport networks is more than justified. Emphasis could be placed on opening up regions that are either affected by conflicts (Caucasus) or are insufficiently integrated (Central Asia). The expertise of the European Commission should be drawn upon with regard to all these questions and not only leveraged within the context of EU-Russian economic co-operation, but also brought to bear on the considerably larger geographical space of the OSCE.

In the end, the achievements of the OSCE's human dimension must be conserved and developed further. ODIHR should employ more observers from countries "East of Vienna" in its election monitoring activities. For the third round of the Ukrainian presidential elections, for instance, France financed the participation of some 20 observers from Bulgaria, whose ability to speak Russian significantly facilitated the mission. France is willing to enter into all kinds of discussions on the modalities of election observation, as long as the effectiveness of such missions is not called into question.

To combat intolerance, the participating States must fully comply with the commitments into which they have entered. This includes the prosecution of racist and anti-Semitic acts, and the promotion of mutual respect and tolerance in schools and the media. In this context, the OSCE Paris Conference, which was opened by then Foreign Minister Barnier and Chairman-in-Office Passy, recommended in June 2004 that particular attention be paid to the internet. In the OSCE context, the participating States can exchange information regarding measures to promote the integration of immigrants, to combat all kinds of discrimination, and to protect and reintegrate victims of human trafficking (particularly women and children). On 28 and 29 April 2005, ten years after the World Conference on Women in Beijing, France hosted a conference on the topic of violence against women, which was co-financed by the OSCE. Attendees included Foreign Minister Michel Barnier; the Chairman-in-Office of the OSCE, Dimitrij Rupel; the Director of ODIHR, Christian Strohal; the OSCE Special Representative on Combating Trafficking in Human Beings, Helga Konrad; and the OSCE's Senior Police Advisor, Richard Monk. In September 2005, the Personal Representative of the OSCE Chairman-in-Office on Combating Anti-Semitism, Gert Weisskirchen, and the Personal Representative of the Chairman-in-Office of the OSCE on Combating Intolerance and Discrimination against Muslims, Ömür Orhun, visited France and reported on French legislation and good practices in these areas.

Better Co-ordination of OSCE Activities

The OSCE could improve the effectiveness and raise the profile of its many diverse activities if it made better use of synergies between, for example, its field missions, institutions, the Personal Representatives of the Chairman-in-Office, and the Parliamentary Assembly. In the spirit of the decision adopted by the Ministerial Council in Sofia, the Secretary General – under the guidance of the Chairman-in-Office – could be tasked with co-ordinating the Organization's work as a whole. In order to avoid duplication and to enable a co-ordinated approach, the Secretary General maintains co-operative relations with colleagues in other international and regional organizations (UN, EU, NATO, Council of Europe, the Organization of the Islamic Conference, the Arab League, etc.). The Ljubljana Ministerial tasked the Secretary Gen-

eral with preparing an OSCE contribution to the Alliance of Civilization launched by Kofi Annan. At the same time, the Secretary General embodies the institutional memory of the Organization. Finally, the Secretary General should be available to help the participating States to find solutions to crises and conflicts – as he has already done in working together with the Chairman-in-Office in Ukraine, Kyrgyzstan, and Uzbekistan (in the aftermath of the Andijan crisis). A more ambitious media policy would also bring the Organization considerable benefits by allowing it to publicize both established activities and emerging new tasks.

Working in concert with key partners, France is using all the means at its disposal to help overcome the problems the OSCE has faced in 2004-2005. It should thereby be possible for the Organization to make a fresh start and to restore trust between all parties. Clearly, the differences of opinion between the participating States will not disappear overnight. Nonetheless, the OSCE can return to being a real forum for dialogue, where everything that concerns our common security in the broadest sense can be discussed without acrimony.

The Group of Like-Minded Countries within the OSCE¹

“I am proud to represent in the OSCE world one of the Like-minded countries. It is certainly not a threatening block but a loose club which, besides the national interests, equally wants to further the OSCE itself, because we believe in it.” With these well-chosen words, the former Swiss Ambassador to the OSCE, Dr Heinrich Reimann, characterized the Like-Minded Countries during his farewell speech in 2004.

Although the Group of Like-Minded Countries has been around in the OSCE for many years, there are often questions asked about why these five countries have come together, whether they pursue any sort of overall policy and whom they are working with. We therefore thought it would be useful to analyse and explain how and why this group of countries came into being, how they work together, how they are perceived by the other participating States, and what role they play in the OSCE.

What Makes the Like-Minded Countries “Like-Minded”?

The concept of “like-minded countries” is well established within the framework of the United Nations and has traditionally been used by a group of countries within the UN that has taken a particularly positive approach to development co-operation issues. In the OSCE, the origin of the Group of Like-Minded Countries dates back to the mid-1990s. The Like-Minded Countries strongly believe in the relevance and the added value of the OSCE and in its potential and therefore push for a strengthening of the Organization in terms of functions and structures. The common ownership of the Organization by all participating States and their equal status, self-determination, and non-discrimination are of particular concern to the Like-Minded Countries. Their aim is a well-managed, well-resourced, and dynamic Organization with transparent processes, geared towards consensus building in decision making. The group now comprises Canada, Iceland, Liechtenstein, Norway, and Switzerland.

The Like-Minded Countries have no common borders, nor do they share the same geography or the same history. They do not speak the same language and they do not all belong to the same international or regional security and economic arrangements.

Still, the Like-Minded Countries comprise a fairly homogeneous group: The five countries are well-established and independent Western democra-

¹ The opinions expressed in this contribution are entirely those of the authors.

cies. They share the same values and they often work closely together in other organizations, in particular within the United Nations. They all attach the utmost importance to multilateral co-operation. They have a general record as consensus builders, as problem solvers, peace facilitators and peace brokers. As countries that can be counted upon to have a positive attitude towards international co-operation and to follow up their multilateral participation with their fair share of the necessary financial means they are also seen as valuable partners. The Like-Minded Countries also have an advantage in that most of them represent smaller nations: They are often viewed as not pursuing a self-serving national agenda. And even if they do not all always form the “inner circle”, they are well anchored in North Atlantic and European structures and therefore economically and politically well integrated.

Another important element that these countries have in common is a considerable overlap of interests in their foreign policies. All five countries enjoy peaceful relations with their powerful neighbours (USA, Russian Federation, EU). In all of them, there is a strong tradition of upholding independence and national sovereignty. Thus, international law, the rule of law, and global solidarity play an important role in their pursuit of international politics. The same applies to promoting and protecting human rights obligations and the rights of national minorities. Four of the five countries participate in the Human Security Network. All four EFTA members belong to the Group of Like-Minded Countries.

These common foreign policy parameters are reflected in the stance taken by the Like-Minded Countries within the OSCE:

In all three dimensions, the Like-Minded Countries do their utmost to implement OSCE commitments. They strongly advocate the importance of all three dimensions of the OSCE and the necessity of recognizing the cross-dimensionality of OSCE commitments and issues. In the economic and environmental dimension, the Like-Minded Countries have been open-minded about proposals for new initiatives. In the human dimension, they have taken a principled and independent approach to the issues.

The Like-Minded Countries are amongst the largest per capita contributors to the OSCE and its voluntary funds, including extra budgetary contributions. It was due to Norway and Switzerland that a breakthrough was achieved in the 2001 negotiations within the OSCE on the revised standard scale of contributions. After lengthy discussions and in order to avoid an impasse for the Organization, both countries increased their contributions to allow other countries to decrease theirs.

These features of the Like-Minded Countries have allowed them to play an independent and distinct role in the OSCE.

Undoubtedly, the Like-Minded Countries have gained more influence in the OSCE over the last few years as they have proved themselves useful in the work of the Organization and as their range of consultations has increased. This is also partly due to the need for additional contributions to the work and the functioning of the Organization, in view of the strong role of the United States, the Russian Federation, and the enlarged European Union. In light of the increasing difficulties experienced within the Organization, Like-Minded Countries have been actively involved in considering how best to strengthen the OSCE and to address the new risks and challenges of the twenty-first century. Combined, these elements have had a considerable influence on the co-operation and deliberations within the OSCE and on the formation of various interest-based groups in the OSCE.

The Like-Minded Countries have traditionally taken an active part in the work of the OSCE, including supporting the Chairmanship. All five countries have made themselves available to the Organization and chaired Working Groups. Two Like-Minded Countries, Switzerland and Norway, have also chaired the OSCE. Like-Minded Countries were called upon to serve as “wise persons”, in order to ease nomination processes for important positions in the Organization. Further, the Like-Minded Countries helped to bring specific negotiations to fruition: In 2004 the group was asked by the Bulgarian Chairmanship to produce a draft for a Ministerial decision on the establishment of a Panel of Eminent Persons on strengthening the effectiveness of the OSCE. The former Norwegian OSCE Chairman-in-Office, Knut Vollebæk, was asked to chair the Panel. In the past, Canada has chaired the Working Group on Improving the Functioning and Effectiveness of OSCE Field Operations; Iceland, the Informal Open-ended Group of Friends of the Chair on the Implementation of OSCE Commitments and Activities on Combating Terrorism; Liechtenstein, the Gender Working Group; Norway, the Working Group on Gender Equalities and Anti-Trafficking; and Switzerland, the Working Group on Tolerance.

The basis for this positive approach by the Like-Minded Countries is that they are open to listening to other countries’ concerns and ideas, and to discussing new solutions. They realize that the success of the OSCE so far has largely been due to the effective way in which the Organization has adapted to political change by readjusting at both structural and functional levels. This is how the Organization dealt with new developments through new commitments and instruments to meet the most burning challenges of the early 1990s. They are of the firm opinion that if the Organization wants to be an important international player in the future, it has to adapt in the same way to new threats and challenges.

Furthermore, the Like-Minded Countries are also sensitive to the fact that the 55 participating States draw upon different histories, cultures, and

traditions, and display different levels of stability and security. They therefore have different concerns and interests, which have to be taken into account if results are to be achieved together. This is why the Like-Minded Countries have been active in the discussions on OSCE reform. They share the view that there is a need for a strengthened political dialogue among equals in the Organization, as well as a need for political will by participating States to make use of this Organization, and for a principled approach to the implementation of OSCE commitments. They are open towards giving the OSCE a stronger role in the Euro-Atlantic and Eurasian regions.

The Like-Minded Countries often advocate listening to the genuine concerns of the participating States “East of Vienna”. The independence of the Like-Minded Countries and the general trust placed in them have at times allowed them to trigger a process of reflection. Their view – that the way in which a message is delivered will be instrumental in determining the dedication with which it is followed up – seems to have found some fertile soil within the OSCE.

Clearly, the Like-Minded Countries cannot bring about change in the OSCE on their own. But they have been open to understanding the various concerns, thereby bridging positions, engaging in dialogue, and bringing in new ideas with the aim of finding consensus solutions.

Experience shows that the Like-Minded Countries are requested to play a more prominent role in the OSCE when a commonly shared interest of the Organization is at stake. When it comes to national interests of the big players however, the Like-Minded Countries have little impact. One example is the lack of success candidates from the Like-Minded Countries generally have when it comes to filling top OSCE positions. With a numerically overwhelmingly strong European Union in the OSCE, the chances are reduced that candidates from Like-Minded Countries will fill such positions. That is also why the Like-Minded Countries have called for more transparency in the process of selecting candidates for top positions, especially Heads of Mission.

The Like-Minded Countries: The Why and the Who

While it is hard to say exactly when the concept of Like-Minded Countries was established in the OSCE, the first meetings of the group date back to the second half of the 1990s. It started off with sporadic meetings between countries with similar views on many issues being discussed in the OSCE. The origins of the Like-Minded Countries seem to be linked to two phenomena: the transformation of the CSCE to the OSCE and the enlargement of the European Union. Both these processes took place in 1995.

The “operationalization” of the OSCE, the implementation of the Dayton Accords, the growing role of the Organization in the Balkans, and the in-

terests of the European Union in the region created a need for closer co-ordination between countries interested in contributing to the then major new tasks of what had become the OSCE. By enhancing its profile in foreign and security policy and through the enlargement process, the European Union was interested in co-ordinating and exchanging views with associated countries and with countries sharing the same interests within the OSCE. The Like-Minded Countries in turn saw a political and operational benefit in these exchanges of views with the European Union.

The states making up the Group of Like-Minded Countries have changed over the years in response to political developments. While the group started off with Canada, Norway, Switzerland, and Turkey in the mid 1990s, Liechtenstein joined in 1999 and Iceland in 2000. Turkey left the group in 2000, after being accepted as a candidate for membership of the European Union and hence starting to benefit from the regular exchange of views that the European Union accords to candidates.

Although the Group of Like-Minded Countries currently has only five members, it is interesting to note that the concept of “like mindedness” has gained a broader geographical application, as other OSCE participating States, even when they belong to other more formal groups, have characterized themselves as “like-minded” on certain issues.

How Does the Like-Minded Group Work?

The Like-Minded Countries form an informal group, having no chairmanship and no regular internal meetings. The group provides its members with a framework that is useful for the exchange of ideas and information and for comparing positions on issues under discussion in the OSCE. The deliberations among the Like-Minded Countries mostly take place on the margins of OSCE meetings and during consultations with other groups or countries in the OSCE. As a result, the five countries may adjust their respective positions in order to have more impact on a certain issue or with a view to resolving a problem. But, at the same time, on issues of specific national interest, they may also take quite different views, as has been the case when discussing the scale of contributions. Similarly, on issues where they find themselves on the same side, they may easily enlist one another’s support. The Like-Minded Countries do not speak with one voice and do not take common positions. But in practice, because they are like-minded, they often take harmonious positions. Sometimes all five of them (or less than five) make common statements in the Permanent Council.

Whether meeting among themselves or consulting with other states and groups of states, the Like-Minded Countries are generally represented at ambassadorial level. In recent years, the Like-Minded Countries have increas-

ingly taken on the role of interlocutor in meetings with other states and groups of states.

While meetings between the Like-Minded Countries and other states and group of states were initially held sporadically (principally with the European Union), they now take place on a weekly basis with the European Union, the OSCE Chairmanship (since 2002), and the Russian Federation (since 2003). Other meetings occur on an “as needed” basis.

As it is an informal structure, it is also very much up to the ambassadors themselves how much they want to make of this group. Interest in and dedication to the Organization as well as personal relationships among the five ambassadors will therefore play a role both internally within the group and in whatever function the group as such can fulfil in deliberations with its partners.

For the Like-Minded Countries, these meetings have not only contributed to an increased flow of information, but have also enabled them to play the role of a sounding board for their interlocutors, to give advice, and, in some instances, to act as a bridge builder between different positions.

With the OSCE’s focus now turning towards Central Asia and the specific security challenges of the countries in this region, three of the Like-Minded Countries have also initiated *ad hoc* meetings with the five Central Asian states. These consultations have always been extremely useful for the Group in gaining a better understanding of the interests and preoccupations of these countries and the challenges as they see them – which do not necessarily correspond with the perception of these challenges from a more Western European/North American perspective – as well as the views of these countries on OSCE issues and working methods. These contacts also aim at encouraging the Central Asian countries to intensify their involvement with the Organization’s discussions – bearing in mind that the delegations of these countries have a number of dossiers other than the OSCE to deal with. On the issue of regional statements at OSCE Ministerial meetings, the Like-Minded Countries came out in 2003 in support of the countries of Central Asia and the Western Balkans, which had resisted the continuation of such statements. The requirement for regional statements for these countries was subsequently dropped.

Conclusion

As the overall aims of the OSCE correspond to the foreign policy goals of the Like-Minded Countries, the Organization allows these countries to implement elements of their foreign policies. Moreover, the OSCE enables the Like-Minded Countries to interact with a great number of states from the Euro-Atlantic and Eurasian region and in a great variety of areas in a way that no other regional organization can manage. In particular, it allows them

to test new forms of co-operation with other OSCE participating States. The manifold networking opportunities provided in the OSCE are of particular value to countries with relatively small diplomatic services.

It can be argued that the Group of Like-Minded Countries is an asset for the OSCE and constitutes a useful instrument in the efforts to enhance the atmosphere of understanding and trust between participating States in this Organization. OSCE participating States, particularly the big players, may find increasingly that the Group of Like-Minded Countries can play a useful role in helping the OSCE states to move forward together.

Belarus and the OSCE¹

Since February 1992, the Republic of Belarus has been a full member of the Organization for Security and Co-operation in Europe (OSCE), which unites 55 participating States, including all the countries of Europe, the USA, Canada, and the Commonwealth of Independent States (CIS). In joining the OSCE, Belarus also signed such fundamental OSCE documents as the Helsinki Final Act of 1975 and the 1990 Charter of Paris for a New Europe.

Participation in OSCE mechanisms, which provide regional security and strengthen the international standing of a country as an independent state, is a key policy priority for the Republic of Belarus, especially with regard to national security policy. Official statements of foreign policy also acknowledge the important role of the OSCE, which is considered the central organization in the process of building a new European security architecture.

However, this does not mean that relations between the OSCE and Belarus have always been positive and constructive. The constitutional referendum held in Belarus in the autumn of 1996, which led to the dismissal of the 13th Supreme Soviet, was criticized by a number of Western states and international organizations. The OSCE Parliamentary Assembly (PA) also joined in the criticism and the question of the legitimate representatives of Belarus in this body became an issue. The report of the PA's Credentials Committee, which was reviewed at a meeting of the Standing Committee of the OSCE PA in Vienna in January 1997, came to the following conclusions: First, the OSCE PA could not legally recognize any institution created as a result of the non-binding referendum. Second, the wording of the Council of Europe's Opinion had to be acknowledged. Third, it was also important to take into consideration information provided by Audrey Glover, representative of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR), concerning violations during the voting process in Belarus. Fourth, the OSCE PA had already recognized the 13th Supreme Soviet and its delegates as the legitimate representatives of Belarus in the OSCE PA. Fifth and finally, it should be taken into account that, despite great difficulties, the Supreme Soviet had continued its regular sessions. In the light of these facts, the Standing Committee decided to grant the Belarusian seat at the OSCE PA to the delegation of the 13th Supreme Soviet.

The January decision of the Standing Committee of the OSCE PA thus allowed the delegation of the Supreme Soviet, which had effectively ceased to exist, to represent the Republic of Belarus in the OSCE PA. This violated the Rules of Procedure of the OSCE PA. Rule 3.1 states that "Members of the

1 Translated by Elena Kropatcheva.

Assembly shall be Members of their National Parliaments. If they cease to be so, they may continue to be Members of the Assembly until a successor has been designated or, in the absence of such designation, for a maximum of six months.”² As a consequence, the new parliament of Belarus, which was formed after the Referendum, appealed against the decision made by the Standing Committee of the OSCE PA in January 1997. The delegation of the National Assembly of the Republic of Belarus was invited to the meeting of the Credentials Committee of the OSCE PA, which took place on 6 July 1998 on the eve of the opening of the Seventh Annual Session of the OSCE PA. However, at this meeting the OSCE PA pointed out that, considering that no changes in the domestic political situation in Belarus had taken place, the Committee did not see any reason to change the decision on the representation of Belarus in the OSCE PA adopted earlier. Instead it offered to form a working group of the OSCE PA on Belarus, which would work in close contact with the OSCE Advisory and Monitoring Group (AMG) in Belarus. The outcome of the Eighth Annual Session of the OSCE PA was the synchronization of the OSCE monitoring processes with respect to Belarus. The AMG and the OSCE PA ad hoc Working Group on Belarus had become the most important channels of influence of the OSCE and its structures on the political process in Belarus.

The AMG was established on 18 September 1997 on the basis of Decision No. 185 of the OSCE Permanent Council. According to its mandate, the AMG was to fulfil the following tasks: to assist the Belarusian authorities in promoting democratic institutions and in complying with other OSCE commitments and to monitor and report on this process.³

On 18 December 1997, a Memorandum of Understanding was signed between the Minister of Foreign Affairs of the Republic of Belarus and the Secretary General of the OSCE. Among other things, it described the rights and privileges granted by the Belarusian authorities to the members of the AMG. According to the Memorandum, the Group had diplomatic status. The Memorandum also indicated that the OSCE and its personnel would enjoy full freedom of unimpeded access to every person, individually or in association with others, including NGOs and mass media. Individual persons or groups willing to establish contacts with the Group had the right to do so.

The official opening of the office of the AMG took place on 3 March 1998 at the International Educational Centre in Minsk. With the consent of the Belarusian side, the OSCE Chairman-in-Office appointed Hans-Georg Wieck, an experienced German diplomat, as Head of the Group. The Istanbul Summit Declaration of 19 November 1999 noted the significance of the work done by the AMG. Through its work with both the Belarusian authorities and

2 OSCE Parliamentary Assembly, Rules of Procedure, e.g. at: <http://www.oscepa.org/admin/getbinary.asp?FileID=845>.

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

with opposition parties and NGOs, the Group made efforts to promote important political dialogue, the main aims of which were to facilitate resolving the constitutional controversy in Belarus and to support the conducting of free and democratic elections.

The AMG had five international staff members: the Head of the Group and four experts, each with responsibility for OSCE activities in their area of expertise. As well as performing administrative tasks, local personnel were also employed in the legal and projects departments of the Group. According to its mandate, the Group could engage experts from other international organizations and institutions if necessary.

The work of the AMG concentrated on four main aspects: advisory activities, assistance, mediation, and observation. The Group also organized and implemented projects in co-operation with the European Union (EU) and ODIHR. Under difficult conditions resulting from the almost total lack of contacts between the government and the political opposition, the OSCE representatives were compelled to engage in dialogue with each of the opposing sides individually. The AMG chose to focus on promoting co-operation as a means of resolving the conflict. By organizing a large number of seminars and conferences, the Group continually made efforts to establish an open dialogue on the questions important for the development of democracy in the country.

The work of the AMG went through several stages. At first, it provided advice to government agencies on legal reform in the area of democratic institution building. Several meetings of joint working groups were held for this purpose, dealing with the issues of democratic elections, free and independent media, the creation of an independent ombudsman institution, protection of human rights, and the reform of the judicial system.

During the second stage, the AMG's advisory activities were directed at promotion of a real political dialogue between the government and the opposition, with NGOs participating in an advisory capacity, and the AMG acting as a mediator. In 1999, the Belarusian leadership, represented by Mikhail Sazonov, aide to the President, and the opposition (the Consultative Council of Political Parties in Opposition, of which eight parties were members) agreed to hold negotiations, to be mediated by the AMG, on implementing limited democratic reforms in the sphere of free and democratic elections. As a result, in October of 1999, the representatives of the government and the opposition signed a preliminary agreement on providing the opposition with access to state-controlled electronic media. However, this agreement has never been put into practice.

During the third stage, the AMG acted as a mediator in the dialogue between different international organizations, government, opposition, and various non-governmental structures. Four criteria for conducting free and fair elections were at the core of the dialogue: fairness and transparency of the election process, access of political parties to the state mass media, sub-

stantial powers for the parliament, and non-discrimination towards political opponents in the election process.

In 2000, in accordance with the recommendations adopted in the course of three technical conferences, the EU, the Council of Europe, the OSCE, and the CIS, working jointly with the US non-governmental organization “International Foundation for Election Systems” (IFES) and ODIHR, sent a Technical Assessment Mission to the 15 October parliamentary elections in Belarus. The Mission concluded that the elections had not met OSCE standards.

In connection with the presidential elections in 2001, the AMG and the parliamentary Troika intensified their efforts to achieve positive results in shaping the framework for conducting elections on the basis of the four above-mentioned criteria.

The AMG developed a plan for the peaceful resolution of the constitutional crisis that had emerged as a result of the constitutional referendum in November 1996. This was achieved by means of a dialogue between the government and the opposition on a programme of limited reforms in the following areas: election legislation, media freedom, substantial powers for the new parliament, and non-discrimination towards political opponents.

The AMG also contributed to resuming the dialogue between different international organizations and the government and – parallel to this – with the opposition and other groups of Belarus’s budding civil society.

The AMG was asked to play the role of mediator in deadlocked discussions between the authorities and the opposition over the organization of political demonstrations and marches. In a number of cases it played a very important role in helping to find a compromise.

The AMG met with the government and members of the Co-ordination Council of Democratic Forces to discuss the possibility of negotiations. It maintained contacts with other European organizations, in particular by participating in the work of the Committee on Political Affairs of the Parliamentary Assembly of the Council of Europe (PACE) and by taking part in the hearings of the Council of the EU on Belarus.

In co-operation with the Council of Europe, several NGOs, and neighbouring states, the AMG organized a number of conferences in Minsk and regional centres throughout Belarus on issues such as local self-government, legal problems, and regional economic development.

On 15 March 2000, the Projects Department was established in the AMG. This department, which has four employees, is engaged in seven projects jointly financed by the EU and Warsaw-based ODIHR. The projects budget for 2000-2001 was 500,000 euros. Seventy per cent of this sum was provided by the EU and 30 per cent by ODIHR. Projects included the creation of the Centre of European and Transatlantic Studies at the European Humanities University in Minsk, an extensive programme of improving the sanitary and hygienic conditions in prisons, and the organization of a number of conferences on the subject of “Youth and Democracy”. Further projects in-

cluded a training programme for political parties and social activists and courses on the theory and practice of peaceful conflict resolution.

The project on improving conditions in prisons and pre-trial detention centres and on fighting tuberculosis has had significant success. Despite initial suspicion of this initiative, it was positively assessed by the Belarusian Punishment Execution Committee. The project facilitated access to prisons and detention centres for the staff of the AMG and the Red Cross as well as other international experts on issues of penitentiary reform, who had been working together with their Belarusian colleagues on amendments to the instructions on working with prisoners, on medical aspects of human rights, and on legal initiatives for improving the penal code. The project finished with a large conference held in Minsk, the main topics of which were the protection of prisoner health as a component of guaranteeing their rights and medical prophylaxis in prisons.

At the end of May 2001, a workshop for Belarusian journalists – from both state-controlled and independent media – and representatives of NGOs was organized on the joint initiative of the AMG and Freimut Duve, the OSCE Representative on Freedom of the Media. The central message was the importance of free and independent mass media for the consolidation of democratic civil society in Belarus.

Another important task to be performed by the AMG was to monitor Belarus's fulfilment of its OSCE commitments. It observed the situation of political parties, NGOs, and the mass media. Political parties co-operated within the framework of the Consultative Council, which was created in the summer of 1999 as a common political platform to foster the democratization process in the country.

The AMG also helped to create an effective network of independent election monitoring. With the support of other OSCE institutions, first among them ODIHR, a number of programmes were developed to prepare election observers.

The AMG also had a Legal Department. In the course of its wide-ranging work, it monitored several dozen court cases. It also examined more than 1,000 cases of alleged human rights violations, and the members of the Group visited nearly 40 prisoners and detainees in Belarusian prisons. In co-operation with a number of human rights organizations, a network of human rights activists encompassing the whole country was created. In co-operation with the Belarusian Helsinki Committee and Human Rights Centre, courses for human rights activists were organized.

Problems with co-operation between the OSCE AMG and the state authorities had already emerged at the end of September 1998, when Ivan Antonovich, the Minister of Foreign Affairs of the Republic of Belarus, expressed disapproval of the activities of the AMG in his talks with the then OSCE Chairman-in-Office Bronislaw Geremek. At the beginning of 2000, a group of deputies from the Belarusian House of Representatives raised the

issue of the status and the mandate of the Group. In his response, Hans-Georg Wiecek stated that these reproaches had no foundation, because all the activities of the AMG had been based on OSCE decisions, taken with the direct participation of Belarus and on the bilateral agreements between the Organization and Belarus.

However, more serious accusations regarding the Mission and its work began after the parliamentary elections. President Alexander Lukashenko said that the time had come to reconsider the role and the place of the OSCE AMG in Belarus. This immediately generated a new wave of criticism from officials, governmental institutions, and Belarusian television. In response to these criticisms, the AMG made a statement in which it rejected the accusations of having exceeded the limits of its mandate. It reiterated that the Belarusian President had taken part in the Istanbul Summit and that he had approved the role of the AMG in supporting the building of democratic institutions. The OSCE also gave an official response, in which Jutta Stefan-Bastl, then Head of the Permanent Council, emphasized that the Group had not exceeded the limits of its mandate.

For a short period of time the tension decreased. This was the outcome of a meeting between Hans-Georg Wiecek and Mikhail Khvastov, the new Belarusian Minister of Foreign Affairs, when an agreement was reached about the continuation of bilateral consultations and constructive co-operation. However, as early as the end of January, the President had accused the AMG of working for his personal enemies and of uncontrolled financing of projects. He demanded *de facto* control over the budget of the AMG, threatening that otherwise the Mission might be closed. In addition, he spoke out against the creation of a group of observers for the next presidential election. In its response, the AMG stated that the Belarusian authorities had been informed about the projects whose implementation was planned for 2001 and that the OSCE Permanent Council had rejected the proposal that the implementation of projects should depend on the agreement or approval of the host country.

Meanwhile the situation around the preparation of national election observers became more heated. On Belarusian TV, government officials declared that international help in this context should be considered in its true light: international actors were preparing their agents of influence. The AMG responded to such accusations by stating that this was standard OSCE practice and had been followed during local government and national parliamentary elections without any incidents or objections from the authorities, and that the OSCE's co-operation with internal observers was legitimate and necessary. In the end, Ambassador Wiecek was able to continue his work in this sphere in the same way as before.

In September 2001, Foreign Minister Khvastov suggested that the OSCE authorities should rethink who should head the OSCE Mission in Belarus, because the acting Head of Mission had been interfering in Belarusian domestic affairs. Moreover, according to Khvastov, the Mission was to

be closed because of its activities were counterproductive to the Organization's aims. Earlier, President Lukashenko had declared that the OSCE Mission had openly supported the opposition during the presidential election campaign. The AMG responded that its mandate enabled it to provide the government, the opposition, and NGOs with advice on creating the conditions necessary for free and democratic elections. It emphasized that the Mission did not support either of the sides taking part in the elections. As a result of this conflict, Ambassador Wieck had to retire as the Head of the OSCE AMG in Belarus, which he had led since its creation in December 1997.

The Group continued to fulfil its mandate, which provided for it to support the development of democratic institutions in Belarus and to monitor fulfilment of the commitments undertaken by Belarus within the framework of the OSCE. As Ambassador Wieck noted, during the previous four years, Belarusian civil society had improved its democratic orientation and adherence to democratic principles to a certain extent. However, the process of democratic transformation had not brought significant progress in Belarus's compliance with its OSCE commitments. After Ambassador Wieck's retrial, on 1 January 2002, he was replaced by Eberhard Heyken, the former German Ambassador to Ukraine. Belarus, however, would only let him take up his duties conditional upon changes to the mandate of the AMG.

In 2002, all foreigners who worked in the Mission had to leave Belarus, because their visas or accreditations were not extended. The work of the Mission as a whole was paralysed. The official position of the Belarusian government was expressed by Pavel Latushko, press secretary at the Belarusian Foreign Ministry, who stated that the OSCE Mission would not be able to operate in its present form. The Belarusian side, however, did not completely reject co-operation with the OSCE but made it conditional on mutual trust, respect for the opinions of the host country, and clear and understandable definitions of its goals and tasks.

The last member of the Mission, Moldovan national Alina Josan, acting Head of the Mission, left Belarus on 29 October 2002. With her departure, the Mission, established in 1997, had to cease its activities and await an official decision of the OSCE Permanent Council.

In November 2002, OSCE Secretary General Ján Kubiš on a two-day visit to Belarus spoke of the necessity of turning a new page in relations between the OSCE and the Republic. In his statement, he emphasized that the purpose of his visit was to observe the condition of relations between the Organization and one of its participating States and to look to the future, leaving behind the latest problematic period in these relations. He also stated that relations between Belarus and the OSCE were not in the best of shape because "the last member of the Mission, who had worked in Belarus since 1999, has left the country". The Secretary General held a number of meetings with Foreign Minister Khvostov and Ural Latypov, Head of the Presidential Administration, for the purpose of discussing the possibility of a new mandate for the

Mission. As a result, on 30 December 2002, the OSCE Permanent Council resolved to close the AMG by 31 December 2002 and to open an OSCE Office in Minsk on 1 January 2003.⁴ The OSCE and Belarus signed a Memorandum of Understanding. An agreement was reached on the staffing of the Office, according to which it was to have no more than five international team members: a Head of Office assisted by a team of four experts and supported in an ancillary capacity by local staff employed by the Mission.

The delegation of the Republic of Belarus to the OSCE also issued an interpretative statement, which included the following points:

1. The procedure of the implementation of all projects and programmes of the OSCE Office in Minsk [...] foresees prior consultations with the Government of the host country [...] 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. 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

In accordance with the Decision of the Permanent Council, the main tasks of the Office are to:

- Assist the Belarusian Government in further promoting institution building, in further consolidating the Rule of Law and in developing relations with civil society, in accordance with OSCE principles and commitments;
- Assist the Belarusian Government in its efforts in developing economic and environmental activities;
- Monitor and report accurately on the above mentioned objectives.⁶

4 Organization for Security and Co-operation in Europe, Permanent Council, Decision No. 526, OSCE Office in Minsk, PC.DEC/526, 30 December 2002.

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.

6 OSCE, Permanent Council, Decision No. 526, cited above (Note 4).

In co-operation with the government of Belarus, the Office co-ordinates its activities with the OSCE Chairman-in-Office, the Parliamentary Assembly, and other OSCE institutions. It also establishes and maintains contacts with local authorities, political parties, NGOs, the media, universities, and research institutes.

On 30 January 2003, Ambassador Heyken was appointed Head of the OSCE Office in Minsk. He began his work on 10 February. In the course of a special plenary meeting of the OSCE Permanent Council, held on 2 April 2003, he submitted his report about the first stages of the work of the Office. His main conclusions were as follows:

After overcoming some teething difficulties, which were all organizational in nature, the OSCE Office was now able to function effectively. The Office was able to use its right to seek contact with all national and local authorities, with all persons, individually or in association, and with other institutions, including NGOs and the mass media. Impediments from the authorities had not come to Ambassador Heyken's attention. The Office had already established a network of contacts, which included political parties of all colours and civil society. Taking all the facts into account, Ambassador Heyken thought it was right to assume that co-operation would be long-term rather than tactical in nature. Summing up, he stated: "I have come to the conclusion that the OSCE Office in Minsk has good prospects to function according to its mandate. At the same time I am aware that the OOM [OSCE Office in Minsk] always needs strong support from the OSCE leadership. The OOM will be able to work best when the OSCE can rely on the solidarity of the participating States and organizations that embody the same principles and values."⁷

The Office fulfilled its mandate by undertaking relevant projects in the human and economic/environmental dimensions and by performing monitoring activities and preparing reports. The project entitled "Local Democracy and Assistance to Local Government Development in Belarus" was geared towards helping the Belarusian authorities to establish and develop a concept of local democracy. Within the framework of the project, four study tours took place, which enabled both an exchange of experience in the sphere of self-government between Belarus and its neighbours and the establishment of international professional contacts. This project was carried out in co-operation with the Belarusian Ministry of Foreign Affairs, the Lev Sapega Foundation, and local and regional institutions of self-government in the Czech Republic, Latvia, Lithuania, and Poland.

On 22 September 2003, 60 delegates, including representatives of the electoral authorities of Belarus and of political parties and NGOs, took part in a seminar on international standards in the area of democratic elections. It

7 Cited in: Ministry of Foreign Affairs of the Republic of Belarus, The beginning of the OSCE Office in Minsk activity, at: <http://www.mfa.gov.by/eng/index.php?d=policy/multicoop&id=10>.

was organized by the OSCE Office in Minsk together with ODIHR and the Central Election Commission of Belarus.

The Office also supported the initiative of the Ministry of Education, which planned the publication of a textbook with the title “An Introduction to Human Rights for School Children”. Within the framework of this initiative, the problem of introducing the theme of human rights into the Belarusian school programmes was considered. The Office also launched a financial campaign among the OSCE participating States to raise resources to fund such a publication.

With respect to the development of journalism, especially investigative reporting, Belarusian journalists were offered the opportunity to take part in a contest whose winners were entitled to take a study tour to the EU country of their choice. The winning journalists interviewed representatives of government institutions and NGOs. After their return, they presented and published the articles about the investigations they undertook.

The Office has undertaken a number of monitoring activities. It monitored several opposition demonstrations in Minsk. Throughout the year, the representatives of the OSCE also observed court cases, most of which involved NGOs. In addition, the Office helped several Belarusian NGOs by supporting their participation in the OSCE Human Dimension Implementation Meeting in Warsaw in October 2003.

The OSCE Office also continued to concern itself with a large number of complaints about human rights violations. The Office regularly informed the government of its concerns and conclusions. As a rule, the government response was quick, and in several cases measures were taken to rectify the situation.

Acting on the request of NGOs and individuals, members of the Office continued to visit prisons, observing the conditions under which prisoners and detainees live.

The OSCE Office has established positive and businesslike relations with a number of state institutions and NGOs working in the economic and environmental area. The Office co-operates closely with the Office of the Coordinator of OSCE Economic and Environmental Activities. By 2003, five programmes had been completed, including work to expand local capacities, to distribute materials provided by international experts, and to disseminate information among national experts and civil society.

In co-operation with the Ministry of Labour and Social Welfare of Belarus, the Office developed a programme within whose framework they planned to invite a group of experts to Belarus to discuss possible variants of the pension system. Representatives of both the authorities and NGOs took part in the implementation of this programme. Furthermore, the Office and its international partners took a number of steps to support the development of entrepreneurship in village areas within the context of the national development programme. Two telephone hotlines have been installed to provide

entrepreneurs from villages and the countryside with access to legal and commercial advice.

The Office, working with the Ministry of Natural Resources and Environmental Protection and the Belarusian representation of the environmental organization *EcoPravo*, undertook an analysis of environmental legislation. As a result, an analytical report was published as a reference book. Copies of it – 1,500 in total – were distributed among judges and students and sent to libraries throughout the country. A comparative analysis of water resources legislation in Belarus and the EU has been implemented as well. Its results were on the agenda for discussion in all relevant institutions. On the basis of recommendations drawn up during a seminar, two reference books were prepared. This project was planned as the continuation and development of work that had been begun within the TACIS framework.

In co-operation with the National Academy of Sciences and the Belarusian National Committee for the “Man and the Biosphere” (MAB) programme, the Office completed the necessary preparations for applying to UNESCO for the inclusion of the trans-border West Polesie region in the UNESCO-MAB biosphere reserves directory.⁸ To harmonize the monitoring procedures for testing the water quality in the Neman River, a working meeting was organized with the participation of both the Belarusian and Lithuanian sides. The Belarusian side in particular has taken initial steps towards harmonizing environmental legislation. The OSCE Office has also developed a programme for the rehabilitation of regions affected by the Chernobyl disaster. The aim of this programme is the amelioration of living conditions in those areas.

In order to strengthen contacts between Belarusian authorities and national minorities and religious communities, the OSCE Office and the Committee for Religions and Nationalities prepared two books calling for respect and non-discrimination. The first concerned the traditions and cultures of national minorities in Belarus, and the second book dealt with religious organizations present in the country.

In July 2004, a two-day conference sponsored by the OSCE Office in Minsk took place. Its purpose was to bring to the attention of the media and the Belarusian public the problems of domestic violence towards women and children. The conference served as a good example of successful co-operation between authorities, parliamentarians, and representatives of NGOs.

Together with the International Education Centre, the National Law Drafting Centre, the Ministry of Economics, and the Financial Investment Advisory Council, the Office organized a number of meetings to develop strategies for the improvement of the investment climate in Belarus. In November 2004, the Co-ordinator of OSCE Economic and Environmental Activities visited Belarus.

8 The region was added to the directory in October 2004.

In 2004 alone, Ambassador Heyken received 40 project proposals developed by working groups within the ministries and departments of the Belarusian government. The Office continued its activities in two main areas: projects and observing Belarus's fulfilment of its OSCE commitments. The Head of Office expressed hope that Belarus would carry out its policies in accordance with its OSCE membership commitments. At the beginning of 2004, Belarus agreed to prolong the contract of the Head of Office for six months until 30 June 2004. According to statements on behalf of the Belarusian Ministry of Foreign Affairs, this decision was based on its positive assessment of the constructive co-operation it enjoyed with the OSCE Office in 2003. Moreover, the Ministry of Foreign Affairs realized that constructive co-operation would also be needed during 2004 in all dimensions of the Office's work. The mandate of the Office for 2005 was prolonged by means of a silence procedure when, during the relevant OSCE Permanent Council meeting, it proved impossible to reach an agreement on the necessity of continuing the work of the OSCE Mission in Minsk.

The Head of Office expressed his disapproval of the closure of several regional resource centres – “Ratusha” in Grodno, “Civil Initiatives” in Gomel, “Kontur” the Center of Youth Initiatives in Vitebsk, etc. – and of the liquidation of the Independent Institute of Socio-Economic and Political Studies (IISEPS). Moreover, he expressed his grave concern over the closure of the European Humanities University (EHU) in Minsk. On learning that the EHU's license, which had been extended in May 2004, had been cancelled by Alexander Redkov, Minister of Education, on 27 July, Ambassador Heyken stated that this closure “contradicts the basic principles of the OSCE, which is committed to international cooperation, academic freedom, and tolerance”.⁹ The work of the Office is directly affected by the closure of the EHU, because the latter's activities contributed to the work of the Centre for European and Transatlantic Studies, established in 2000 in Belarus within the framework of the joint programme of the European Commission and ODIHR.

With the aim of improving election legislation, ODIHR began negotiations with the Belarusian government in the spring of 2004. However, the Belarusian government was adamant that there was no need for any improvements to the election legislation.

The visit of the OSCE Chairman-in-Office, Solomon Passy, to Belarus was one of the key events in relations between Belarus and the OSCE in 2004. The first visit of its kind since 1998, it provides a basis for further dialogue and has encouraged the belief that it is possible to achieve a sincere dialogue between Belarus and the Organization.

Since 1999, the OSCE PA has adopted a number of resolutions critical of Belarus. In 2003, one resolution in particular was extremely harsh. In

9 Cited in: OSCE Warns Minsk of 'Tension in Belarusian-EU Relations, at: <http://www.templetonthorp.com/ru/news709>.

2004, the UN Commission on Human Rights (UNCHR) and the Parliamentary Assembly of the Council of Europe (PACE) also adopted resolutions on Belarus. According to the Head of the OSCE Office in Minsk, these are a signal of the international community's concern about the situation in Belarus. But although resolutions always express a specific point of view, the OSCE is an organization that places particular emphasis on co-operation and dialogue. Thus, in 2004, the OSCE PA withdrew its political resolution. In Edinburgh, Uta Zapf, head of the OSCE PA ad hoc Working Group on Belarus, and Mikhail Orda, head of the Belarusian parliamentary delegation, signed a Joint Declaration. Those who signed this declaration expressed their desire that the newly elected parliament would be recognized and respected.

According to the Head of the OSCE Office in Minsk, the Office receives many complaints that media and NGOs are under pressure from the state and that in some individual cases measures taken by authorities and courts do not correspond to the principles of civil freedoms. This is why the situation in Belarus is periodically criticized in the OSCE Permanent Council.

In March 2005, Miklos Haraszti, OSCE Representative on Freedom of the Media, visited Belarus. He was invited by the government of the Republic and the visit was organized by the Belarusian Ministry of Foreign Affairs and the OSCE Office in Minsk. The purpose of this visit was to get acquainted with the situation in the area of media freedom in Belarus and to present recommendations to the state authorities. A senior representative of the Ministry of Foreign Affairs admitted that there were certain problems in this area. He emphasized however, that these problems did not differ from the problems experienced by most other post-Soviet states. The OSCE Representative on Freedom of the Media suggested that Belarus take advantage of the opportunities provided by the presence of the OSCE Office to improve the situation in the area of mass media in the near future as well as in the long-term.

In the estimation of OSCE officials and politicians, although the first OSCE general assessments of the situation in Belarus were quite negative, progress in establishing and developing a dialogue between the country and the Organization can, nevertheless, be seen. In the period since the OSCE presence in Belarus was established, the basic elements of OSCE-Belarusian relations have been transformed. Complete rejection of the referendum results and of the new version of the Constitution has been replaced by dialogue, and, whereas it once declared the National Assembly to be illegitimate, the OSCE now calls on Belarus to organize honest and fair elections. Although these positive signs are important, there are also a number of difficult problems on the agenda of Belarusian-OSCE relations, many of which are connected with the establishment of a democratic society.

II.

Responsibilities, Instruments, Mechanisms,
and Procedures

Conflict Prevention and Dispute Settlement

The OSCE Presence in Albania: The Role of Field Stations and Their Activities¹

Introduction

The OSCE Presence in Albania was established after the widespread civil unrest of 1997 that led to the collapse of the Albanian state. Over time, it expanded its operations from a single headquarters to encompass eleven field stations throughout the country, which were responsible for monitoring the political and security situation in the country as well as the border situation during the Kosovo crisis in 1998-9. Since 1997, the overall security situation in Albania has significantly improved and much progress has been achieved by Albania in terms of institutional reforms and democratic development. As a result, the European Union decided on 31 January 2003 to open negotiations on a Stabilization and Association Agreement, the first step towards eventual accession.

Given Albania's orientation towards Europe, the political leadership of the country and its institutions need a consolidation of democracy and overall stability. In line with Albania's aspirations, the Presence's role has evolved, which has meant a scaling down of personnel and a closure of many of its field stations. There are now a total of 30 international and 70 national staff members and four remaining field stations: Shkodra and Kukës in the north, and Vlora and Gjirokastra in the south. A liaison office covering the central regions of Tirana and Durrës is located at Presence headquarters.

The Presence has also reoriented its mandate to take into account the progress made since the original mandate was approved in 1997. Under the current one, which was issued in December 2003, the Presence provides assistance and expertise in legislative and judicial reform, including property reform, regional administrative reform, electoral reform, parliamentary capacity building, anti-trafficking and anti-corruption, media development, the promotion of good governance and strengthening of civil society, and police assistance focused on border police and co-ordinated with other international actors in the field.² In this way, the Presence has adapted to the progress made by Albania, which has gone from being a country in crisis to a post-conflict country facing major challenges of transition. This article intends to describe the work and role of the field stations under the new mandate, their

¹ The opinions expressed in this article are exclusively the personal views of the author.

² Cf. OSCE, Permanent Council, Decision No. 588, Mandate of the OSCE Presence in Albania, PC.DEC/588, 18 December 2003, in: OSCE, Permanent Council, 488th Plenary Meeting, PC Journal No. 488, Agenda item 16, 18 December 2003.

perception of Albanian reality, and their notable contribution to the positive evolution of Albania.

The Current Situation in Albania: A Field Perspective

Field Station staff members are confronted by the reality faced by ordinary Albanian citizens on a daily basis, which is characterized by a number of problems that cannot be overlooked by the international community. First of all, the Albanian political landscape is chiefly shaped by two overwhelmingly dominant and driving forces: the Socialist Party, currently the governing majority, and the Democratic Party, the major party of opposition. Since the fall of Communism, the Albanian political landscape has been characterized by this sharp bipolarization. This has led to a deeply entrenched antagonistic approach to political issues, which in turn has seriously hindered the pace of Albania's overall progress. Moreover, it has undermined public confidence in the country's political leaders and in its future. Therefore, the political atmosphere is marred by almost constant division and sterile, unrestricted hostility. Potential for consensus between the protagonists exists but is limited to a quite narrow common denominator, which is often defined by external aspirations rather than by a strategic convergence towards the vital interests of the country. At the local level this has a direct detrimental effect on the efficiency of municipal administrations and municipal councils, which are often deadlocked due to bitter political infighting sometimes driven by personal interests.

The deficiencies of infrastructure, in spite of some significant improvements, notably road construction, have not helped the economy to recover from its absolute low point in 1997. But there has been growth of six to eight per cent per annum since then. Even though sufficient electricity is produced in the north-western part of the country to meet most of Albania's needs, power shortages are endemic and will remain so for many years to come. Outdated infrastructure, weak management of the national electricity company, political manipulation of the electricity issue by opposition parties, and a disintegrated civic sense have made this issue particularly sensitive in the northern city of Shkodra. Such a situation harshly impacts on the quality of life and morale of citizens on a daily basis.

At 15 to 18 per cent, unemployment is high in the whole country, but especially in the north, where extreme poverty plagues certain areas. Around 30 per cent of the Albanian population lives below the poverty line³ despite the fact that economic growth is steady and high, though not evenly distributed.

3 According to Ambassador Osmo Lipponen, Head of Presence, Report to the US Commission on Security and Co-operation in Europe. Hearing: Advancing Democracy in Albania, 20 July 2004, at: <http://www.csce.gov>.

The country has had to cope with large-scale population shifts, both within and across its borders. The rural population, after decades of suffering from restricted freedom of movement, has been migrating from the north to the main cities, in particular to the capital Tirana, and has also been emigrating abroad. One fourth of the population has left Albania to seek improved living conditions abroad. While this phenomenon has operated as “a safety valve”⁴ for the population, and is an important source of remittances, emigration has caused a brain drain of remarkable dimensions. Emigration – legal or illegal – should be a cause for serious concern among Albania’s political leadership, because it is seen by many ordinary Albanians as the only hope for escape from the hardships of life in their own country. This in itself is an unpleasant symptom of the plight experienced by the population for a number of years. It demonstrates, too, the lack of expectations ordinary Albanians have for a significant improvement in their lives under the current circumstances.

The capacities of the legal and judicial institutions are weak, with inadequate implementation of laws and sometimes inefficient enforcement of public order. At the local level, this leads to violent security incidents as well as unresolved disputes between citizens, mainly related to property. Corruption is rampant in locally and centrally run institutions and this phenomenon, which directly impacts the economy by hindering foreign investment. Clientelism is so widespread that it has become systematic and rooted in the culture. This undue use of political influence and connections by the main political parties frequently causes party loyalty to prevail over professionalism. Political appointees can be found in almost all administrative sectors, to the detriment of the services that should be provided to the population.

The general lack of accountability and transparency has undermined the credibility of central and local institutions and of many political parties. Public pressure on elected representatives – at whatever levels and irrespective of allegiance – has been almost non-existent, despite the fact that this is one of the most important issues Albania has to face in the future. Albanian civil society is feeble and is struggling to have its voice heard. The combination of the above mentioned factors breeds criminality, hampers economic development, favours human trafficking, weakens democracy, and severely damages the trust of the local population, who are largely aware of these many striking shortcomings in the state. It is in this specific context that the Presence and, in particular, the field stations operate.

4 Ibid.

The Presence's current network of four field stations and a liaison office is unique in Albania and constitutes one of its major strengths. Virtually no other international organization operating in the country is as directly in touch with the population – or as trusted by local contacts – to give advice and expertise on a wide range of matters.

The field stations extend the reach of headquarters in the country. They are a key source of information and provide valuable feedback for the programmatic work directed by the Presence's headquarters. This guarantees a constant reading of the pulse of the country in its key geographic sectors and population centres. This is particularly relevant for the Presence's project work. The various roles played by the field stations are embodied by staff members, who are deeply involved in local co-operation with Albanian institutions representing national and local authorities and other partners. Contacts are frequent, almost daily, between the field station staff and a variety of actors of local life, such as the police, members of the judiciary, prefects, mayors, chairmen of regional councils, religious leaders, heads of political parties, and civil society representatives.

Building trust is the essential component of such a relationship. It requires social skills, tact, commitment, and the ability to take responsibility and adapt. Relations at the local level are usually close and amicable, contributing to the good reputation of the OSCE in general in Albania. This helps to solve problems. Being a member of a field station team requires a considerable level of integration into the population and cross-cultural awareness in order to avoid intercultural dissonance. Field station co-operation extends not only to the Albanians, but also to many other international actors present in the country. The field stations have frequent contacts with international organizations such as the European Commission, USAID, EUMM, IOM, UNHCR, UNOPS, UNDP, Peace Corps, Interforza, and various embassies or consulates, all of which require local information and frequent co-operation for their activities.

Intensive co-operation with local actors bears fruit in different ways. First, it allows the field station staff to have access to precise information on the subjects the Presence covers in its mandate in the areas of democratization, rule of law, human rights, and security co-operation. Frequent meetings and the trust built between staff members and key local players makes it possible for the Presence to measure the amount of progress Albania has made in recent years in a number of fields and assess what weaknesses remain to be dealt with.

Since Albanian political life is riven by strife, it is especially important to follow up on issues outside the Assembly and the political party headquarters in the capital. In that respect, field stations provide the Political Af-

fairs Unit with reports, information, and analyses made at local level on the political situation as a basis for further consideration. In doing so, the field stations' information is helpful in shaping the Presence's decision-making process. Field stations collect information on specific issues required by Presence headquarters and provide it with assessment and analysis for the departments by identifying problems at the local level that could impact nationally. The field stations also perform this task for each of the Presence's three departments: security, rule of law, and democratization.

Second, because of the relations and close contacts the Presence enjoys with different Albanian interlocutors, field station staff are often asked to act as mediators or honest brokers to solve local problems or tensions. In many cases, the field station staff are seen by their Albanian interlocutors as impartial and reliable partners. They have mediated between the municipal administration and citizens and between political parties, especially during elections, when tensions between candidates occasionally occur.

Third, since the Presence, in line with the request of the Albanian authorities and the new mandate, has embarked on more project-oriented work, the field stations have come up with a number of project activities to be part of headquarters programmes. A strong stimulus has been given to this direction by the current Head of Presence, Ambassador Pavel Vacek. Many of the project activities are initiated in co-operation with civil society representatives, the police, local government units, the judiciary, and the media in response to a problem that has been identified locally. Project activities are then often implemented in a pilot phase in the area of responsibility of one field station and their outcome evaluated. This experience can sometimes lead to nationwide implementation, thus enhancing the impact of the project.

Field Station Activities as Part of Headquarters Departmental Outreach

The field stations work in direct co-operation with the three departments in headquarters and are responsible for implementing part of their programmes as well as evaluating their results at a local level. The field stations conduct a variety of activities in the field of democratization, rule of law, and security co-operation. Some examples of field station involvement in these activities are cited below.

Democratization – Elections

The Presence has played a major role in supporting the relevant Albanian institutions with expertise in all elections since the OSCE came into the country. Following the release of the OSCE/ODIHR Final Report on October 2003 local government elections, which called for revisions to the newly approved Electoral Code, the Presence's Electoral Reform Unit has supported

the implementation of ODIHR recommendations on problem areas identified by the relevant Albanian authorities.

Albania held parliamentary elections in July 2005. The preparation and the conduct of the 2005 parliamentary elections, in particular, were a decisive test of Albania's democratic credentials. This was all the more important following ODIHR's description of the October 2003 local government elections as a "missed opportunity" in terms of compliance with international standards. In 2005, ODIHR judged that "the [...] parliamentary election complied, only in part, with OSCE commitments and other international standards for democratic elections, and marked some progress in the conduct of elections in Albania".⁵

One of the Presence's main tasks is to provide expertise and support to the Albanian government for elections in general, something it also did with respect to the 2005 parliamentary elections. The Presence provided such support via a technical assistance project, whose aim was to help the Ministry of Local Government and Decentralization and the Central Elections Commission (CEC) to improve the voter register, which had been highlighted as a major problem in 2003. Indeed ODIHR stated in its Final Report that the new framework on voter registration implemented by state and local government units resulted in improved accuracy of voter lists in many electoral zones.⁶

Thanks to their strategic locations, the field stations were instrumental in providing the Presence's Democratization Department with rapid and up-to-date information from around the country on the pace and progress of the citizen registration process and the compilation of the voter register. This enabled the Democratization Department to inform the Ministry of Local Government of problems occurring in local government units and to take action to speed up the process. The field stations were often the first contact point for local government units themselves when they faced difficulties in this task.

During elections, every field station is usually involved in preparing the ground for the deployment of ODIHR long-term (LTOs) and short-term observers (STOs). The field stations prepare all the contacts and briefing packs and provide logistical support for the observers, including human resources. In addition, the field stations also act as observers and provide Presence headquarters with assessments of political developments and the electoral process prior to and during elections.

5 OSCE Office for Democratic Institutions and Human Rights, *Republic of Albania, Parliamentary Elections, 3 July 2005, OSCE/ODIHR Election Observation Mission Report*, Warsaw, 7 November 2005, p. 4.

6 Cf. *ibid.*, p. 5.

The field stations actively encourage civil society activities in their areas of responsibility by providing expert advice, conducting training, and providing logistic support. One such example is the civil society group “Mjaft!” (“Enough!”), a nationwide citizen’s initiative that was originally launched to raise public awareness of Albania’s many dire social problems, namely health and education, blood feuds, trafficking and organized crime, poverty and unemployment, discrimination against women and the handicapped, the corruption of Albanian politics, environmental degradation, and the lack of progress in EU integration. Mjaft! has earned credentials as a watchdog of the Albanian political scene.

At first, the field stations provided Mjaft! with technical assistance and logistic support, thanks to the extra budgetary resources coming from willing external donors. At the local level, youth activists were trained and youth debates and concerts were organized. Their specific aim was to raise issues particularly affecting certain areas.

Field stations also provide logistical support and advice to the National Network of Civil Society Development Centres (NNCSDC), a joint project of the Presence and the Netherlands Organization for Development (SNV), which is supported by several bilateral donors and delivers a grassroots development programme to local civil society and community-based groups. This network consists of six centres in Durrës, Elbasan, Korça, Vlora, Kukës, and Shkodra. It supplies a number of services to civil society and local government, including technical assistance, training, consultation, and the creation of new co-ordinating structures and the organization of specialized meetings. The CSDCs strive to create networks and enhance citizen participation in the decision-making process.

Rule of Law – Fair Trial Development

The strong need to increase public confidence in the judiciary and related institutions was the reason for the Presence initiating the Fair Trial Development Project (FTDP). Within the scope of the project, the field stations follow cases not only in Tirana, but also in Durrës, Vlora, Gjirokastra, Shkodra, and Kukës. Standardized templates to be filled out by the observers after the completion of each trial, written court verdicts, and additional interviews carried out with judges, prosecutors, and defence lawyers form the basis of the analysis carried out by the FTDP. The findings are summarized in court observation reports drafted every six weeks.

The contributions of field stations have been crucial, given the need to obtain a geographical spread of results, and have resulted in the compilation and publication of an Interim Report for the period from October 2003 to July 2004, which made recommendations concerning court organization, the

legislative framework, juvenile justice, and the professionalism of the judiciary. This report was distributed to all district and appeal courts, as well as the main judicial bodies at the national level.

Rule of Law – Pre-Trial Detention

Within the framework of the Human Rights Unit's work on pre-trial detention, the field stations conduct annual surveys of the treatment of prisoners held on remand and their detention cells. These surveys form the basis for the recommendations given by the Presence's Rule of Law Department to the Ministry of Public Order and the Ministry of Justice on how to improve the respect of these prisoners' rights and to speed up the transfer of the responsibilities over pre-trial detention facilities from the Ministry of Public Order to the Ministry of Justice. Throughout the year, field stations are often called upon by the police to look into cases in pre-trial detention cells. In March 2004, the Presence published a report on the pre-trial detention system in Albania. This report was publicized by many national and international media organs. The reports helped speed up the transfer of responsibility for pre-trial detention cells from the Ministry of Public Order to the Ministry of Justice, in compliance with international standards.

Security Co-operation – Police Assistance and Border Management.

The field stations regularly provide updated information on the security situation in the country to the Presence headquarters in co-operation with the Albanian police. Field stations facilitate cross-border meetings with neighbouring border authorities, in particular on the border with Kosovo.

Field stations have conducted border surveys and initiated project ideas such as the Solar Panel Project, which aims at providing a more stable, low-maintenance energy source at key border crossing points and in police commissariats. This pilot project, which began in Shkodra, is to be implemented nationwide. Funding for the Solar Panel Project has been provided through extra budgetary contributions from the Czech Republic and France.

The communication systems-related second language training provided by the Security Department to assist the government of Albania in implementing its Strategic Plan for Border Management will also be dependent on continued field support. Field stations will help identify suitable locations for training, assist in the recruitment of language instructors, and provide additional support to the project. The project should help to enhance police radio communication systems, provide a faster response time in emergencies and operations against cross-border organized crime, and result in the fulfilment of the NATO language requirement. The language course being implemented in co-operation with the British Council is another project that will serve a similar purpose for the border police and will help to raise its standards. Eng-

lish language courses will be given to border police officers at field station-level and at the Police Academy in Tirana.

Security Co-operation – Pre-Screening

The Presence contributes as an implementing partner to the EU CARDS 2003 Project on Pre-screening of Asylum-Seekers and Migrants by means of its field presence, its programmatic approach and related experience, and its continued good co-operation with the Albanian state police, including the border police with its central structures and their representatives in the field. The Presence in Albania therefore has the lead role in terms of liaison and monitoring in the field. The project on the Pre-screening of Asylum-Seekers and Migrants is managed by the Anti-Trafficking Unit. Six national pre-screening officers work under the supervision of the field stations, which reinforce and support the pre-screening officers in implementing the project goals. Pre-screening officers are currently deployed to field stations in Kukës, Shkodra, and Gjirokastra and there is one at Presence headquarters in Tirana. The field stations facilitate the contacts of the pre-screening officers to local police to support them in their work.

Field Station Shkodra: A Concise Case Study

Each field station has its own specialty. Field Station Shkodra has had a strong emphasis on security-related issues. It has witnessed a dramatic improvement in the local public security situation over the last three years. The security situation moved from being very problematic to good, thanks to the dedicated work of several police directors, whose many actions and initiatives were instrumental in strengthening the rule of law. A few examples are worth mentioning. In 2004, a well-led police department successfully managed to collect hundreds of weapons in only a few weeks in a self-run door-to-door collection programme. After an awareness campaign launched on local media and funded by the German Delegation to the OSCE, the police also managed to combat the harvest of *cannabis sativa* in the surrounding hills.

Being located on the northern border, Field Station Shkodra witnessed the decrease of trafficking in human beings due to a nationwide action plan enforced by the police. While significant success has been achieved, Albania does still remain a country of transit and of origin. The extreme poverty of the northern part of the country is a fertile breeding ground for a number of illegal activities. It is not insignificant that in January 2004, most of the 21 Albanian migrants who, in one tragic accident, were lost at sea trying to cross illegally to Italy came from the Shkodra region. Other events speak for themselves. Police operations have repeatedly targeted smugglers' networks. In December 2004, the police intercepted gunrunners smuggling MANPADS

SAM-7 type across the Montenegrin border. In March 2005, the police again successfully dismantled another network, seizing a number of remote controlled explosive devices smuggled in the same zone.

Field Station Shkodra also enjoys, as do the other field stations, close co-operation with local political, institutional, and civil society representatives.

Summary and Outlook

Albania has certainly seen remarkable changes take place over the last several years. Today's problems are the legacy of the last half century and of the collapse of the state structures in 1997. There is no quick-fix solution to remedy such profound and long-lasting social trauma, which has left Albanian society deeply scarred. The extent of the current political, social, economic, and psychological challenges cannot be underestimated. Improvements still remain to be implemented in a variety of fields, Euro-Atlantic integration being high on the agenda of the authorities. International support is, beyond any doubt, still needed for Albania. Above all, the duty of the OSCE Presence is to promote and actively support good governance practices. It goes without saying that this is done with the full co-operation of the Albanian State. At their level, the field stations contribute their fair share to strengthening the institutions and are an integral part of that demanding capacity-building process. If field stations pay attention to identifying problems, they are the earliest to witness the improvements occurring in their areas of responsibility. The genuine and close co-operation enjoyed with their Albanian interlocutors is a productive two-way process. It is also the clearest sign of the fact that the field stations' work and presence are highly appreciated by their local partners.

Today, Albania is at a crossroads. The conduct of the 2005 parliamentary elections and voter turnout figures will signal how far the country has gone down the path towards meeting the international standards. The field stations have been working actively to assist the Albanian authorities in preparing these elections. To exploit the potential of the assistance provided by the OSCE to Albania, the network of the field stations has to be maintained but their work will have to further adapt to the needs of the country and to the role the Organization will continue to play in supporting the progress of the country towards meeting not only OSCE standards, but also those of Euro-Atlantic institutions. Seen from the field perspective, this future work of the field stations should integrate information collection with an active implementation of programmatic activities, including larger, more ambitious projects.

Ten Years of the OSCE Mission to Bosnia and Herzegovina: Reflections on a Decade and Thoughts on the Future¹

Introduction

The OSCE Mission to Bosnia and Herzegovina was established on 8 December 1995. It will soon celebrate its tenth anniversary. Built on the foundation of a small OSCE Office in Sarajevo, it took its shape from the tasks awarded to it in the General Framework Agreement on Peace in Bosnia and Herzegovina, better known today as the Dayton Agreement. The OSCE was to support regional stabilization (Annex 1-B, Articles II, IV, and V), elections (Annex 3), and human rights (Annex 6, Article XIII). All these tasks were important elements of the Agreement's broad goals of stabilization, democratization, and peace implementation.

The evolution of the Mission's approach to fulfilling its mandate has, in many ways, reflected the evolution of post-conflict peace-building, stabilization, and democratization activities more generally. Initially, elections were front and centre in the Mission's work, just as they were in the catalogue of democratization strategies. In its early post-war elections in 1996 and 1997, however, Bosnia and Herzegovina demonstrated that while elections were perhaps necessary, they were not in and of themselves sufficient to constitute a democratization strategy. It quickly became clear that other activities, including civil society promotion, institution building, and local government reform were equally necessary. This broader design, as well as reflecting a more realistic approach to state-building, state-strengthening, and post-conflict democratization, also reflected the OSCE's own concept of comprehensive security.

This concept, deriving from the OSCE's "three dimensional" structure, which focuses simultaneously on the political and military, economic and environmental, and humanitarian and human aspects of security, provided the appropriate framework for the evolution of the Mission. Election activities grew from physically conducting elections to a range of political and democratization activities, including political party and civil society development, media monitoring, voter education, supporting women in politics, and good governance. Human rights initiatives came to include: general human rights monitoring, support for human rights institutions, including the three ombudsman institutions, Roma and national minorities programmes, support for the establishment of rule of law, including trial monitoring, and, from 2002, a

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

leading role in education reform. Regional stabilization ultimately addressed a host of tasks related to confidence-building measures, arms control, and, most recently (and most comprehensively), defence reform.

The Human Dimension

The Mission's involvement in the human dimension can broadly be divided into its democratization and human rights aspects. The Mission's role in elections, an early but essential component of democratization, has diminished considerably over recent years. It began by organizing, conducting, supervising, and funding six rounds of elections between 1996 and 2000. In 2002, however, the local authorities organized the elections and in the autumn of 2004 the appropriate domestic bodies paid for them as well. At the end of June 2005, the OSCE and the Office of the High Representative (OHR) withdrew from their positions on the Election Commission, leaving the Commission as a body composed solely of members from Bosnia and Herzegovina. The Mission and the OHR will play only an advisory role until the elections scheduled for October 2006. Although many of Bosnia and Herzegovina's citizens still recognize the OSCE as the organization that drove the election process in the past, the future of election operations is now squarely in the hands of the country's own experts and officials. The responsibility for this key democratic process thus now forms part of Bosnia and Herzegovina's social and political environment.

As the Mission's role in elections has evolved, so too has its approach to the related issues of democratization and governance. Despite organizational changes and varying approaches adopted over the years, the Department of Democratization has always stayed focused on promoting good governance and developing a civil society. Its intent has always been twofold: to strengthen the tools, systems, and structures of government and to strengthen the capacity of citizens to influence the formal organs of power. The Mission's Parliamentary Support Programme has worked at the state level to encourage the transparency, accountability, and professionalism of Bosnia and Herzegovina's Parliamentary Assembly through the adoption of rules of procedure, the establishment of a Research Directorate at the Parliamentary Assembly, and the opening of a Parliamentary Press Gallery. At the municipal and cantonal levels, the Mission has tried to promote the professional and transparent management of public funds through improved budgeting and accounting practices, fair procurement procedures, and strategic planning. Efforts to improve the management of human resources have included the encouragement of appropriate levels of staffing, fair and competitive employment, and universally applied employment standards and qualifications. In 2005, the launch of a comprehensive programme designed to support local involvement in municipal reform – called UGOVOR or “contract” – has en-

gaged Bosnia and Herzegovina's municipal officials in a multi-year reform initiative. If it works, this will result in the implementation of the Freedom of Information Act (FOIA), the establishment of municipal development planning committees (MDPCs), the adoption of municipal codes of ethics, the implementation of laws in line with the European Charter on Local Self-Government, and the creation of a range of citizen-municipality partnership initiatives.

Once tasks have been completed, the Mission does not seek to prolong them. Eleven political resource centres (PRCs), which had for years provided support to political parties and politicians, closed between 2003-2004. This reflected the end of the "emergency" political support needed in the immediate post-war years and during the maturation of Bosnian politics. The Mission's media-related activities largely came to an end in 2001. This was another effort initially tied to the conducting of free and fair elections, but one also necessary in the development of a responsible and accurate public dialogue on issues of broad state and local importance. Important elements of this work included support for anti-defamation laws, multiethnic broadcasts, and a media helpline for journalists experiencing threats or pressure. Since the end of the formal media programme, the Mission has remained involved in the issue through such means as the encouragement of the enactment of a Freedom of Access to Information law. The Mission's support for the development of a free press has ensured a more balanced media than would have been possible in the post-war environment without such a programme.

Similarly, the Mission's civil society programme has been gradually transferred to local organizations, with the Mission playing an advisory and supporting role rather than taking the more hands-on approach of years past. In 2004, with the Mission's advice and support, more than 100 citizens' groups organized pre-election debates on government accountability and initiated campaigns for local community improvements such as cleaner streets and safer communities. In addition, more than 400 partnership initiatives between citizens and local authorities have created a space where people can address issues such as youth participation in public life, gender equality, the environment, employment, and education. The Mission's Citizen Outreach and Participation Initiative (COPi) has also provided citizens and officials from 30 municipalities with training on municipal decision-making processes and tools to enhance citizen participation. This has resulted in the introduction of new policies in several municipalities.

The Mission's democratization efforts have also tried to increase the participation of women and young people in politics as well as to involve these and other under-represented groups of citizens in the broader policy debates. The Mission has also lavished special attention on the youth of Bosnia and Herzegovina – dubbed the "successor generation" – in order to stem the brain-drain and to encourage young people to recognize that they can make a difference in their communities, in business, and in public life. Overall, the

Mission's comprehensive approach to democratization attempts to reflect the realities of democratic transition as well as the dense web of inter-linked elements needed for a truly sustainable democratic society.

In human rights, the Mission made one of the most significant contributions to post-conflict rehabilitation as a whole as a founding member of the inter-agency Property Law Implementation Plan (PLIP) process. This was set up in 1999 to enable effective international community oversight of the administrative process through which pre-war owners or occupants were able to reclaim their properties. Together with the Office of the High Representative (OHR) and the United Nations High Commissioner for Refugees (UNHCR), the Mission directly supported the fulfilment of this basic right to property by taking on clients and by meeting with local officials tasked with carrying out the return of property, to ensure that the rights of all the country's citizens, regardless of ethnicity, received equal respect in accordance with the law. Since the end of the war, more than 211,933 claims have been submitted for habitable property, and, as of January 2005, 92.95 per cent of these claims had resulted in repossession. Furthermore, the Mission continues to monitor the situation of people requiring temporary accommodation to ensure that their housing needs are effectively and equitably addressed and follows and comments on legislation related to housing rights as well as the broader issues of economic and social rights.

Of course, the process of property restitution does not always mean that people return to their pre-war homes. While some people have been eager to return to their former residences, others have opted to reclaim and then sell their property instead. Even so, the PLIP process has great significance, for the right to property is not one that had previously been confirmed in post-conflict regions. This process has thus established Bosnia and Herzegovina as a model in this area of human rights protection. It is also an essential part of a larger regional effort, the "3 x 3 Initiative", that this Mission is engaged in. Together with the UNHCR and the European Commission in Croatia, Serbia and Montenegro, and Bosnia and Herzegovina, we are endeavouring to bring Annex VII of the Dayton Agreement, the Agreement on Refugees and Displaced Persons, to a close as quickly as possible.

Building institutions and mechanisms to ensure lasting domestic human rights protections in Bosnia and Herzegovina has also been a priority for the OSCE. Annex VI of the Dayton Agreement, the Agreement on Human Rights, created a Commission on Human Rights, comprising two parts: the Office of the Ombudsman and the Human Rights Chamber. This Agreement assigned the OSCE certain responsibilities with regard to both parts, and even made the Chairman-in-Office responsible for appointing the first ombudsman. Furthermore, the Mission has been the principal sponsor of the ombudsmen institutions in the entities.² Latterly, however, the Mission's focus

2 The Federation's ombudsman institution, in fact, stems from the Washington Agreement of 1994.

has moved on to the challenging and often highly politicized process of unifying the country's three ombudsman institutions, thereby bringing Bosnia and Herzegovina in line with its commitments to the Council of Europe. Similarly, in 2004, the Mission worked closely with the OHR to monitor and assist in the transfer of the competencies of the Human Rights Chamber to the Human Rights Commission of the Constitutional Court.

The Mission's work in human rights, however, ranges beyond the restoration of property and the building of institutions. To help combat the global scourge of trafficking in human beings – an OSCE priority shared by all participating States – the Mission has seconded an expert member of staff to the Bosnia and Herzegovina Office of the State Co-ordinator for Anti-Trafficking, reviewed Bosnia and Herzegovina's National Referral Mechanism for victims, and conducted public awareness campaigns to alert potential victims to the problem of trafficking and to inform law enforcement officials about how to identify victims. To assist local authorities in progressively securing economic and social rights for all citizens, the Mission conducted an assessment of the barriers that citizens encounter in gaining access to services such as healthcare, social assistance, and housing, and is currently initiating a discussion on how to improve access to these rights. The Mission's work in support of the rights of Roma has included the civil registration of births of Roma children in co-operation with Roma communities and municipal authorities, a necessary step to ensure non-discriminatory access to healthcare, education, and housing. In doing all this, the Mission has moved from taking on individual cases to a more systemic approach – one based on ensuring the existence of domestic mechanisms and remedies as an important element in the normalization of Bosnia and Herzegovina's human rights structures.

Another very important component of the Mission's human rights work is its support for the rule of law. The Mission has separated support for rule of law from its other human rights work in order to draw a clear differentiation between the Mission's role as an advocate of human rights in Bosnia and Herzegovina and as an impartial observer and monitor of the country's judicial and legal processes. In an effort to strengthen the rule of law and to establish an efficient, accessible, and equitable justice system, Bosnia and Herzegovina introduced new criminal procedure codes at state and entity levels in early to mid 2003. This resulted in a fundamental change in the procedures governing criminal investigations and the administration of justice in the courts. The Mission undertook a project to assess the implementation of the new codes and monitored more than 1,000 criminal trial proceedings across Bosnia and Herzegovina. It then shared its findings and recommendations with local institutions involved in criminal law and released a formal trial monitoring report to the public in late 2004.

The Mission has been involved in war crimes matters, too. It has long monitored war crimes cases tried by the domestic courts and this year it released a comprehensive report highlighting obstacles that hinder the fair and

effective prosecution of these cases. OSCE human rights experts assisted local authorities and the OHR in the establishment of a War Crimes Chamber of the State Court and now participate actively in initiatives aimed at improving regional co-operation in the investigation and prosecution of war crimes. With the transfer of more war crimes cases from the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague to the courts of Bosnia and Herzegovina, this particular activity will likely take on increasing relevance.

The Mission's role in education reform, almost unique among field missions, is another important and highly visible element in its human dimension activities. In the years immediately after the war, the international community did not consider education reform a particularly high priority. But over time it became increasingly clear that education had been made a political tool of nationalist actors more interested in segregation and division than in the development of an educational system in step with European standards of access and equality. In 2002, in an effort to raise the profile of education reform and to bring the many and varied reform activities that were underway together under one roof, the Peace Implementation Council (PIC) assigned the OSCE Mission to Bosnia and Herzegovina the co-ordinator's role for international community efforts in the field of education.

The Mission focused its efforts in particular on the depoliticization of education. It first assisted in establishing and then worked closely with the Co-ordination Board for the Interim Agreement on Accommodation of Special Needs and Rights of Returnee Children. This initiative attempted to address the needs of the children of returnees belonging to local minorities by encouraging them to attend schools in their communities rather than in other areas where they would be in the majority. Further education-related activities include supporting the efforts of the Co-ordination Board to develop a set of guidelines on appropriate, non-political, non-divisive school names and symbols. In co-operation with the Council of Europe, the Mission also supported the establishment of an independent Textbook Commission. This Commission is responsible for developing guidelines for history and geography textbook authors so that their books permit students to acquire a basic understanding of the history and geography of all the peoples who make up the country of Bosnia and Herzegovina. Recognizing the country's diverse population, the Mission also co-chaired a working group that drafted a National Action Plan on the Educational Needs of Roma and Other National Minorities, agreed to in February 2004 by all education ministers at both entity and cantonal levels.

The adoption of legislation consistent with European standards is an important goal, but it is not easy to achieve, for the successful enactment of education legislation often requires the surmounting of serious political barriers. Following the adoption in June 2003 of the Framework Law on Primary and Secondary Education, which prescribes equal access to education and

allows for greater school autonomy and increased parent-teacher involvement, the Mission urged the Republika Srpska, the Federation's cantons, and the District of Brčko to adopt the necessary legislation to harmonize their laws with the state-level framework, providing support in the drafting of the necessary by-laws. Despite interventions by the High Representative, this process has still not been completed in some areas of the country. A state-level higher education law, though essential for the implementation of commitments made by Bosnia and Herzegovina's authorities in ratifying the 1997 Lisbon Recognition Convention and signing the 1999 Bologna Declaration is, as of this writing, stymied. This is due more to a continuing emphasis, among certain political actors in the country, on control of such things as financing than to any objection to creating quality higher education. There are many other challenges in the field of education as well: the end of the practice of segregating students by ethnicity in what are called "two schools under one roof", the effective staffing and financing of educational institutions, and stronger vocational and adult education opportunities. These challenges must be met, as there can be no comprehensive security for a country or a region if the system of education fails to serve its children well.

The Politico-Military Dimension

The Mission's work in the politico-military dimension has had two sides: support for the reform of domestic military and security structures and support for Bosnia and Herzegovina in fulfilling its OSCE security commitments. For several years, the Mission helped the authorities of Bosnia and Herzegovina to reduce both military spending and the number of defence personnel; it also keeps a close eye on the resulting demobilization. The success of these reductions created a concomitant need to reduce excess stockpiles of arms and ammunition in a country (and region) awash with weapons. As a result, the Mission assisted with a United Nations Development Program (UNDP) pilot project in which 20,000 surplus small arms and light weapons were melted down. This initiative has served as a model for future arms destruction in the wider region of South-eastern Europe.

Over time, as it became clear that, despite the success of its stabilization and arms control activities under the Dayton Agreement, Bosnia and Herzegovina could not truly become a stable and sustainable state without significant defence restructuring and reform, the Mission began to play a leading role in the broader defence reform effort inaugurated in 2003.³ One of the most important developments in this effort was the creation of a state-level

3 See the report of the Defence Reform Commission, *The Path to Partnership for Peace*, published in September 2003, available at www.ohr.int. See also Heinz Vetschera, From Regional Stabilization to Security Co-operation in Bosnia and Herzegovina – The Role of the OSCE Mission, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, pp. 381-412.

Ministry of Defence in March 2004 and the appointment of the country's first Defence Minister, Nikola Radovanović. This would have been unthinkable just a few years earlier. Although NATO has now assumed responsibility for driving defence reform, the Mission is continuing to support this important effort. It has involved itself in issues relating to the staffing and organization of the state-level Defence Ministry. It has also introduced a new doctrine of command and control for the country's armed forces and has developed training programmes to prepare the armed forces for future participation in peace support operations. After the establishment of the Joint Defence and Security Policy Committee in December 2003, the Mission worked with both Houses of Bosnia and Herzegovina's Parliamentary Assembly to enhance democratic control of the armed forces.

The Mission's more specific work to help Bosnia and Herzegovina fulfil its OSCE politico-military commitments has also matured over the past ten years. The Mission has long supported the Personal Representative of the OSCE Chairman-in-Office for Articles II and IV of Dayton's Annex 1-B in advancing measures for sub-regional arms control in Croatia, Bosnia and Herzegovina, and the Federal Republic of Yugoslavia (now Serbia and Montenegro). Through these collective efforts, the Agreement on Confidence- and Security-Building Measures (Article II Agreement) was successfully concluded by common consent on 28 September 2004 – another sign of post-war normalization. The politico-military dimension could not ultimately be successful in ensuring comprehensive security without the other two Helsinki "baskets", but neither would the establishment of stability in Bosnia and Herzegovina and the region generally be possible without this essential component of comprehensive security.

The Economic and Environmental Dimension

Citizens of Bosnia and Herzegovina consistently point out that their number one concern is the economic situation. Just as in every country, the people want jobs, opportunities, and a better future for their families. Although the role played in Bosnia and Herzegovina by large institutions such as the World Bank and the European Commission often overshadows and even determines the OSCE's work on the economy and environment, the OSCE can nevertheless contribute in its own way to building a stable economy as a fundamental part of a stable society. For that reason, the Mission has sought to support the development in Bosnia and Herzegovina of an environment conducive to economic growth. It has implemented a variety of measures aimed not at competing with other international financial institutions or development agencies, but at taking advantage of the political nature of the Organization and its ability to foster broad interaction with the citizens of the country, especially through the Mission's 22 field offices.

The Mission has, for instance, focused its economic work on corporate governance to promote the principles of fairness, openness, accountability, participatory decision-making, and consistency in the application of legislation in the workplace. Towards this end, the Mission encouraged the nine largest employers in the country to introduce fair employment practices and to adopt and incorporate fair employment principles in their by-laws and internal documents. The Mission's staff throughout the country organized round-tables and radio shows on the protection of workers from discrimination and developed comprehensive information leaflets to raise citizens' awareness about their basic labour rights. Recognizing that sound, transparent, and professional public administration is crucial to attracting both domestic and foreign investment, the Mission's public administration experts have helped introduce municipalities to accounting standards and open and participatory budgeting processes. Entrepreneurship training and awareness-building activities have targeted young people in order to encourage new business development and new ways of thinking in a market economy – skills that can be used not only in Bosnia and Herzegovina, but also in the wider Europe.

Environmental protection and promotion were not priorities in the first years after the war. Understandably, citizens in need of housing, food, jobs, and basic services tended, at that time, to view environmental concerns as a luxury. In recent years, however, concern for the environment has begun to grow. It is viewed as a resource in its own right and as a potential magnet for the development of the tourism industry. The Mission's support for environmental endeavours has focused on empowering citizens and developing links between citizens' groups and the relevant governmental bodies. The Mission has supported community initiatives to improve water quality, clear trash, and preserve natural land reserves. The Mission is also encouraging the growth of citizen environmental protection advocacy groups and involving school children and young adults in the protection of Bosnia and Herzegovina's natural resources. This should help guarantee that this country's considerable environmental assets will be preserved and protected.

Lessons Learned

In the past ten years, it is not only Bosnia and Herzegovina that has changed, developed, and evolved. So has the OSCE Mission to Bosnia and Herzegovina. Many lessons have been learned during this process, from the need to define strategic objectives at the Head Office level to the means that Mission field staff may use to implement projects in small villages. Many of these lessons and associated recommendations – related to staffing and personnel issues, or post-war election timing, for example – have already been much explored, including in past volumes of this Yearbook. The following, therefore,

highlights five selected lessons to be considered during this time of reflection on the purpose and preferred methods of the OSCE as a regional security organization.

Field Presence Matters

The Mission's field presence has consistently been its core strength. More than ever, it now offers something that other international organizations operating in the country cannot. As organizations have begun to reduce their presence in Bosnia and Herzegovina at an ever-swifter pace over the past few years, they have tended to concentrate their remaining staff in Sarajevo or one of the larger regional cities. No other organization has retained its commitment to working closely within and with communities throughout the country.

This presence matters in an environment in which serious structural reforms necessitate long-lasting commitment. Mission staff members, both international and national, have, over time, developed relationships with municipal officials, local civic leaders, and citizens that have resulted in progress in areas such as public administration reform, community development, and the depoliticization of the country's schools. This strong network of experts has also benefited the international community in Bosnia and Herzegovina more generally, as it is well-known that the OSCE has the "eyes and ears on the ground" that enable it to serve as the primary source of local information, context, and background. Where many organizations take the "parachute approach", visiting communities only when conducting workshops or holding meetings, the Mission understands that it is the *process* that matters and that the relationships and activities leading to and following an event provide the real basis of sustainable change. Although reductions in the size of the Mission and the field presence are inevitable in the coming years, retaining this connection with people across the length and breadth of this varied country will remain important for the success of the OSCE's agenda. One lesson that other organizations working in other parts of the world might derive from this experience is the benefits of having a presence (where possible) that is not limited to capital cities and large urban centres.

Mandate Matters

Missions operate better when everyone in them knows why they are there and what they are there to do. Mandates awarded to OSCE field missions form important tools in making this clear. They help to define the strategic goals and objectives of a Mission. At the same time, however, they need to be flexible enough to allow Missions to evolve, as the Mission to Bosnia and Herzegovina has done, within the parameters they set. In a complex, post-war environment like that of Bosnia and Herzegovina, mandates that clearly de-

fine priorities and objectives, and assign lead and associated agencies, are a further aid to clarity, commitment, and cohesion in the international community. Embedding such mandate definitions in the terms of a peace agreement or in memoranda of understanding with governments and support organizations can help. In the countries of the old Communist bloc, people used to explain the existence of shabby building facades, garbage-strewn courtyards, and paradoxically immaculate apartments this way: "What's mine is mine; what's yours is yours; what's everyone's is no one's." As this adage suggests, a clear definition of roles and responsibilities can bring with it accountability, save much needless duplication of effort, and prevent important matters from falling through the cracks.

Local Capacity Matters

One frequently hears the criticism that international organizations foster "brain drain" in the countries in which they work, siphoning away the most talented and motivated people from domestic institutions and businesses by means of higher pay packages and enhanced opportunities.⁴ In post-war and transition countries, international organizations do indeed often fill a gap in the typically weak labour markets. This can have a variety of both intended and unintended consequences. However, such organizations can also use this opportunity to build local capacity and support the development of embryonic institutions. The OSCE Mission to Bosnia and Herzegovina has long relied on its national professional staff for their skills, expertise, and local knowledge; has long recognized the complementary role that international and national Mission members can play; and has long been proud of the dedication and capability of all its staff. Nevertheless, there remains room for improvement to ensure that this capacity effectively transfers at the appropriate time to domestic institutions.

The Mission learned an important lesson through its work with the Bosnia and Herzegovina Election Commission and associated elected bodies, such as polling station committees. It discovered that an unfortunate level of staff turnover had led to a loss of institutional knowledge and expertise over the years. It became clear that, in addition to supporting new expert staff in these organizations, it was also vital to work with (often older) staff who had been with these bodies for years, as they were the most likely to remain in such organizations. The urge to support "new blood", youth, and politically neutral citizens must be tempered by the reality that the individuals in established positions will often remain in place even through times of transition. Ensuring that professional development activities include and support everyone can help to spread the benefits of capacity building.

4 See for example, Susan Woodward, *Economic Priorities for Successful Peace Implementation*, in: Stephen John Stedman/Donald Rothchild/Elizabeth M. Cousens (eds), *Ending Civil Wars: The Implementation of Peace Agreements*, pp. 183-214.

The direct seconding of domestic experts to local institutions offers another useful opportunity. One practical example of this is the Mission's secondment of an anti-trafficking expert to Bosnia and Herzegovina's Office of the State Co-ordinator for Anti-Trafficking. Direct insertion of qualified expert staff could confer a host of benefits, including the attraction of young people to government service, the end or at least minimization of nepotism in public administration, and the retention of expertise where it is most needed. This approach could potentially be expanded, with an increasing number of OSCE Mission national professional staff seconded to positions in local offices in which they could continue to implement reform programmes as insiders. A long-term salary-tapering scheme could ensure appropriate pay scales, with the local body assuming an increasing share of the salary as it becomes established and more financially stable. Memoranda of understanding could formalize the arrangements and ensure that the seconded staff remain in the position for the length of time necessary to protect against loss of experience and expertise. Of course, such an approach would have to be explored and discussed carefully at the OSCE Permanent Council, for there may be some participating States who do not fully agree on the extent to which such local capacity building can make a contribution to the OSCE's overall goals.

Sustainability Matters

Closely related to the issue of domestic capacity is the broader need for sustainable institutions. As illustrated in the review of its activities above, the Mission has made a concerted effort to begin the transition of responsibilities to the appropriate local bodies and institutions. Bosnia and Herzegovina's leaders largely agree on several broad mutual goals, such as membership of the Partnership for Peace and eventual entry into the European Union. But of course this is not enough. A multitude of often difficult tasks remains before the country achieves prizes of this kind. With the transition of responsibilities to local control, the role of the Mission and the larger international community is also transformed – from driving a process to being partners in it. As the Mission articulates its goals and plans for 2006 and beyond, it will be important to invite, encourage, and even exhort its partners in Bosnia and Herzegovina to contribute to this vision and to agree to work together towards such goals.

Impact Matters

In any organization it can be very easy to spend so much time fighting fires that there is little left to reflect on why the fire started in the first place. In Bosnia and Herzegovina, Mission field staff are often so busy planning projects, meeting with mayors, and monitoring events that it can be difficult to

step back and evaluate and assess the long-term impact of these activities. Impact assessment, while a part of the ideal project management approach and a staple in every researcher's toolbox is often seen as an impossible luxury.

This is unfortunate, for there is a great breadth of field experience that could inform future projects and future missions. A better understanding of the real and demonstrable impact of information campaigns on citizen issue awareness, of the behavioural patterns of citizens who have and have not participated in workshops arranged by the Mission, and of the reform-mindedness of citizens in areas with or without nearby Mission field offices could help to improve planning at the tactical, operational, and strategic levels. In 2004, the Mission stepped up efforts to measure public opinion on issues of interest to it through opinion polling and focus groups. These revealed much about needs and perceptions in Bosnia and Herzegovina. Such impact analysis will not change the Organization's plans or approaches overnight. It may, however, help to ensure that planning decisions are made in an informed environment and that field activities do not become an end in themselves but are a productive element of a broader strategy.

Conclusions – Moving Forward

In the year ahead, changes to the institution of the Office of the High Representative will inevitably influence the shape, composition, and role of the international presence in Bosnia and Herzegovina. This is especially true given that the institution is increasingly becoming that of an "EU Special Representative" and that the frequently controversial, though often quite necessary, Bonn Powers may well be consigned to the dustbin of post-Dayton history. In a future "post-OHR world", the OSCE Mission to Bosnia and Herzegovina is likely to adopt a more discreet approach, increasingly playing an advisory and admonitory role rather than a pressuring and precipitating one – an important shift as local governmental and non-governmental bodies assume ever greater responsibility for their own fates. Mission support of necessary legislative reform will be another core element in the gradual transition process, as the long-term sustainability of the country's institutions depends on their being embedded in appropriate legal frameworks and systems. The OSCE's leverage as a political organization will be important in lobbying for necessary changes of this kind. The Mission's work in trial monitoring could become a model for future monitoring work, demonstrating the value the Mission can add to domestic institutions by serving as an objective observer and helping to ensure adherence to the highest legal standards. The Mission is fortunate to have built its work and its successes on relationships and partnerships with citizens and officials, for the end of the Bonn Powers will not affect these partnership-driven initiatives.

Whatever the future may hold for Bosnia and Herzegovina and its OSCE Mission, there is no denying that much has changed during the past ten years. People who left the country in 1996 or 1997 and did not return again until 2005 are astonished by the transformation that has taken place. Ten years ago discussions on a single, state-level Ministry of Defence or on the need for a new constitution would have been unthinkable; now, although such issues may not be resolved quickly, they are at least discussed openly. As the OSCE Mission to Bosnia and Herzegovina looks beyond its ten-year anniversary, the question inevitably arises of the extent to which such progress would have been possible in the absence of the sustained field mission.

Post-conflict reconstruction and rehabilitation cannot happen in a piecemeal fashion. They must proceed as a part of a larger strategy. The OSCE's three dimensions can provide the necessary framework for reform. However, although comprehensive security may be articulated in formal documents and declarations, putting it into practice often requires a commitment on the ground. In effect, the Mission has engaged in a great experiment to put the comprehensive approach to security embodied in the 1975 Helsinki Act into practice in a society emerging from conflict. At least in Bosnia and Herzegovina, and perhaps elsewhere, an OSCE field mission has proven to be one of the best means of assisting a country in meeting the commitments it has adopted in each of the three baskets of the Conference on Security and Co-operation in Europe as defined three decades ago.

Managing the Crises – Restarting the Process: The OSCE Mission to Moldova in 2004/2005

The main focus of the OSCE's work in Moldova throughout 2004 and 2005 was on two tasks: restarting the political settlement process in the conflict between the Moldovan government and the authorities controlling Moldova's breakaway Transdniestrian region and managing a multitude of smaller, but potentially destabilizing crisis situations.

A Look Back: The Breakdown of the Process in 2003

The deadlock in the settlement process came in November 2003 after a last-minute decision by Moldovan President Vladimir Voronin not to sign the document known as the Kozak Memorandum. It had been brokered in late summer/early autumn 2003 by Dmitry Kozak, then Deputy Head of the Russian presidential administration, in response to a request from Chişinău.

The OSCE did not participate in these negotiations, which were conducted between Moldovan, Russian, and Transdniestrian representatives in parallel to the so-called five-sided negotiation process. The latter includes, in addition to Moldova and Transdniestria, the Russian Federation, Ukraine, and the OSCE as co-mediators. During autumn 2003, OSCE representatives met more than once with Mr. Kozak and Moldovan representatives to inquire whether the mediation efforts could be combined. However, the efforts remained separate until November 2003 when both Mr. Kozak and Moldovan authorities requested that the OSCE endorse the completed text of the memorandum. The OSCE was not able to do so, as several participating States had expressed serious reservations regarding some of its provisions, such as the lack of clarity on the proposed division of powers between the central and regional authorities, the *de facto* veto power of Transdniestria in the Senate until at least 2015, and the absence of a satisfactory multinational guarantee system.¹

Restarting the Process – First Attempt

In the light of strong opposition from within Moldova and the limited support for this proposal in the international arena, President Voronin finally decided

¹ See OSCE Press Release, 24 November 2003, at: <http://www.osce.org/item/7932.html>.

not to sign the Kozak Memorandum. As a result, the settlement process was deadlocked.

During the first part of January 2004, the OSCE Mission consulted with Moldovan and Transdnistrian negotiators and with co-mediators from the Russian Federation and Ukraine on the renewal of the political settlement negotiations. These consultations were continued within the framework of a mediators' meeting, organized by the Bulgarian OSCE Chairmanship in Sofia on 26-27 January 2004. At this meeting, the mediators decided to present to both sides the "Proposals and Recommendations of the Mediators from the OSCE, Russian Federation, and Ukraine on a Settlement of the Transdnistrian Problem", drafted by representatives of the mediators back in September/October 2003.²

The OSCE-initiated "Mediators' Document" laid out the possible delimitation of competencies between the Transdnistrian region and the central government. It was drafted as input for the work of the Moldovan-Transdnistrian Joint Constitutional Commission. The latter was established in May 2003, following an earlier initiative by President Voronin to settle the conflict by adopting a new constitution for Moldova, transforming the country into a federation.

Although the Joint Constitutional Commission did not convene again after the non-signing of the Kozak Memorandum, and although the five-sided negotiation process also remained blocked, the Moldovan side continued at the beginning of 2004 to endorse the idea of a solution based on federal principles. In a document presented to the mediators in mid-February 2004 in response to the Mediators' Document, the Moldovan side even took large parts of the rejected Kozak Memorandum on board. The Transdnistrian side, however, did not show any readiness to compromise on what it had agreed to in accepting this Memorandum and even started to advocate the idea of a "contractual federation" – a solution actually rather resembling a confederation and therefore neither acceptable to Moldova nor to the OSCE.

The negotiation process thus remained effectively stalled and it took the mediators until the end of April 2004 to get the two sides back to the negotiation table. At the five-sided meeting held on 26-27 April 2004 at the Tiraspol and Chişinău offices of the OSCE Mission, the five participants agreed on a work plan for the political settlement negotiations up to the end of 2004, calling for monthly meetings in the five-sided format. The Moldovan and Transdnistrian negotiators also agreed to renew their regular bilateral contacts and to resume regular meetings of the expert working groups. However, the following meeting on 25-26 May did not produce any tangible results and the meeting on 23-24 June was marred by the absence of the Transdnistrian negotiator. Finally, the political settlement process collapsed totally after Transdnistrian authorities forcefully closed, in mid-July, the Moldovan

2 For the full text of the document see: http://www.osce.org/documents/mm/2004/02/2079_en.pdf.

schools in Transdniestria that were teaching Romanian/Moldovan using the Latin alphabet. In reaction to this move, the Moldovan delegation suspended its participation in the political settlement negotiations and backed away from the idea of a federal solution.

This change of position on the Moldovan side, which had officially endorsed the Mediators' Document during the meeting in June, makes some of the provisions in this document inoperative. However, in the view of the OSCE Mission, the document still contains a useful proposal for a specific division of powers between national authorities in Chişinău and regional authorities in Tiraspol, which could be used in working out a lasting political settlement providing a special status for the Transdniestrian region within an independent, sovereign and territorially integral Moldovan state.

Managing the Schools Crisis

Relations between Tiraspol and Chişinău had been strained for months during 2004 and the political settlement negotiation process was constantly disrupted by a series of, at times, potentially explosive disputes over conflicting powers or overlapping jurisdictions of local administrations. For example, the presence of Moldovan government institutions in the Transdniestrian-controlled right-bank city of Bender remained a constant source of friction. As early as February, Transdniestrian authorities attempted to eject Moldovan police from the building they share in Bender with the Transdniestrian militia. City authorities also pressed for the removal of Moldovan penitentiary facilities located in the city. The most disruptive development, however, was the closure, mentioned above, of the Moldovan schools in Transdniestria that had taught using the Latin script.

The plight of Moldovan schools in Transdniestria has figured prominently on the agenda of the OSCE Mission and the OSCE High Commissioner on National Minorities since early 1993. After consolidating their *de facto* control over the localities on the left bank, the Transdniestrian authorities had reintroduced the use of the Cyrillic alphabet, in keeping with Soviet policy that considered Moldovan (essentially Romanian) written using the Cyrillic alphabet to be a different language from Romanian. However, six out of the 39 Moldovan schools in the Transdniestrian region continued to offer instruction in the Latin script, to which Moldova returned in 1989 in accordance with the Moldovan Ministry of Education curriculum. Undeterred by the local authorities' constant intimidation, teachers have been educating more than 4,000 children in their native language as best as they can.

The unstable situation has left Moldovan parents in a quandary. If they enrol their children in one of the schools that offer a Moldovan curriculum based on the Latin script, they risk being threatened by the regional security service, placing their jobs in jeopardy. Sending their children to one of the 33

Transdniestrian schools that teach their native language in Cyrillic is, however, hardly an appealing alternative: The schools follow an outdated curriculum with textbooks mostly from the Soviet period. As nowhere – not even in Transdnistria – are there any institutes of higher learning that teach Romanian using the Cyrillic alphabet, the Transdnistrian authorities' insistence on the Cyrillic script deprives Moldovan children in the region of their right to pursue advanced education in their mother tongue.

Since 1994, the start of every school year has been marked by uneasiness and uncertainty about whether the schools would be allowed to re-open. Accordingly, the OSCE Mission supported by the High Commissioner's office has stepped up its year-round mediation efforts every summer in order to keep the schools running.

In 2003, experts from the High Commissioner's office and the OSCE Mission were able to broker a comprehensive, breakthrough agreement that would have changed the status of the six Moldovan schools from public to private education institutions, financed by central Moldovan authorities. However, radical circles within the Transdnistrian leadership refused to compromise and backed off from the compromise solution that had already been agreed upon.

On 15 July 2004, Transdnistrian militia stormed the Moldovan school in Tiraspol, destroying parts of the building, removing the furniture, textbooks and archives, and announcing confiscation of the facilities and other school property. Transdnistrian authorities also declared the Latin-script schools in Bender and Ribnita closed, disconnecting their power, water, and gas supplies. Finding themselves surrounded by security forces, students and their parents and teachers took it upon themselves to guard their schools day and night.

To defuse the potentially explosive situation, members of the OSCE Mission with some help from their colleagues in the Secretariat took turns monitoring the schools in Bender and Ribnita from sunrise to sunset, seven days a week. Under the watchful eyes and in the face of interference by Transdnistrian security forces, they delivered food and drinking water to the besieged children in the Moldovan orphanage in Bender, who managed to hold out for more than a month despite unbearably unhygienic conditions.

Meanwhile, the Mission continued to pursue talks with local authorities on the terms of withdrawal of the militia and the reopening of the schools – to no avail, as the authorities adamantly refused to enter into any negotiations. On 29 July, Transdnistrian militia also stormed the school in Ribnita.

As tension mounted, the international community stood fast in its position that Transdnistrian authorities should agree to some kind of compromise. Condemning Transdnistria's unilateral actions, OSCE participating States gave their unswerving attention to the crisis. Delegations called on the Russian Federation and Ukraine to bring their influence to bear on the Transdnistrian leadership.

Senior staff of the OSCE Mission and special representatives of the OSCE Chairman-in-Office, the Russian Federation, and Ukraine engaged in intensive shuttle diplomacy between the Moldovan government and separatist authorities, pressing for a solution to the stalemate.

Finally, in late August, international pressure and the prospect of local upheavals started making an impact on the Transdnistrian authorities. They agreed to register the schools as private institutions for one year, which would enable them to teach according to a Moldovan curriculum using the Latin script. Four of the six schools began the new academic year as planned on 1 September 2004, with the Ribnita school following suit in October. However, the pupils in Ribnita had to move into a former kindergarten as their school building remains confiscated by Transdnistrian authorities.

For the more than 500 children of the Tiraspol school, the transition was also difficult. For over five months, they had to travel long distances to attend schools in neighbouring villages while their building was undergoing repairs. The school finally reopened on 7 February 2005.

During 2005, the OSCE Mission continued to press for a lasting solution to the school question. Starting on 28 February 2005, the OSCE Mission hosted nine negotiation meetings of education experts from Tiraspol and Chişinău. On 1 July 2005, these negotiations led to permanent registration with local Transdnistrian authorities of the Moldovan schools that were temporarily registered in 2004. Although further negotiations will be needed to solve remaining questions like common curricula for disputed subjects as well as licenses and accreditations from local authorities, the schools started the academic year 2005/2006 on schedule.

Other Crises Emerge: Railways and Farmers under Siege

As a matter of fact, the school crisis was not the only crisis situation that required immediate attention and crisis management in 2004. In reaction to the closure of the schools, the Moldovan side not only pulled out of the negotiation process, but also suspended a temporary registration procedure that had enabled Transdnistrian enterprises to profit from Moldovan trade preferences. In reaction, the Transdnistrian militia blocked railway lines in Bender on 3 August. These lines linked not only Moldova with Ukraine and the port of Odessa, but also the northern and southern railway networks of Moldova proper. On 5 August, after reported telephone conversations between Ukrainian President Leonid Kuchma, Moldovan Prime Minister Vasile Tarlev, and Transdnistrian leader Igor Smirnov, Transdnistrian authorities lifted the rail blockade. However, Transdnistrian authorities immediately began to establish their own parallel railway administration structures.

Starting on 6 September 2004, Transdnistrian militia, supported by special forces, seized the railway installations in Bender and other localities

under Transdniestrian control. Two days later, Transdniestrian authorities announced they had completed the establishment of the separate “state” enterprise “Transdniestrian Railroads”. Previously, “Moldovan Railroads”, had operated as a single Moldovan state enterprise on both banks of the Nistru in spite of the 1992 conflict.

As in the case of the schools, the OSCE Mission monitored the railway crisis closely from its beginning, sending Mission teams out daily to monitor developments, gather additional information, and report. As a result, the Mission was able to inform the OSCE Chairmanship and the OSCE delegations in Vienna as well as interested media on the situation in an informed and objective manner.

Over the course of the summer, Transdniestrian authorities also increased their pressure on the seven localities on the left bank around Dubasari, but still under Chişinău control. Out of the combined 11,000 hectares of farmland belonging to these villages, 6,300 hectares are found on the Transdniestrian side. Particularly vulnerable are Dorotcaia and the small settlement Vasilievca, the latter actually being located deep inside Transdniestrian held territory. All of Vasilievca farmland and some 85 per cent of Dorotcaia land lay beyond the line of control in Transdniestrian territory.

The situation of the farmers working this land has never been easy since the 1992 conflict, but, since 2003, the Transdniestrian authorities – whose official position is that a border between the unrecognized Transdniestrian state and Moldova should run along the Nistru – have been squeezing them harder. Ditches were dug around the Transdniestrian checkpoints, which were set up at the line of control in the late 1990s, in order to prevent farmers from accessing their land. Unable to harvest their crops, they suffered serious losses.

The situation deteriorated further on 23 October 2004, following a Transdniestrian attempt to expand the checkpoint at Dorotcaia into a full customs post. Angry farmers and Moldovan police arrived on the scene to halt the expansion. In response, the Transdniestrian authorities deployed special forces with automatic rifles, prompting the Moldovans to send their own heavily armed rapid reaction unit. An escalation of the situation was prevented by a compromise under which the two sides withdrew, leaving the post as it was. However, the question of the status of the checkpoint could not be resolved. As a result, the situation remained unstable, and it remained virtually possible for the Joint Control Commission, the body overseeing the 1992 cease-fire agreement, to perform its regular work.

In April 2005, when the sowing season started, the conflict threatened to escalate again. On the morning of 6 April, two tractors from Dorotcaia tried to cross into Transdniestrian territory, but were stopped by Transdniestrian “border guards”. The tractors, however, refused to turn back and the situation slowly escalated. By midday, a crowd of angry farmers and Moldovan police were facing off against border guards, customs officers, and militia on the

Transdnistrian side. Assisted by members of the OSCE Mission, which has maintained daily patrols in the area since late March, the representatives of both sides decided to withdraw and to return to negotiations on this topic.

Again, the OSCE Mission was the only international organization monitoring the situation that was able to play the role of a neutral third party and provide objective reports of events on the ground. The presence of OSCE teams has also had a calming effect, as both sides know that they are, in effect, being watched by the international community. On several occasions, Transdnistrian customs have refrained from seizing tractors probably because of an OSCE presence.

Acting in its role as mediator, the OSCE Mission also arranged meetings on various levels, including between the Moldovan Minister of Reintegration, Vasile Sova, and the Transdnistrian chief negotiator, Valeriy Lit-skay. The mediators – the OSCE, Russia, and Ukraine – also raised the issue with Transdnistrian leader Igor Smirnov. It appeared during the course of these meetings that a temporary compromise might be reached that would allow the farmers to access their lands until the end of the year in return for a small tax. However, this deal has so far simply been ignored by the Transdnistrian side, which continues to hinder access.

As a result, the 2005 agricultural season proved to be almost a total loss for the farmers. Lacking income, they have become dependent largely on humanitarian aid. Thus, although the OSCE Mission was able to prevent the conflict spiralling out of control, a lasting solution is not yet in place. The Mission is therefore continuing to monitor the fields of Dorotcaia and to press Transdnistrian authorities until a solution can be reached that would allow the farmers to work their land and harvest their crops.

Restarting the Process amidst Crisis

While working hard to prevent a further escalation of the emerging crisis, the OSCE Mission also continued during all these weeks and months to promote dialogue between both sides. The Bulgarian and Slovenian OSCE Chairmanships supported these efforts. One of the first visits of Slovenian Foreign Minister Dimitrij Rupel in his capacity as OSCE Chairman-in-Office for 2005 was to Moldova. The Chairman-in-Office for 2004, Bulgarian Foreign Minister Solomon Passy, visited Moldova in June 2004. Bulgarian First Deputy Foreign Minister Petko Draganov made an emergency visit to the country in late July and, in September, former Bulgarian President Petar Stoyanov was named Special Envoy for Moldova of the OSCE Chairman-in-Office and entered into discussions with the leaderships of both sides to help ease the tensions.

However, overcoming the mutual distrust proved to be a difficult task. Following a mediators' meeting in Sofia on 11-12 October 2004, where the

three mediators expressed concern at the pause in the negotiation process and called for an immediate resumption of dialogue between Chişinău and Tiraspol, the Moldovan and Transdniestrian representatives accepted an invitation to hold consultations with the mediators in Varna on 8-9 November 2004. This was the first time for almost half a year that both sides had come together for a direct exchange of views on the current crisis and possible steps to increase confidence. However, apart from a commitment to achieve a final settlement of the conflict via dialogue, neither the consultations in Varna nor those in Odessa on 25-26 January 2005 provided any tangible results. The atmosphere between Chişinău and Tiraspol remained strained and the following 6 March parliamentary elections in Moldova further reduced the chances of restarting substantive negotiations between Tiraspol and Chişinău.

The Orange Revolution in Ukraine and New Initiatives in Moldova

Following the change in leadership in Kyiv in the aftermath of the Orange Revolution and the confirmation of leadership as a result of the Moldovan parliamentary elections, new chances for progress in the political settlement process appeared. On 7 April 2005 at a meeting in Ljubljana, the mediators agreed on a series of steps to assist the timely resumption of negotiations and to invite the political representatives of Chişinău and Tiraspol to hold a meeting with the three mediators in Vinnitsa, Ukraine, on 16-17 May to discuss possibilities for resuming the Transdniestrian settlement process.

At the Vinnitsa meeting, the Ukrainian side presented a new plan for the settlement of the Transdniestrian problem. A first Ukrainian initiative on tackling the issue had been presented by Ukrainian President Victor Yushchenko at the 22 April GUUAM³ summit in Chişinău. This initiative comprised seven principles for the Transdniestrian settlement process: (1) the creation by Transdniestrian authorities of conditions for the development of democracy, civil society, and a multi-party system; (2) the holding in the near future of free and democratic elections to the Transdniestrian Supreme Soviet; (3) the monitoring of these elections by the European Union, the OSCE, the Council of Europe, Russia, the United States, and other democratic countries including Ukraine; (4) support for EU and US efforts in facilitating a Transdniestrian settlement; (5) the transformation of the current peacekeeping operation into an international mission of military and civil observers under the aegis of the OSCE and the expansion of the number of Ukrainian military observers in the region; (6) the admission by Transdniestrian authorities of an international monitoring mission, including Ukrainian experts, to military-industrial enterprises in the Transdniestrian region; and (7) the agreement of Ukraine to the presence on its territory of a short-term OSCE

3 Georgia, Ukraine, Uzbekistan, Azerbaijan, Moldova. Uzbekistan has since left the group.

monitoring mission with the goal of verifying the movement of goods and persons through the Ukrainian-Moldovan border.

The last point has effectively been modified by a joint letter of Ukrainian President Yushchenko and Moldovan President Voronin to the President of the European Commission, José Manuel Barroso, and EU High Representative Javier Solana. In this letter, dated 2 June, both presidents requested technical assistance, capacity building, and the establishment of a border monitoring operation by the European Union. The EU replied positively to this request on 19 July 2005 and deployed an assessment mission to Moldova and Ukraine at the end of August. Following this assessment, further preparation went ahead swiftly, and an EU Border Assistance Mission (EU BAM) was officially launched on 1 December. The EU BAM consists of 69 experts in customs services, policing, and border policing from European Union member states and has an initial mandate of two years. It is tasked with working closely with the OSCE to promote co-ordinated action between the governments of Moldova and Ukraine and assist them in areas involving border, customs, and fiscal matters. It will assist and advise on matters concerning cargo control and auditing and passenger trafficking, including revenue collection and accounting procedures, both at the frontier and at inland police or customs stations.⁴

On the settlement process as such, Ukraine put forward more concrete ideas in the so-called “Yushchenko Plan”, which was officially handed over to the two sides at the Vinnitsa meeting. According to this initiative, the settlement of the Transdnistrian conflict should be achieved in three stages. In the first stage, the Moldovan parliament should adopt a law on the basic principles of the status of the Transdnistrian region and free, transparent, and democratic elections to the Transdnistrian Supreme Soviet should take place under international control. In the second stage, a more detailed law on the special legal status of the Transdnistrian region should be worked out by a committee of the Moldovan parliament to which members of the newly elected Transdnistrian Supreme Soviet should also be attached. In the third stage, the parties, together with the future guarantor countries – Russia and Ukraine – as well as the OSCE, with the assistance from the United States of America and the European Union, are to work out an agreement regarding the guarantees of Moldova’s compliance with this law. According to the Ukrainian plan, the law would enter into force after such an agreement has been reached.

Another topic discussed in Vinnitsa was the question of a possible enlargement of the negotiation format. The Moldovan side put forward an initiative to invite representatives of the European Union and the United

4 Cf. Memorandum of Understanding between the European Commission, the Government of the Republic of Moldova and the Government of Ukraine on the European Commission Border Assistance Mission to the Republic of Moldova and Ukraine, Palanca, 7 October 2005.

States to the next meeting. The EU has indeed constantly increased its attention to Moldova in recent years and, on 16 March 2005, appointed Dutch diplomat Adriaan Jacobovits de Szeged as EU Special Representative for Moldova in order to “strengthen the EU contribution to the resolution of the Transnistria conflict in accordance with agreed EU policy objectives and in close coordination with the OSCE”.⁵ Likewise, the US State Department has signalled its readiness to send its Special Negotiator for Eurasian Conflicts, Ambassador Steve Mann, to the Transdniestrian settlement talks.

Although Ukraine and the OSCE supported this Moldovan initiative, no consensus could be reached among the participants on a meeting in the enlarged format. The mediators met again in Bratislava, Vienna, and Chişinău over the following months and held separate talks with the Moldovan and Transdniestrian representatives at the beginning of August, but the questions on how, in which capacity, and with what kind of rights and obligations the Special Representatives of the EU and the US could join the talks could not be agreed upon.

Following further consultations, these issues were finally resolved at a meeting of the three mediators with the political representatives of the Moldovan and Transdniestrian sides in Odessa on 26-27 September. In a document signed at the end of the meeting, the five participants welcomed the future participation of the EU and US as observers in the negotiation process, agreed to a Protocol defining the rights and obligations of the observers proposed by the OSCE, and decided to hold the next round of negotiations in the new “5 plus 2” format on 27-28 October in Chişinău and Tiraspol. The status of an observer differs only marginally from that of a mediator – the only practical difference being that observers do not sign the protocols of the “5 plus 2” meetings – and this enables the EU and the US to participate fully and effectively in the negotiation process.

Thanks to the successful consultations in Odessa, the formal negotiation process could restart after a break of over 15 months on 27-28 October with meetings in Chişinău and Tiraspol.

In the meantime, important steps had been taken by the Moldovan parliament with reference to the Ukrainian settlement plan.

The Moldovan Parliament and Its Implementation of the Yushchenko Plan

In a 10 June special session, the Moldovan parliament unanimously adopted a declaration “on the Initiative of Ukraine Regarding the Settlement of the Transdniestrian Conflict”, together with appeals for the demilitarization and democratization of the Transdniestrian region.⁶

5 Council of the European Union, Brussels, 23 March 2005, 7023/05 (Presse 53) at: http://ue.eu.int/uedocs/cms_Data/docs/pressdata/en/misc/84338.pdf.

6 *Monitorul Oficial al Republicii Moldova*, No. 83-85 (1682-1684), 17 June 2005, pos. 385.

In its declaration, the parliament welcomed the Ukrainian proposal as an important step towards the strengthening of Moldova's territorial integrity. The parliament noted, however, that the Ukrainian plan did not cover a number of important areas. These included the withdrawal of Russian troops, the demilitarization of the Transdnistrian region, its democratization, and the establishment of control over the Transdnistrian section of the Moldovan-Ukrainian border. Furthermore, the parliament criticized a number of provisions of the Ukrainian proposal, such as the Transdnistrian participation in the implementation of Moldovan foreign policy and the establishment of a conciliation committee. Both provisions would, in the opinion of the Moldovan Parliament, infringe on the sovereignty of the Republic of Moldova. The parliament insisted on resolving the conflict within the framework of the Moldovan Constitution through dialogue with a new, democratically elected, Transdnistrian leadership.

In its "Appeal Regarding the Principles and Conditions of Demilitarization of the Transdnistrian Zone", the parliament set a number of conditions for the demilitarization of the Transdnistrian region, such as the complete withdrawal of Russian troops and ammunition and the transformation of the current peacekeeping operation into an international mechanism of military and civilian observers, under an OSCE mandate. The parliament also demanded that Transdnistrian military units be disbanded, their armaments and equipment disposed of by an international mission of military and civilian observers, and that personnel from these Transdnistrian military units be retrained.

In its "Appeal on Promoting the Principles of Democratization in the Transdnistrian Zone of Republic of Moldova", the parliament stressed that the organization of free and democratic elections in Transdnistria would be impossible unless a "large-scale and comprehensive process of democratization" under international control and monitoring were first implemented. This should include the dismantling of the Transdnistrian "ministry of state security", the reform of the Transdnistrian judicial system, the release of the remaining prisoners of the so-called "Ilascu Group", and the removal of impediments to the free activity of Moldovan political parties, the mass media, and non-governmental organizations in the region. The appeal also called for democratic elections in the region to be organized by an OSCE mandated International Election Commission that would start its work at least five months before elections and for a limitation of participation in these elections to citizens of the Republic of Moldova only.

On 22 July 2005, the Moldovan parliament adopted a Law on the Basic Principles of the Special Legal Status of the Settlements on the Left Bank of the Nistru (Transdnistria), which was based on these three documents as well as the Yushchenko Plan.⁷ The law, which draws heavily on provisions of

⁷ *Monitorul Oficial al Republicii Moldova*, No. 101-103 (1700-1702), 29 July 2005, pos. 478.

the Law on the Special Legal Status of the Gagauz Autonomous Region in southern Moldova, stipulates that an “autonomous territorial unit” with a special legal status – Transdniestria – will be created that will be a component part of the Republic of Moldova, with its own symbols, a constitution, its own legislative organ – the Supreme Soviet – and its own, not yet specified, executive organs. Transdniestria shall decide questions of its legal, economic, and social development in the interest of the whole regional population. Its constitution and regional legislation shall not contradict the Moldovan Constitution and other Moldovan legislation. Transdniestria shall also have the right to maintain, in accordance with Moldovan legislation, its own foreign contacts in the economic, scientific-technical, and humanitarian spheres. The courts of the region, the regional prosecutor’s office, security service, and department for internal affairs shall become part of the unified national Moldovan structures. Official languages of the region shall be Moldovan written using the Latin script, Russian, and Ukrainian. The first two shall be used by Transdniestrian enterprises, institutions, and organizations for internal documentation and for correspondence with national authorities. Changes to the law may only be adopted by a three-fifths majority and the concrete division of competencies shall be regulated by a law on the special status of Transdniestria.

At the same time, the law stipulates that negotiations on the division of competencies and the final status of the breakaway region will be conducted only after demilitarization and democratization have occurred, including the holding of democratic elections to the Transdniestrian Supreme Soviet under an OSCE mandated International Election Commission. Until then, negotiations will be carried out only on the demilitarization and democratization of the Transdniestrian region as specified by parliament on 10 June.

Following the adoption of the law, the Moldovan government adopted two decisions presented as internal guarantees for Transdniestria on 30 July.⁸ The first decision obliges the relevant government department to present by 1 October 2005 draft laws and decisions on basic guarantees for the Transdniestrian population with respect to property rights, salaries, pensions, stipends, and social and medical benefits as well as the preservation of professional positions and the recognition of length of service for Transdniestrian “state” apparatus employees. In addition, access for these persons to comparable positions within the whole territory of Moldova shall be guaranteed. Exempted from this, however, would be the leadership of the Transdniestrian militia, “customs” and “border services” and the employees of the central apparatus of the Transdniestrian “ministry of state security”. The proposed guarantees are intended to enter into force on the day the future law on the special legal status of Transdniestrian enters into force.

8 *Monitorul Oficial al Republicii Moldova*, No. 104-106 (1703-1705), 5 August 2005, pos. 858 and 859.

The second government decision re-establishes, although with modifications, the regulations for the temporary registration of Transdnistrian enterprises, which had been abolished during the 2004 summer crisis. However, this decision will take effect only from the day of the entering into force of a recent Ukrainian government decision, which limits the import of a great variety of goods from Moldova to Ukraine to a number of customs points at the Moldovan-Ukrainian border outside the Transdnistrian region.

Increasing Confidence and Security – New OSCE Initiatives

Another pressing issue for the OSCE in Moldova remains the presence of foreign troops in the Transdnistrian region as well as the high degree of militarization in the region as a whole. After the 1999 Istanbul Summit, where the Russian Federation committed itself to withdrawing its troops by the end of 2002, the OSCE Mission to Moldova was mandated with ensuring the transparency of the removal and destruction of Russian ammunition and armaments and with co-ordinating financial and technical assistance to facilitate their withdrawal or destruction on-site.

Since 1999, the OSCE Mission has facilitated, observed, and verified the destruction of over 500 heavy weapons as well as the withdrawal of more than 1,300 troops, 22,000 tons of ammunition, and eleven trains with military equipment. Some 40,000 small arms and light weapons are also supposed to have been destroyed, but this information has not been able to be verified by the OSCE Mission. However, the withdrawal process came to a complete standstill in 2004 and a further 20,000 tons of ammunition as well as some remaining military equipment are still to be removed. Theoretically this task could be completed within less than six months and the OSCE Mission and other OSCE officials have continued to press for a timely renewal of the process. Achieving further success in this field will be one of the main tasks for the Mission in 2005/2006.

During the first half of 2004, the OSCE Mission worked out a set of 14 agreements on confidence and security building measures (CSBMs), which were aimed at reducing the high degree of militarization of both sides and increasing trust between them. They were presented in June 2004 to the Moldovan and Transdnistrian leaders by the OSCE Chairman-in-Office. At a meeting in Vienna on 14-15 December 2004, the three mediators agreed that the Mission would prepare a second draft of the CSBM package incorporating the comments and suggestions of Russian Federation and Ukrainian military experts. On 21 June 2005, the mediators agreed on the revised version of this package and handed it over to the various parties on 12 July.

The package of proposed CSBMs centres around an Agreement on the Reduction of Forces, Armaments and Equipment and a Document on Confidence and Security Building Measures. Both propose a menu of potential

measures that could be implemented quickly, facilitate increased contact between the sides, and achieve concrete demilitarization results. The agreement proposes a reduction rate of 20 per cent every year for heavy military equipment and ten per cent every year for personnel, beginning one year after signature. It is suggested that the parties review this after three years to agree upon the final goal of the military reduction process. This could be total demilitarization, but the process could also end in a smaller but unified Moldovan army. The package further includes proposals for increased contacts, monitoring of weapon-manufacturing facilities, joint training on peace support operations, joint disaster relief operations, and common procedures for eliminating surplus ammunition and small arms. Some of the measures could be implemented without reference to other measures or protocols. Others are interlinked and would need to be implemented *en masse*. The entire package represents an overall regime of risk reduction. Almost all the proposed measures are based upon existing CSBMs that have proved successful in the region, such as the Treaty on Conventional Armed Forces in Europe, the Dayton Peace Accords, the Vienna Document 99, the OSCE Best Practice Guide on Small Arms and Light Weapons, and the OSCE Document on Stockpiles of Conventional Ammunition

In Lieu of a Conclusion: The Need for Dialogue

After a summer of constructive work and hope in 2003 and one of crisis and escalation in 2004, the summer of 2005 was marked by new initiatives, but also by profound disagreement. The reaction of the Transnistrian side as well as of the Russian Federation to the idea of inviting EU and US representatives to the talks has been cautious at best. The Moldovan Law on the Basic Principles of the Status of Transnistria was backed by a broad consensus inside the country, but met by a great deal of scepticism and even outright rejection west and east of Chişinău.

These fundamental differences in positions and perceptions on both sides of the Nistru will not be easy to overcome. At the same time, it would be irresponsible to slow down efforts in promoting dialogue between the parties. Although an escalation of the mutual crisis that struck the region after autumn 2003 was prevented, sustainable solutions have not been found and the potential for disruption and escalation remains. At the same time, both sides have remained virtually without any functioning forum for discussion and dialogue for a long time. Neither the Joint Control Commission nor the political settlement talks were fully functional over the last year. Although the change of government in Ukraine and the heightened interest of the EU in the settlement process have provided new initiatives and new impetus for talks, and although the restart of the formal negotiation process with the participation of the EU and the US gives hope for progress, important questions

remain open as this contribution goes to print. This concerns not only the question of Transdniestria's future status, but also the solution of the crisis in Dorotcaia, the possibility of truly transparent and democratic elections in Transdniestria, and the possible consequences of the EU border monitoring operation for the settlement process.

While continuing the pursuit of a comprehensive political settlement of the Transdniestrian conflict, one has to keep in mind that the political factors which lay at the heart of the conflict in the late 1980s and early 1990s, have long since disappeared. There are no historical, ethnic, religious, or other reasons for conflict between the populations on the left and right banks of the Nistru. The major reasons for the continuing division of the country are rather the economic interests of the elites. Leading political and particularly economic circles in the region appear to have grown accustomed to the status quo of a divided Moldova, with an unrecognized and unregulated region on the left bank. These circles have found ways to make money out of the current situation, and appear to fear that change – in the form of a settlement and reunification of the country – might threaten their continued economic well being.

At the same time, the majority of the population on both sides of the river suffers under the consequences of the unresolved conflict. Without a lasting political settlement, there will be continuing political instability in the region. This instability may remain at relatively low levels for a long time, but that cannot be guaranteed. And this instability will inevitably hinder Moldova in its aspiration for integration into larger European political, economic, and social developments.

Moreover, the continued existence of an unrecognized entity unavoidably prevents reliable implementation of generally accepted international agreements, standards, and practices. States in the region and the international community have no basis for promoting effective control, implementing international agreements, and enforcing generally accepted standards in Transdniestria. These considerations alone argue compellingly for reaching a settlement, not only to integrate Transdniestria with Moldova as a necessary first step toward regional and European integration, but also to ensure implementation of internationally accepted norms and agreements.

The OSCE Mission to Georgia – Activities in 2004¹

Overview

Overall, events in 2004, notably in Ajaria and the zone of the Georgian-South Ossetian conflict, moved rapidly – impacting directly on the work of the Mission and requiring it to respond quickly to what was happening on the ground. In addition, the Mission was heavily committed in the run-up to the January presidential election and the March parliamentary election to delivering a major programme of support (the Georgia Elections Assistance Programme, GEAP) to the country.

The establishment of the new government, in its turn, drew the Mission into a more intense involvement in the new democratic reform programme. The agenda set by President Mikhail Saakashvili was aimed at destroying corruption, introducing democratic principles, and establishing the rule of law in Georgia. The timetables were tight and urgent action was required by the Mission and its international partners to respond to the new opportunities and challenges in their work with government and civil society in Georgia.

All of these activities led the Mission to reorganize its internal structures to make a maximum contribution by employing a more tightly focused, cross-dimensional approach in its operations. By combining military-security, economic-environmental, and human dimension tools and resources to the various issues of the reform agenda, the Mission was able to respond quickly and effectively to the needs of the country.

Throughout the year, the Border Monitoring Operation (BMO), building on experience gained over previous years, carried out its mandate comprehensively and efficiently. However, the lack of consensus in the Permanent Council in Vienna meant that the operation had to cease on 31 December.

The Year in Detail

Georgian Elections Assistance Programme

In December 2003, the Acting President of Georgia, Ms Nino Burjanadze, made an appeal at the Maastricht Ministerial Council for financial assistance for the impending presidential and parliamentary elections in January and March 2004. As a result of this appeal, participating States pledged some six million euros. From this total, the European Commission gave two million

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

euros to the UNDP for election-related projects. The remaining four million euros were directly administered by the Mission.

From the outset, close, effective, and productive co-ordination was established between international donors, government and electoral administrations, and civil society. Within the Mission, a dedicated task force was established, using contracted international election experts together with Mission team members. The need was to work rapidly in order to produce improvements in Georgia's election standards and record. Through the creation of a special website, participating States were constantly informed of progress, projects, and results.

The quality of the work undertaken speaks for itself. The OSCE demonstrated an unrivalled ability to respond rapidly to an unforeseen need and drew deep praise from both government and civil society in Georgia for its work. The report of the ODIHR International Election Observation Mission on the Presidential Election demonstrated a marked improvement in the election process over the November 2003 parliamentary (and previous Georgian) elections. The same report also made recommendations for further remedial action. These recommendations were built into the projects designed by the Mission for the March parliamentary elections, which were once again recognized as representing a further major step forward in the Georgian electoral process.

Ajaria

Throughout April and the early days of May 2004, the confrontation between the central government and the authorities in Batumi became the main focus of attention for the Mission's political and human dimension teams. The need to avoid the real risk of armed activity involved the Mission in constant discussion both in Tbilisi and Batumi. Mission members were rotated to Ajaria to report on developments on the ground and ministerial contacts provided the basis for advice to the Chairman-in-Office on the potential role of the OSCE in avoiding possible conflict.

With the departure of Mr Aslan Abashidze following widespread popular demonstrations, the Mission's Human Dimension Office commenced a number of projects in the area of democratic institution building in response to requests by the new local authorities and civil society organizations in the region. These projects continue. In addition, with support from ODIHR, the Mission conducted an assessment of the 20 June elections in Ajaria with the assistance and co-operation of other international organizations.

Georgian-South Ossetian Conflict

Scarcely had the dust settled in Batumi when developments in the Georgian-South Ossetian zone of conflict reached crisis point. Following what began as

part of a nation-wide operation to close down illegal smuggling and contraband routes, the deployment by the Georgian Interior Ministry of large numbers of interior troops into the zone of conflict on 31 May 2004 rapidly increased tensions. In response, the “President” of South Ossetia declared mass mobilization, and throughout June, both sides deployed additional armed forces into the zone of conflict, establishing large numbers of illegal control and check points. Meetings of the Joint Control Commission (JCC) at the beginning and end of that month failed to achieve any removal of forces or lessening of the increasingly tense situation on the ground. Hostage taking, confiscation of military equipment, and disruptions to freedom of movement became commonplace events. On 8 July, the mass detention of 42 Georgian police officers and their subsequent public parading in Tskhinvali greatly exacerbated the situation. Throughout all these events, the Mission was in constant touch with all co-chairs of the JCC, and its Military Monitoring Officers attempted, at some risk, to check the situation on the ground together with the Joint Peacekeeping Forces (JPKF) observers.

An extraordinary meeting of the co-chairs in Tskhinvali on 11 July was followed by a high level meeting of the JCC in Moscow on 14-15 July. During these meetings, all sides agreed upon the need to take measures to demonstrate their commitment to a political settlement of the conflict and prevent the outbreak of violence. However, despite these commitments, both sides continued to enhance their forces on the ground, and the Mission military team frequently raised issues of concern with both the JPKF command and individual battalion commanders.

On the night of 29-30 July, major military actions began and continued until 19-20 August, despite a ceasefire which was declared on 13 August. Both sides sustained military and civilian casualties and there was physical damage to populated areas.

Throughout these difficult days, the JCC operated on an almost continuous basis in both Tskhinvali and Tbilisi, holding separate meetings with Prime Minister Zurab Zhvania and South Ossetian “President” Eduard Kokoity. Measures to stop the military actions stabilize the situation, and agree upon the withdrawal of all armed forces except the JPKF battalions were the dominating agenda items. Reaffirmation of the need to resolve the conflict through exclusively political means was a constant theme. With the establishment of a ceasefire, the overriding imperative became the effective stabilization of the military situation on the ground, leading to the demilitarization of the conflict zone. This would involve the withdrawal of all unauthorized military formations and the destruction or removal of all fortifications and defensive positions, including minefields set up by the opposing forces during the conflict period. Discussions on these themes continued into 2005, despite a direct meeting between Prime Minister Zhvania and the South Ossetian leader Mr. Kokoity in Sochi in November 2004.

Other casualties of the above developments, from the Mission point of view, have been the delays in moving ahead with the implementation of the 2.5 million euro European Commission grant for refugee return and rehabilitation of structures in the zone of conflict, which was finally agreed upon by all parties in January 2004, and the virtual cessation of Mission NGO projects in South Ossetia.

Georgian-Abkhaz Conflict

The Mission has continued to provide physical and financial assistance to the Human Rights Office of the United Nations Observer Mission in Georgia (UNOMIG) in Sukhumi. A particularly successful project has enabled organizations for the disabled from both sides to come together to co-ordinate their activities, and there are now prospects, involving the Mission's economic team, for developing a wheelchair production factory in Abkhazia. Other projects in the field of human rights involving NGOs and media organizations have continued, and management training projects will soon be implemented.

On the political settlement front, little activity took place in the run-up to the 2004 "presidential" elections. However, once the process resumes, the Mission will, within the framework of its mandate, be ready to continue to act in support of the UN Secretary-General's Special Representative (SGSR) in the negotiations. The establishment of a joint Human Rights Field Office in the Gali region remains a high priority.

Law Enforcement and Anti-Terrorism

With strong support from the OSCE's Strategic Police Matters Unit (SPMU) in Vienna, the Mission began discussing a long term Police Reform Assistance Programme with the Ministry of Interior. Although there was considerable interest in the programme from the previous Minister and an expressed wish for the Mission to act as co-ordinator for an international advisory group, changes in the senior ranks of the Ministry coupled with its preoccupation with events in South Ossetia delayed the signature of a memorandum of understanding until October 2004. This launched a long term Police Assistance Programme, which will be co-ordinated by the Mission.

Throughout this process, the Mission established wide-ranging links with both international partners, including the EU Rule of Law Mission, and all the ministerial structures and drew up a targeted programme of assistance to complement the activities of other international organizations and bilateral donors.

Over the year, the Mission also continued to develop its assistance to Georgia in the area of anti-terrorism. Programmes were developed using the services, on an *ad hoc* basis, of a border monitor with specialized knowledge

of this field. Georgian officers have been sent to international workshops and these have been followed up by practical assistance in areas of false documentation, airport security, and border controls. In addition, work has begun to assist Georgia in the ratification of international Conventions related to the fight against terrorism. We are, however, only at the beginning of this increasingly relevant area of activity. As in many other areas of the Mission's work, the fight against terrorism involves cross-dimensional co-ordination with other parts of the Mission's operation.

Border Monitoring Operation

During April and May 2004, the BMO built up its numbers in preparation for the summer period of operation. Eighty-eight new monitors were recruited to the Mission, using revised selection criteria and, for the first time, three female officers became part of the operation. All the monitors underwent specialized safety and security training to prepare them for the climatic and physical risks they face in doing their jobs in the mountain environment.

In building up its numbers for the summer, the BMO management drew heavily on the experiences gained over the past few years with the aim of enhancing both the efficiency and effectiveness of the monitoring operation – which is solely to observe and report on border crossings. The lessons learned were contained in a report provided to the OSCE Permanent Council when the decision to renew the mandate until the end of December 2004 was taken on 29 June. However, as already mentioned, no consensus was reached in December when the BMO mandate was up for renewal, and the operation ceased its reporting and monitoring work on 31 December.

Economic and Environmental Activities

Throughout the year, apart from continuing its assistance to the trans-boundary water quality and management programmes and undertaking training for public officials on the Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters (Århus Convention), the Mission focused on four main areas of activity. First, it advised the Georgian parliament on the drafting of a new Labour Code. This intensive assistance has involved detailed, continuing discussions with employer organizations, trade unions, and legal draftsmen. In the light of the experience gained and available within the Mission, similar assistance has been given on an *ad hoc* basis to the Armenian parliament, which is engaged in a similar exercise.

Second, the Mission began work with Georgian governmental and non-governmental partners on the joint UNDP/UNEP/OSCE/NATO Environment and Security Initiative (ENVSEC) and produced a background paper addressing the main environmental and social issues in the country from a se-

curity perspective. This paper will form the basis for further work in this field. In 2004, the Mission also introduced the Young Entrepreneurs Scheme (YES) to Georgia. In its first phase, four training seminars were held in the regions. A follow-up phase will start shortly. Finally, together with the German development agency GTZ (*Gesellschaft für Technische Zusammenarbeit*), a local self-government project was undertaken with a number of local authorities. This is modelled on a similar project successfully undertaken by the OSCE Mission to Bosnia and Herzegovina.

The Mission made two major presentations of its recent activities in the area of weapons destruction and recycling to delegations in Vienna. The programme has now been running for 19 months and, with recent discoveries of further, substantial stockpiles, has a long future in store – providing that participating States remain prepared to contribute as generously as they have done so far. Unfortunately, the Rapid Response Scheme to collect weaponry in the Georgian-South Ossetian zone of conflict has had to be temporarily suspended. However, before the conflict ensued, a number of potential projects were close to fruition.

Human Dimension

With the exception of activities in the Georgian-South Ossetian zone of conflict, the Mission's human dimension staff were actively working with the full range of governmental, civil society, and international partners on the core issues of our mandate and in accordance with the government's new reform agenda. With the appointment on 16 September 2004 of a new Public Defender, the Mission re-launched its programme of support to the regional offices of the Ombudsman through a major staff training and human rights monitoring programme. In its ongoing work with the Prosecutor General's Office, the National Security Council, and the Ministry of Interior on the implementation of the National Action Plan against Torture, the Mission is increasing the capacity of those institutions and creating networks with civil society to prevent torture. Frequent visits to pre-trial detention facilities and prisons assist the process. More generally, the Mission, together with ODIHR, initiated a large-scale training programme for prison staff, with the full co-operation of the Minister of Justice.

In the area of rule of law, the Mission and other international partners were requested to provide expert analysis on the draft of the new Constitution and, in particular, to advise on mechanisms for involving the public in discussion and debate. Anti-trafficking also has been a major focus of activity. The Mission chaired an informal working group drawn from ministries and NGOs to develop a National Action Plan against Trafficking. The plan was approved by presidential decree at the end of the year. In the field of democratization, the Mission is equally involved in the elaboration of an Action Plan on Gender Equality.

More broadly, the Mission continued its established work in raising the capacity of civil society organizations, human rights awareness and education programmes, local government reform, and media development and legislation. More particularly, the Mission continued to handle an increasing caseload involving individual human rights.

All Eyes on Central Asia: Disintegration in Uzbekistan and Kyrgyzstan¹

After thousands of people had stormed the seat of government in the Kyrgyz capital Bishkek on 24 March 2005, the then president, Askar Akaev, fled the country, signing his official resignation in Moscow on 4 April. Shortly thereafter, the Kyrgyz parliament announced that presidential elections would be held early on 10 July 2005. These led to the election of Kurmanbek Bakiyev as the new president of Kyrgyzstan, with almost 90 per cent of the vote. In this way, Kyrgyzstan became the first country in Central Asia to elect a new leader following the break-up of the Soviet Union. After the turbulence in the first half of 2005, which had led to the fall of president Akaev, the elections were surprisingly quiet and unspectacular. None of the five other presidential candidates received a significant number of votes, which meant that, on this occasion, protests by disappointed followers did not take place. Hence, there is cause for optimism that Kyrgyzstan may enjoy a period of political calm.

On 13 May 2005, Uzbek governmental forces killed hundreds of civilians who had participated in a demonstration in the city of Andijan in the Ferghana Valley. Despite international pressure, President Islam Karimov continues to refuse to allow an independent international investigation team to work in the country. Uzbekistan appears to be calm at present, but this is deceptive. It is obvious to observers that the events in Andijan will not be the last bloody clashes between the government, on the one hand, and the general population and opposition groups, on the other. Currently, the most frequently posed question is whether and how long Karimov will stay in power.

Today, in both Uzbekistan and Kyrgyzstan, there are many questions to which a clear answer is not always available: Which actions are being taken by which actors (political and economic groups and individuals)? What are their motives? How will the situations in the two countries develop in the next few months? How much of an impact will this year's events have on the general security situation in Central Asia and Europe?

This article will contribute to a better understanding of the events in both countries by analysing their causes in detail. It will also discuss the direction(s) that future developments are likely to take and the nature of the tasks and challenges lying ahead for the international community.

¹ The opinions expressed in this article are the author's own.

Parliamentary elections in Kyrgyzstan took place on 27 February and 13 March 2005. For these elections, the number of the seats contested had been reduced from 105 to 75. The political mood in the country was already tense in the run-up to polling, since some applicants had not been admitted as candidates by the Central Elections Commission. The most prominent of these was the former foreign minister Roza Otunbaeva. Her candidacy was rejected in January on the grounds that she had not lived in Kyrgyzstan in recent years. Perhaps it was merely coincidence that she wanted to run for office in the same electoral district as the daughter of the president, Bermet Akaeva. At meetings, which continued throughout January and February, several non-governmental organizations joined the opposition in demanding free and fair elections.

Only 31 of the 75 parliamentary seats were decided in the first ballot on 27 February; virtually no opposition candidates were successful. When it became clear at this point that certain candidates would not get a seat in Parliament, the population in southern Kyrgyzstan took to the streets to protest. After the second ballot on 13 March, 71 of the 75 parliamentary seats were distributed, five of them to opposition politicians. The population in the south refused to accept the results and continued to demonstrate.

A *Kurultai* (public gathering) was held in Jalal-Abad on 15 March. At this meeting, a national co-ordination council was elected and demands for a re-run of the elections and the resignation of Akaev were made. The opposition politician and former prime minister Kurmanbek Bakiyev was one of the leading figures of the *Kurultai*.

On 18 March, after ten days of protests, an irate crowd stormed the building of the provincial administration in Osh and, on 21 March, conducted a *Kurultai* there, too. In the intervening three days, government troops and demonstrators had fought for control of the provincial administration building. On 20 March, demonstrators seized the equivalent building in Jalal-Abad as well as the airport. A day later, demonstrators in Osh finally captured the provincial administration building in that city, several police stations, and the headquarters of the secret service. In the northern provinces of Naryn and Talas, more and more people took to the streets to protest. It is still not quite clear whether the protests were organized and, if so, by whom. However, there is some evidence that influential local citizens supported the protest financially and logistically.

2 A short chronology of the events between January and March is available at IWPR's website: Institute for War and Peace Reporting (IWPR), *Kyrgyzstan's "Tulip Revolution" Timeline*, at: www.iwpr.net/index.pl?centasia_kyrgyzrev_00.html, and in: International Crisis Group (ICG), *Kyrgyzstan. After the Revolution*, Brussels, 4 May 2005, at: www.crisisgroup.org/home/index.cfm?id=3411&l=1.

On 22 March, the protests spread to Bishkek. Events gained momentum as more and more demonstrators from the southern provinces and Naryn arrived in the capital. Although government supporters were still able to organize a 10,000-strong demonstration on 22 March – the day on which the new parliament was also sworn in – two huge anti-government protests were held on the 23rd, during which many participants were detained.

Several opposition politicians, among them Bakiev and Otunbaeva, appealed to their followers to come to a large joint demonstration in Bishkek on the morning of 24 March. The protestors converged from two sides upon the White House, the seat of Kyrgyz government, meeting on Ala Too Square in the city centre. The protest was peaceful at first – the participants chanted slogans and listened to speeches. Later on that same morning, a large group of protestors from Osh joined the gathering on Ala Too square and began attacking the White House. Supported by young people already present in the square, they were able to capture the White House within a very short time. Akaev and other members of the government had already left the building by that time.

The storming of the White House came as surprise not only to the government but also to opposition politicians. According to their statements, they had prepared for a longer period of protests and negotiations. Although Bakiev and Felix Kulov – who was freed from prison by his followers that same day – appealed to the population for calm, looting and plundering took place all over the city in the days and nights that followed. In particular, shops allegedly belonging to the Akaev family and their political allies were attacked systematically. Only after several days was the interim government able to establish law and order in Bishkek, at least during daylight hours.

Background to the Events

Kyrgyzstan became an independent nation in August 1991. Askar Akaev had been named president of the Kyrgyz SSR in 1990 and had become the international community's great white hope for liberalization and democratization. His reform policy made Kyrgyzstan the first Central Asian state to become a member of the World Trade Organization (WTO). Although they were considered political advances, the Kyrgyz people experienced these reforms as shock therapy: The state – which had permeated all areas of life – suddenly lost interest in the lives of its citizens. It withdrew the budget for social security and pensions and ceased to maintain any kind of welfare net for its people. The social costs of transformation were high, and poverty increased dramatically, especially in the south.

One important reason for this can be attributed to the structure of the Soviet economic system: The goal was not the self-sufficiency of each republic, but rather their specialization in certain economic areas. For Kyrgyzstan, this meant, above all, the development of electrical energy and agri-

culture in the mountainous areas located in the south. Kyrgyzstan's *Kolkhozy* (collective farms) produced meat for the Soviet market and the country was in turn supplied – in part, directly from Moscow – with all the necessities of life. The one-sided focus of production alienated the people from their natural environment, causing them to forget how to live self-sufficiently in the mountains. Following independence and during the period of economic reform, they were suddenly confronted again with the problems of living in a mountainous environment: No technology or organization that could cover their needs was available to them. They were forced to (re)learn how to provide for themselves. Most people had to go through this learning process under unfavourable conditions and without any preparation. Poverty increased dramatically and the negative mood among the people increased noticeably. In addition to all of this, in recent years, clans from the north and the west of the country (*Ong* wing) had dominated the southern clans (*Sol* and *Ichkilik* wings) economically and politically, thus intensifying the social differences between the two regions. Akaev and his wife, who were both from the north, were able to ensure that their own clients and hangers-on were provided with posts, while politicians from the south had very little influence in the capital.

In January 2002, when the popular politician from the south, Azimbek Beknazarov, was taken into custody, heavy protests broke out in the region, above all, in his home district Aksy. He was officially accused of abusing his former office as Prosecutor General. The truth was that Beknazarov had criticized Akaev's leadership style time and time again. He had, in particular, been outspoken against the Kyrgyz-Chinese border accords that would cede 95,000 hectares of Kyrgyz territory to its eastern neighbours. On 17 March, at least five people were killed when police troops fired at demonstrators in Aksy. The government was dissolved shortly after the then Prime Minister, Kurmanbek Bakiev, took responsibility and stepped down at the end of May 2002.

The continuing unrest in the south, borne of the demand for more political participation, led Akaev to hold a debatable referendum on 2 February 2003 that was to have legitimized his claim on power until the end of his term in office in the autumn of 2005. According to official statements, 78 per cent voted for him to remain in office. The OSCE declined to observe the referendum.³

Although Akaev did not have a political solution, he was still able to secure new legitimacy for himself and initially calm the waters. The appearance of stability was, however, elusory and the discontent continued to simmer. On the occasion of the city's 125th anniversary in the summer of 2003, while

3 For more information on the referendum see OSCE, Office for Democratic Institutions and Human Rights, *Kyrgyz Republic Constitutional Referendum 2 February 2003. Political Assessment Report*, Warsaw, 20 March, 2003, at: http://www.osce.org/documents/odihr/2003/03/1381_en.pdf.

those in the capital celebrated with fireworks and concerts, the salaries of public service employees in the south were not being paid. In less than two years, the discontent building up would ultimately lead to the storming of the White House and the downfall of Akaev.

Unlike the revolutions in Georgia and in Ukraine – both of which had distinctive symbols and messages and a charismatic opposition leader – in Kyrgyzstan, confusion reigned as to the symbols or signs of the coup d'état, a situation symptomatic of the distrust between the population and the opposition, as well as of the discord within the opposition itself, which was split into more than 40 different parties. The opposition's political vision was more or less an unknown quantity and its democratic credentials more than questionable. It was less concerned with regime change than with accomplishing a shift in the balance of power within the elite.

Prominent opposition leaders such as Bakiev and Otunbaeva took advantage of the population's displeasure and positioned themselves at the head of the protests in the south. Although both they and, later, Kulov were presented in the international media as the new opposition leaders, they were not unknown at home; for a long time, they had belonged to the leadership of the country and had been very close to President Akaev for a while.

Bakiev, born in 1949 in the southern province of Jalal-Abad, was governor of the northern province of Chui from 1997 until 2000 and Prime Minister from December 2000 until May 2002, when he was forced to step down following the events in Aksy. Bakiev is the leader of the Peoples Movement of Kyrgyzstan, an electoral alliance comprised of nine parties.

Kulov, born in 1948 in the northern city of Frunze (today Bishkek), has been the leader of the Ar-Namys party since 1998. Among the posts he has held are Minister of the Interior, Vice President and Mayor of Bishkek. To prevent him from standing as a candidate in the presidential elections, he was arrested in March 2000, and, in January 2001, sentenced to seven years in prison for abuse of office. On 24 March 2005, he was freed from prison by his supporters and has meanwhile been pardoned by the court.

Otunbaeva, who was born in 1950 in southern Osh, was Foreign Minister under Akaev, and was the Kyrgyz ambassador to the USA, Canada, and the UK.

After considerable speculation about Bakiev's and Kulov's chances of running in the presidential elections and about which of them would be able to attract support from both the north and the south, both candidates declared on 13 May that Kulov would not stand for office and would instead be joining Bakiev's electoral campaign team. As a result, Bakiev's victory in the elections has been considered more or less a pre-arranged deal – both by the population as well as by international observers.

Campaigning for the presidential election officially began on 14 June 2005 and was very much dominated by Bakiev. Just one day after the Central Elections Commission (CEC) had announced the registration of seven candidates – among them one woman – Bishkek was covered with billboards and flyers with Bakiev's portrait and slogans saying "The future of our country is based on work and unity".

The latter issue is particularly important to the population. During the uprising in the spring, the differences between the north and the south surfaced once more. Since then, the fragile security situation has made the population feel insecure, and international analysts are of the opinion that the state monopoly on the use of force is disintegrating and power is being relocated to the regional and local levels. At these levels, politicians involved in shady business dealings dominate daily life and are fighting to fill the political and economic vacuum that Akaev and his family left after they fled the country. During the weeks following the overthrow of the government, violence and shootings resulted in many injuries and several deaths. For instance, at the beginning of June, the parliamentarian Jyralbek Surabaldiev was shot in Bishkek in broad daylight. In addition to his political activities, he was the owner of a second hand car market near Bishkek that he had seized from a rival just one year earlier. Several days later, there was an armed clash in Osh between followers and opponents of another parliamentarian, Bayaman Erkinbaev, during which one person was killed. Erkinbaev controlled several markets in southern Kyrgyzstan, such as the one in Kara-Suu at the Uzbek border.⁴ During this same period, Bakiev's campaign office in Bishkek was attacked and two guards were injured.

The violence did not cease then. On 17 June, Urmat Baryktabasov, chairman of the movement "New Generation – Mekenim Kyrgyzstan", and his followers stormed the seat of the government in Bishkek again. His candidacy for the presidential elections had been rejected by the CEC, because he had only held Kazakh citizenship since 2002. It has proved impossible to get the genie of revolt back into the bottle. Demonstrations, sit-ins, and the storming of buildings became routine in Kyrgyzstan in the period following the end of March.

International organizations feared such a development and had therefore prepared statements for the candidates to sign before the elections. With their signatures, they committed themselves to behaving according to international standards and to the law, to keeping their followers under control, and to avoiding any form of provocation and violence during the election campaign. The OSCE and the UNDP invited the candidates to the most luxurious hotel

4 Erkinbaev was shot dead on 21 September 2005 in Bishkek. He is the second Member of Parliament to be killed since March 2005.

in the capital, where, however only three of the seven candidates signed this “gentleman’s agreement”.

Further potential for conflict in connection with the elections and the future unity of the country stems from the deep-rooted ethnic tensions of southern Kyrgyzstan. In the provinces of Osh and Jalal-Abad, one quarter of the total population are Uzbeks. They are extremely anxious about how their interests will be represented in the future. No one has forgotten the bloody clashes between the Kyrgyzs and Uzbeks that took place in Osh and Uzgen in June 1990, when 300 people lost their lives. One of the reasons for the outbreak of violence was the demand that Uzbek be made an official language in Kyrgyzstan. The Uzbek community knows of Bakiev at least that he was born in the province of Jalal-Abad and is thus familiar with life in the south and has first-hand experience of the co-existence of Kyrgyz, Uzbeks, and other ethnic groups. Furthermore, because his wife is Russian, he has a reputation as an internationalist.

The increasing instability has led the population to yearn for peace and stability more than anything else. Many are afraid that their small scale businesses will be destroyed or will collapse. In June 2005, many shops had slogans on their windows, such as “We are with the people” or “This shop is guarded by the people’s patrol”.

Whether the team of Bakiev as President and Kulov as Prime Minister will be able to stabilize the security situation in the near future is not yet clear. It may be necessary to prepare for a time when there is no proper state control in Kyrgyzstan. The state would then remain as an empty shell while power devolved to the regional level. The state would lose its monopoly on the use of force to powerful local individuals, such as influential businessmen. Power would effectively be personalized and the rule of law set aside.

Uzbekistan

*Timeline*⁵

The events that occurred in Andijan during the night of 12 to 13 May 2005 are still not clearly understood. Various sources document that, on that night,

5 For a detailed description of the events see: Human Rights Watch, *Bullets Were Falling Like Rain. The Andijan Massacre, May 13, 2005*, New York, June 2005, at: <http://hrw.org/reports/2005/uzbekistan0605/>; International Crisis Group, *Uzbekistan: The Andijon Uprising*, Asia Briefing No. 38, 25 May 2005, at: <http://www.crisisgroup.org/home/index.cfm?id=3469&l=1>; OSCE, Office for Democratic Institutions and Human Rights, *Preliminary Findings on the Events in Andijan, Uzbekistan, 13 May 2005*, Warsaw, 20 June 2005, at: http://www.osce.org/documents/odihr/2005/06/15233_en.pdf; Office of the High Commissioner for Human Rights, *Report of the Mission to Kyrgyzstan by the Office of the High Commissioner for Human Rights (OHCHR) Concerning the Killings in Andijan, Uzbekistan of 13-14 May 2005*, Geneva, 12 July 2005, at: <http://www.ohchr.org/english/press/docs/andijan12072005.pdf>.

the Uzbek secret service arrested family and friends of a group of 23 local businessmen. The individuals arrested had participated in a protest in front of the court where the businessmen were being tried. It has also been reported repeatedly that an armed group attacked and seized a local police station and later a barracks, and that weapons stocked there were looted. Likewise, it has been reported that, on that same night, some 50 to 100 armed men stormed the jail in Andijan and freed 600 inmates. It is, however, unclear whether both raids were carried out by the same people. In addition, it is not yet known how the armed group(s) came together, or whether family members of the accused businessmen were involved.

What is relatively certain, however, is that the armed men who released the inmates were informed about a protest that was to take place on Babur Place, the city's main square. Many of those released thus joined the group of armed men and headed towards the main square and the local government building (*hokimiyat*). On the way there, fire was exchanged with the secret service building; 30 people are believed to have been killed. It is not clear whether the building was stormed in order to release the detained protestors or whether the secret service first opened fire in order to stop the group from marching to the *hokimiyat*.

At the break of dawn on Friday 13 May, more and more people – who had heard about the events or who had been mobilized – began to assemble on Babur Place in front of the *hokimiyat*. According to witnesses, some 5,000 civilians filled the square that day. The armed group had surrounded and occupied the *hokimiyat*. By the end of the day, they had taken about 30 hostages, among them the prosecutor general and the director of tax inspections. Using a quickly improvised stage equipped with loudspeakers, the people in the square took this opportunity to express their discontent with the situation in Andijan – high unemployment, lack of social security, excessive corruption among the local authorities, and state repression. The statements of several witnesses concur that the armed group twice spoke on the telephone with the Uzbek Minister of the Interior, Zokir Almatov, who refused to enter into any negotiations. Around four o'clock in the afternoon, the government began preparations to storm the *hokimiyat*. Although government troops kept firing at the people gathered at the square throughout the day – reports vary between 50 and 100 deaths – many persevered and remained on the square. Eyewitnesses say that the main reason for their persistence was the hope that President Karimov would show up in person and listen to their concerns.

Between five and six o'clock in the afternoon, government troops began to attack, firing on the people gathered in the square from all sides, using armoured vehicles, lorries, and military jeeps on which guns had been installed. This led to mass panic. Two larger groups, each of which had taken hostages, fled from the square to one of the main streets (*Cholpon Prospekt*). There, a massacre took place, in which about a hundred people – among them many women, children and young people – lost their lives. They were fired at from

the doorways of homes, from rooftops, and from behind barricades, where the troops had positioned themselves to shoot at their targets mercilessly. Some survivors marched overnight for ten hours to reach the Kyrgyz border, only to be shot at once again. They were only able to cross the border after lengthy negotiations. A camp was set up for the 500 refugees directly on the border; in early June it was moved inland to the Kyrgyz province of Jalal-Abad.⁶

Background to the Events

The catalyst for the events in Andijan was the legal proceedings against 23 businessmen – entrepreneurs and tradespeople – that took place on 10 February of this year before the criminal court in Andijan. The defendants were accused of being members of a group called *Akromiya* and of preparing to overthrow the government. The name of this group – its existence and goals are highly speculative – has been traced to its alleged founder, Akrom Yuldashev. In 1992, he composed a small booklet entitled “The Path to Faith” in which he laid out his ideas about how to lead a life according to God’s will. In this book, he also dealt with questions pertaining to business life and the social responsibility of companies. In 1998, Yuldashev was briefly detained and sentenced, but was soon granted amnesty. In 1999 – after a series of explosions in February in Tashkent – he was arrested again and sentenced to 17 years in prison. The charges were described as follows: 1. deliberate alteration of the constitution in an anti-constitutional way, public appeal to take over power; 2. formation and leadership of criminal coalitions; 3. deliberate preparation of information and materials that propagate religious extremism and fundamentalism.

From the very beginning, the trial of the 23 businessmen in Andijan was accompanied by demonstrations. Family members, workers, and neighbours gathered together in silence day after day before the courthouse. In interviews conducted in March and April, demonstrators explained that, with their silent protest, they were calling for justice for the defendants and that they did not believe the extremist group *Akromiya* existed. In fact, they were convinced that the business people had been accused because they were successful and socially involved. On 11 May, on the last day of the proceedings, over 2,000 people gathered in front of the court house. Sentence was due to be handed down on 12 May; on this day, however, it was indefinitely postponed. Furthermore, the protestors learned of the arrest of several young men who had participated in the demonstrations.

The extent of the bloodbath in Andijan is shocking, yet the event itself did not come as a surprise and will probably not remain an isolated case. Andijan was the first tragic result of a socio-economic and political develop-

6 In late July, all but fifteen of the asylum seekers were evacuated to Romania. Another eleven were evacuated to the UK in mid-September.

ment that has grown more and more acute in recent years. Since 1990, the authoritarian president, Islam Karimov, former First Secretary of the Communist Party of the Uzbek Soviet Socialist Republic, has ruled the country with an iron fist. His position within the power apparatus is utterly dominant, and the separation of powers exists only on paper. Those fundamental rights and freedoms proclaimed in the Constitution of 8 December 1992, such as freedom of speech, freedom of assembly, and freedom of religion, as well as political pluralism, have not been implemented and are viewed as threats to the stability and internal security of the country. Political opponents of all kinds are persecuted. In prisons, torture is systematically practised. Parliament is weak, and its members come exclusively from parties loyal to the government and the administration. The few extra-parliamentary opposition groups and movements are embroiled in internecine squabbles, and several of their leaders are in exile.

Because of the political conformity enforced upon the secular parties in Parliament and the fragmentation of the secular opposition movements, most of the present-day opposition in Uzbekistan consists of illegal Islamist groups, such as *Hizb-ut-Tahrir*. Sympathy for such organizations is not solely based on religious beliefs. Rather, concepts like the establishment of a Caliphate, in which enduring social problems, poverty, and corruption are to be solved by means of Islamic law, are highly attractive in a state that hardly allows its citizens the air to breathe. As shown in various interviews with members of *Hizb-ut-Tahrir*, many young people see the organization as the only opportunity to make their political views known and to voice their discontent with the social conditions and the Karimov regime. The government keeps portraying both *Hizb-ut-Tahrir* and other Islamic or Islamist groups as a collective bogeyman and a symbol of Islamist terrorism, thus legitimizing its policies of repression by referring to conditions in Tajikistan and Afghanistan.

Particularly in the traditionally religious Ferghana Valley, the population had already begun to suffer from such policies in the 1990s. In 1997/1998, for instance, the government blamed "Wahabist terrorists" for the killing of several members of the police force, and arrested between 1,000 and 1,500 people in Namangan and Andijan. Another wave of arrests followed the attempt to blow up the Uzbek President in Tashkent on 16 February 1999. On that day, six bombs killed 15 people and damaged several buildings. By 23 February, 30 people had been imprisoned after Karimov claimed that they all belonged to extremist religious groupings. Up until the beginning of March, between 200 and 500 additional people shared the same fate. In June 1999, 22 individuals were accused of being involved in the attack, and, following a show trial, six of them were sentenced to death. The others were given prison sentences of between ten and 20 years. None was acquitted. Furthermore, hundreds of people were arrested after distributing flyers in support of the accused at Tashkent markets and other public places.

In Uzbekistan, several thousand people have been apprehended and detained because of their religious or political beliefs over the past few years. Many of these are in the infamous *Jaslyk* forced-labour camp, set up by the Uzbek government in the desert southwest of the Aral Sea. The families only rarely receive news of the whereabouts of their relatives. Coffins are sent back nailed shut in order to hide evidence of torture. More and more often, people, most of them women, are demonstrating against the despotism of the government and the administration, thereby risking persecution and violence.

The arbitrariness of the Uzbek government and the public authorities is not directed exclusively against religious and allegedly religious groups and individuals. Traders and small businesses also suffer from the lack of any kind of rule of law and the day-to-day abuses meted out by the police. For example, the introduction of severe import restrictions in 2002 meant that the population was forced to buy only domestically produced goods. In October 2003, the government decided that small traders should only be allowed to operate from their sales in registered kiosks and shops and made the use of cash registers compulsory. These and other measures have ruined the standard of living of many small traders and their families. The rigour with which the police and tax inspectors enforce the relevant regulations and confiscate the goods of those affected has been a cause of growing animosity. More than once this has led to strikes and protests by small traders. The demonstrations – bordering on hunger riots – that occurred at the beginning of November 2004 show the scale of the problem. The number of protestors in Kokand alone was estimated at between 5,000 and 10,000. These protests are symptomatic of the declining living standards in Uzbekistan, where many families live from hand to mouth.

International Reactions

The events in Andijan attracted worldwide attention – at least in the short-term. But access to information, to the town, and to eyewitnesses was and still is the key problem with respect to reporting and analysing the events. In Uzbekistan, the most important websites, which had been reporting on the events, were blocked following 13 May. On terrestrial television, news broadcasts in Russian were suspended, while cable television was shut down completely. Satellite television was the only medium to offer a full range of news stations. These measures aimed to stop the flow of information within the population.

At the time of the demonstrations, only a few journalists were in the town, most of whom were waiting for the court decision in the trial against the 23 businessmen. Later on, the Uzbek government established a dense net of roadblocks on the road to the Ferghana Valley, as well as in and around Andijan and, in so doing, hindered journalists as well as representatives of international organizations from entering the town. As a result, many articles

and analyses are based on interviews with refugees in neighbouring Kyrgyzstan.

The International Crisis Group (ICG) published the first report on the events, which was entitled “Uzbekistan: The Andijan Uprising” (20 pages) on 25 May. Human Rights Watch (HRW) followed with a 60-page report “Bullets Were Falling Like Rain” on 3 June. And the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) issued a 30-page report on the “Preliminary Findings on the Events in Andijan, Uzbekistan, 13 May 2005”.⁷ All three reports concluded that the government used indiscriminate and disproportional force against unarmed civilians and estimated that the number of dead was higher than stated by officials in Tashkent. In addition, all three organizations strongly recommended that an independent international investigation be held.

Shirin Akiner of the School of Oriental and African Studies (SOAS) in London presents a completely different view: At the end of May, she travelled for one day to Andijan and – according to her own statements – was able to talk to about 40 persons without any problem. On 29 May, back in Tashkent, she gave an interview on Uzbek state TV and, on 7 June, published a 30-page report entitled “Violence in Andijan”.⁸ Both the interview and the report concur with the picture the Uzbek government has drawn of the events and, consequently, are used by the government for its own purposes. In the report, Akiner – who works as an independent consultant for NATO and the FAST Programme of Swisspeace – several times stresses that she is attempting to report objectively and to uphold academic standards. However, she does not take into account the ICG and HRW reports, which had already been published at that time, and condemns “sensationalist media reports” in general. If we take into account the immense pressure the Uzbek government has put on the inhabitants of Andijan since the event, and the fact that Akiner was accompanied by the governor of the province of Andijan, it seems obvious that the reliability of Akiner’s sources should be questioned.

Many governments have expressed their concern about the events in Andijan, which have already been commented upon by international organizations such as the United Nations, the Organization for Security and Cooperation in Europe, and the European Union. On 20 May 2005, the OSCE Chairman-in-Office, Slovenian Foreign Minister Dimitrij Rupel, published a statement on the situation in Andijan and called on Uzbekistan, which, after

7 Cf. Note 5. On 20 September, 2005 Amnesty International and Human Rights Watch published new reports about the events and their aftermath: Amnesty International, *Uzbekistan. Lifting the siege on the truth about Andizhan*, London, 2005, available at: <http://web.amnesty.org/library/index/engneur620212005>, Human Rights Watch, *Burying the Truth. Uzbekistan Rewrites the Story of the Andijan Massacre*, New York 2005, available at: <http://hrw.org/reports/2005/uzbekistan0905>.

8 The report, which was initially circulated via email, was later published as a Silk Road Paper by the Central Asia-Caucasus Institute: Shirin Akiner, *Violence in Andijan, 13 May 2005: An Independent Assessment*, Washington/Uppsala 2005, available at: http://www.silkroadstudies.org/new/inside/publications/silk_road.htm.

all, is an OSCE participating State, to allow an independent investigation of the events of 13 May. At the same time, he announced that the OSCE would work together closely in this affair with the United Nations and the European Union. Just a day before, on 19 May, the Luxembourg EU chairmanship had issued a statement in the OSCE Parliamentary Assembly, in which the EU member states argued for an independent international investigation and demanded unhindered access to Andijan for the representatives of the International Red Cross and the United Nations High Commissioner for Refugees (UNHCR). In a press statement on 23 May, the EU Council of Ministers voiced its support for the demands of the OSCE and the United Nations for a thorough clarification of the events. The NATO Council issued a press statement on 24 May condemning the “use of excessive and disproportionate force by the Uzbek security forces” and expressing its support for the United Nation’s call for an independent international investigation. Uzbekistan was also reminded of its commitments under NATO’s Partnership for Peace Programme. On that same day, the United States government threatened not to provide Karimov with promised financial support in the amount of 22 million US dollars unless an independent investigation of the incidents took place. At the meeting of the EU foreign ministers on 13 June in Luxembourg, it was announced that the EU would discuss sanctions against Uzbekistan should Karimov not allow an international investigation in the country.

Whether the appeals and the pressure announced by the international community will have any effect on the government in Tashkent is doubtful for several reasons. On the one hand, up until now and especially since 11 September 2001, Karimov has been very successful in dressing up his domestic policies towards religious groups as anti-terror measures and, in doing so, has received understanding and support from Western governments. Uzbekistan was the first state in Central Asia to become a member of the anti-terror coalition. As a consequence of sanctions against Uzbekistan, it is conceivable that the US and Germany might be required to give up their military bases in the south of the country. On the other hand, Karimov does not depend on Western states – neither for his political legitimisation, nor for financial support. The regional great powers Russia and China as well as neighbouring Kazakhstan, Kyrgyzstan, and Tajikistan support Karimov’s position and his “Islamist terror hypothesis” unreservedly. Ten days after the events in Andijan, Karimov visited China. On the eve of his arrival, the Chinese Foreign Ministry announced that China supported Karimov’s fight against “separatists, terrorists, and extremists” wholeheartedly. At a meeting in June in Moscow, Karimov and Russia’s President Putin discussed issues such as the international fight against terror and closer economic and military co-operation between the two countries.

The events in Kyrgyzstan and Uzbekistan illustrate the effects of deficient rule of law with regard to the domestic and foreign security situation of both countries. President Karimov is only adding fuel to the flames by continuing his measures of repression. The pressure will keep on growing in the area with more and more minor outbreaks until one day the whole situation explodes into chaos and mayhem.

The Kyrgyz town of Osh, one of the locations where the protests originated in southern Kyrgyzstan, is only 30 km from Andijan. In March, the population of Uzbekistan saw in the example of its Kyrgyz neighbours what a determined mass movement could accomplish. They are also sure to have noted that the administration, militias, and the President are not all powerful. What they did not take into account was Karimov's willingness to use violence, something that distinguished him from Akaev.

In both countries, the security situation can be expected to remain unstable in the coming months. Kyrgyzstan's new president, Bakiev, is faced with the task of restoring the state's monopoly on violence at all levels and in every region. In Uzbekistan, Karimov wishes to retain his grip on power and is seeking the support of regional superpowers Russia and China in doing so. The sanctions announced by the EU and the possible invocation of the Moscow Mechanism by the OSCE will probably have no influence on the regime in Uzbekistan. In neighbouring Turkmenistan, President Sapamurat Niyazov has shown only too well over the last few years that domestic power can be maintained without international co-operation if one has sufficient resources at one's disposal. In Uzbekistan, the attempts to attach conditions to the provision of Western support are likely to be counterbalanced by unconditional support offered by Russia and China. In addition, special attention should be paid to the fact that any attempts to isolate Uzbekistan politically and economically may lead the population to feel abandoned by the international community and to begin to heed promises – of whatever kind – made by extremist groups.

International organizations should work towards implementing national laws and regulations at the local level. Only when the rule of law is guaranteed will the population start to believe in abstract concepts like democracy and their own right to participate in the political and economic system. Until this happens, their only option is to counter the abuse from above with illegal activities from below.

The Human Dimension and Democratic Development

A Fig-Leaf for Torture: The Use of Diplomatic Assurances in the OSCE Region

When European governments sat down in the late nineteen-forties to negotiate a new treaty to protect human rights, they considered whether those rights should be subject to exceptions. With the carnage of the Second World War still fresh in the minds of many Europeans, the government delegations concluded that some human rights obligations could be subject to suspension “in time of war or other public emergency threatening the life of the nation”.¹ When it came to the prohibition against torture, however, the states parties concluded that the practice was so abhorrent, and the risk of creating exceptions so great, that the ban should be absolute.

Article 3 of that treaty, the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), is among the best known expressions of the prohibition against torture. The absolute nature of the prohibition – which covers cruel, inhuman, and degrading treatment and punishment (CID) and includes a ban on refoulement, i.e. returning people to countries where they would be at risk of torture – is so widely accepted that it is considered to constitute a rule of customary international law, binding on all states irrespective of whether they have ratified treaties forbidding it. While torture has hardly been eradicated, the taboo on torture that the ECHR and other human rights treaties helped establish over the last half century has strengthened the hands of all those working to stamp it out.²

Today that taboo is under threat. Governments and commentators are increasingly asking aloud whether the ban on torture should apply at all times and in all circumstances, and some governments are acting as though it does not. The threat of terrorism has served as the impetus for this shift.³ Governments and others argue that the nature of the terrorist threat and the capacity and willingness of new terrorist formations to engage in the mass killing of

1 European Convention for the Protection of Human Rights and Fundamental Freedoms, Rome, 4 November 1950, Article 15.

2 Key among them, the International Covenant on Civil and Political Rights and the United Nations Convention against Torture, as well as the non-binding Universal Declaration on Human Rights. Torture is also prohibited absolutely under international humanitarian law, including the Geneva Conventions and the Rome Statute of the International Criminal Court.

3 Speaking about the universal and absolute nature of the prohibition against torture, Manfred Nowak, the UN Special Rapporteur on Torture, has written that “for this first time since World War II, this important consensus of the international community seems to have been called into question by some Governments in the context of their counter-terrorism strategies.” UNHCHR, *Statement of the Special Rapporteur on Torture, Manfred Nowak, to the 61st Session of the UN Commission on Human Rights*, Geneva, 4 April 2005, p. 3, at: <http://www.unhchr.ch/huricane/hurricane.nsf/0/60B1E9AE29AFE9B6C1256FDD0041B400?opendocument>

civilians mean that the old rules are no longer up to the task. To answer that argument, one must compare the terrorist threat today to the threat of Nazi victory in World War Two. If the levelling of cities and millions of dead during the Second World War did not lead European governments to conclude that torture is sometimes acceptable, how can there be any justification for exceptions in the face of a lesser threat?

The ban on torture and CID is under attack from multiple directions, including: efforts to redefine torture in a manner that narrows the scope of the ban; efforts to sever the ban on CID from the ban on torture, coupled with arguments that the ban on CID is not absolute; the attempted justification or sanctioning of so-called “coercive interrogation”; efforts to legitimize the use of material obtained under torture in third countries as evidence in criminal prosecutions or for intelligence purposes; direct extraditions, transfers and other returns to torture, including so-called “renditions”; and returns based on no-torture promises by receiving states.

This essay will consider the impact of the last of these developments – efforts by states to return persons to countries where they are at risk of torture on the basis of promises, or “diplomatic assurances”, from the receiving state that the person will not be subject to torture or other ill-treatment upon return. A growing list of countries in the OSCE region – including Austria, Canada, Georgia, Germany, the Netherlands, Sweden, Turkey, the United Kingdom, and the United States – are turning to these assurances to facilitate the removal of foreign nationals from their territory. Most of those subject to return are suspected of involvement in terrorism, but such assurances have also been a factor in asylum cases where the applicant does not have a national security profile. In every case, the country of proposed return has a poor record of torture and ill-treatment.

What is particularly disturbing about the phenomenon of returns with assurances is that states that rely on this device assert that such returns are compatible with their obligations under human rights law and the torture ban. In fact, diplomatic assurances do not mitigate the risk of torture, and returns to torture under them violate international law.⁴ And as human rights experts and lawyers are increasingly recognizing, the use of these assurances threatens to create a dangerous loophole in the prohibition against torture. Rather than enhancing human rights protection, diplomatic assurances instead serve as a fig-leaf for torture. By doing so, they threaten the integrity of the absolute prohibition against torture.

4 See Human Rights Watch, “Empty Promises:” *Diplomatic Assurances No Safeguard Against Torture*, April 2004, at: <http://hrw.org/reports/2004/un0404/>, and Human Rights Watch, *Still at Risk: Diplomatic Assurances No Safeguard Against Torture*, April 2005, at: <http://hrw.org/reports/2005/eca0405/>.

As the Document of the 1990 Copenhagen Meeting makes clear, the Organization for Security and Co-operation in Europe (OSCE) is committed to the absolute nature of the prohibition of torture. Article 16 reaffirms the commitment of states to “prohibit torture and other cruel, inhuman or degrading treatment or punishment [and] to take effective legislative, administrative, judicial and other measures to prevent and punish such practices [...]”.⁵ The document also stresses that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture”.⁶

Since the September 11 attacks in New York and Washington, the OSCE Ministerial Council has also repeatedly stressed the importance of respecting human rights while countering terrorism. The 2002 OSCE Charter on Preventing and Combating Terrorism, for example, emphasizes the obligation of all member States to “conduct all counter-terrorism measures [...] in accordance with the rule of law, the United Nations Charter and the relevant provisions of international law, international standards of human rights, and where applicable international human rights law”.⁷

The OSCE has also considered the practice of states seeking diplomatic assurances against torture. An April 2005 background paper on extradition and human rights prepared by the Office for Democratic Institutions and Human Rights (ODIHR) noted that “the legality and effectiveness of this practice in protecting human rights and fulfilling states’ non-derogable obligation not to render, transfer, send or return a person where there are substantial grounds for believing that he or she would be in danger of being subjected to torture (non-refoulement) has been called into question by a number of commentators”.⁸ The paper did not, however, express a conclusion about the compatibility of the practice with international human rights law.

5 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 439-465, Article 16.1, p. 449.

6 Ibid., Article 16.3.

7 OSCE, Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, reproduced in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 421-455; therein: OSCE Charter on Preventing and Combating Terrorism, pp. 425-428, p.425. See also OSCE, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, reproduced in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, therein: Decision No. 1 on Combating Terrorism, pp. 393-394, emphasizing that states “will defend freedom and protect their citizens against acts of terrorism, fully respecting international law and human rights”, p. 394; and OSCE, Twelfth Meeting of the Ministerial Council, 6 and 7 December 2004, Sofia 2004, 7 December 2004, therein: Sofia Ministerial Statement on Preventing and Combating Terrorism, pp. 1-2, at: http://www.osce.org/documents/mcs/2005/02/4324_en.pdf.

8 OSCE Office of Democratic Institutions and Human Rights, *Background Paper on Extradition and Human Rights in the Context of Counter-terrorism*, Warsaw, April 2005, p. 9, at: http://www.osce.org/documents/odihr/2005/04/13962_en.pdf.

There is growing alarm among international human rights experts about the impact of diplomatic assurances on the torture prohibition, and in particular on the principle of non-refoulement.

Council of Europe Commissioner on Human Rights, Alvaro Gil-Robles, was one of the first human rights experts to highlight the risks of reliance on diplomatic assurances as a safeguard against torture. In July 2004, Gil-Robles expressed concern about the case of two men sent by Sweden to Egypt in December 2001 (see section on Sweden below) following diplomatic assurances regarding torture from Cairo, noting that this case “clearly illustrates the risks of relying on diplomatic assurances”.⁹ One year later, the Commissioner reiterated those concerns in a report on the United Kingdom: “There is clearly a certain inherent weakness in the practice of requesting diplomatic assurances from countries in which there is a widely acknowledged risk of torture. Due to the absolute nature of the prohibition of torture or inhuman or degrading treatment, formal assurances cannot be sufficient to permit expulsions where a risk is nonetheless considered to remain. There are sufficient examples already of breached assurances for the utmost caution to be required.”¹⁰

In September 2004, Professor Theo van Boven reflected in his final report to the General Assembly as UN Special Rapporteur on “whether the practice of resorting to assurances is not becoming a politically inspired substitute for the principle of non-refoulement [...]” and noted their “problematic nature.”¹¹

Professor Robert Goldman, the UN Independent Expert on the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, has expressed concerns about the impact of assurances on the torture prohibition. In his February 2005 report to the UN Human Rights Commission, Professor Goldman stated that “given the absolute obligation of States not to expose any person to the danger of torture by way of extradition, expulsion, deportation, or other transfer, diplomatic assurances should not be used to circumvent the non-refoulement obligation”.¹²

During his statement to the UN Human Rights Commission in April 2005, the current Special Rapporteur on Torture, Manfred Nowak, high-

9 Council of Europe, Office of the Commissioner for Human Rights, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his Visit to Sweden, 21-23 April 2004, CommDH(2004)13, Strasbourg, 8 July 2004, p. 8, at: [http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/pdf.CommDH\(2004\)13_E.pdf](http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/pdf.CommDH(2004)13_E.pdf).

10 Council of Europe, Office of the Commissioner for Human Rights, Report by Mr. Alvaro Gil-Robles, Commissioner for Human Rights, on his Visit to the United Kingdom, 4th-12th November 2004, CommDH(2005)6, Strasbourg, 8 June 2005, p. 13, at: http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/By_country/United_Kingdom/index.asp#TopOfPage.

11 Report of the Special Rapporteur on Torture, Theo Van Boven, to the General Assembly, 23 August 2004, para. 30.

12 Report of the Independent Expert on the Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, E/CN.4/2005/103, 7 February 2005, para. 61.

lighted the danger to the global ban on torture from diplomatic assurances: “I am deeply concerned about any attempts to circumvent the absolute nature of the prohibition of torture and other forms of ill-treatment in the name of countering terrorism. These attempts include [...] attempts at evading the application of domestic or international human rights law [...] by returning suspected terrorists to countries which are well-known for their systematic torture practices.” The Special Rapporteur concluded that “from a legal point of view, the answer to these attempts is clear: Diplomatic assurances are not adequate means to satisfy the principle of *non-refoulement* in relation to countries where torture is systematically practised.”¹³ The United Nations High Commissioner for Human Rights, Louise Arbour, chose Human Rights Day to express her fears about diplomatic assurances, which she described as “having an acutely corrosive effect on the global ban on torture and cruel, inhuman or degrading treatment.”¹⁴

The danger to the non-refoulement principle posed by diplomatic assurances against torture has been clearly identified by non-governmental organizations. In May 2005, a group of human rights and anti-torture NGOs – including Human Rights Watch – issued a statement condemning the use of diplomatic assurances in transfers where there is a risk of torture and ill-treatment. The statement expressed concern “that sending countries that rely on diplomatic assurances are using them as a device to circumvent their obligation to prohibit and prevent torture and other ill-treatment, including the *nonrefoulement* obligation”, adding that “the use of such assurances violates the absolute prohibition against torture and other ill-treatment and is eroding a fundamental principle of international human rights law”.¹⁵

Diplomatic Assurances against Torture in the OSCE Region

As their name implies, diplomatic assurances are subject to the limits of diplomacy. They are based on trust that the receiving state will keep its word when there is no basis for such trust. Governments in states where torture and ill-treatment are serious human rights problems almost always deny such practices. It defies common sense to presume that a country that routinely

13 United Nations Commissioner for Human Rights, Statement of the Special Rapporteur on Torture, Manfred Nowak to the 61st Session of the UN Commission on Human Rights, Geneva, 4 April 2005, at: <http://www.unhchr.ch/huricane/hurricane.nsf/0/60B1E9AE29AFE9B6C1256FDD0041B400?opendocument> (emphasis in original).

14 Louise Arbour, High Commissioner for Human Rights, *Human Rights Day Statement – On Terrorists and Torturers*, United Nations, New York, 7 December, 2005.

15 *Call for Action against the Use of Diplomatic Assurances in Transfers to Risk of Torture and Ill-Treatment*, Joint Statement by Amnesty International, Association for the Prevention of Torture, Human Rights Watch, International Commission of Jurists, International Federation of Action by Christians for the Abolition of Torture, International Federation for Human Rights, International Helsinki Federation for Human Rights, and World Organisation Against Torture, 12 May 2005, at: <http://hrw.org/english/docs/2005/05/12/eca10660.htm> (emphasis in original).

flouts its obligations under international law will keep its word in an isolated case.¹⁶ Nor is post-return monitoring a panacea: Torture is practiced in secret, its perpetrators are often expert at keeping such abuses from being detected, and those subject to torture are frequently reluctant to speak about it, fearing reprisals against themselves or family members. Finally, there is no incentive for either the sending or receiving state to acknowledge if torture or ill-treatment occur since to do so would be to admit a breach of a core obligation under international human rights law.

The practice of seeking diplomatic assurances against torture is widespread within the OSCE region. The motivations of sending states vary – with some wishing to comply with extradition requests, others seeking the means to deport foreign nationals, often on national security grounds, and others wishing to send terrorism suspects to third countries for interrogation. The factor common to each case is that the receiving state has a poor record of torture, contributing to the risk that the person will be tortured on return. The cases documented by Human Rights Watch in the OSCE region demonstrate the risks inherent in seeking assurances against torture, concerns among some national courts about the unreliability of such assurances, and the willingness of states to seek them despite growing evidence of their ineffectiveness.

Austria

In November 2001, the Court of Appeal in Vienna approved the extradition to Egypt of Mohamed Bilasi-Ashri.¹⁷ Bilasi-Ashri had been sentenced *in absentia* by an Egyptian court to fifteen years hard labour for his alleged involvement with radical Islamists. The Austrian court ruled that Bilasi-Ashri would not be at risk of torture on return, notwithstanding his *in absentia* conviction and Egypt's record of torturing suspected Islamic radicals in detention, but conditioned the extradition on the receipt of assurances from Egypt that he would not be "persecuted" and would receive a new and fair trial. The Egyptian government declined to provide the assurances requested by the court, and Bilasi-Ashri was released from detention in Austria on August 2002. In 2005, Austrian authorities renewed their efforts to extradite Bilasi-Ashri, based on assurances from Egypt. An Austrian regional court ruled in June 2005 that there was no bar to his extradition, and in September 2005, the Court of Appeal refused to hear an appeal against that decision. At the time of writing, Bilasi-Ashri remained in Austria.

In a second case involving Austria, a Russian citizen, Akhmed A., was extradited to Russia from Austria in February 2004, following diplomatic as-

16 This contrasts with the practice of seeking diplomatic assurances in relation to the death penalty. A well-established practice in the OSCE region, assurances with respect to the death penalty relate to a transparent legal measure imposed by a court, with the possibility of judicial review.

17 See *Empty Promises*, cited above (Note 4), pp. 32-3.

surances by the Russian Procuracy that he would not be subject to torture or CID upon return.¹⁸ Because of the assurances offered, the Vienna Higher Region Court allowed the Russian national's extradition, despite acknowledging that he would be at risk of torture on return, and despite the fact that he had a pending claim for asylum.

Canada

In January 2002, the Supreme Court of Canada signalled its concerns about the reliability of diplomatic assurances against torture in the case of Manickavasagam Suresh, a Sri Lankan national subject to deportation on national security grounds.¹⁹ The court drew the important distinction between "assurances given by a state that it will not apply the death penalty (through a legal process) and assurances by a state that it will not resort to torture (an illegal process). We would signal the difficulty in relying too heavily on assurances by a state that it will refrain from torture in the future when it has engaged in illegal torture or allowed others to do so on its territory in the past."²⁰ The court granted Suresh a fresh deportation hearing on the ground that the first hearing lacked proper procedural safeguards.

Regrettably, the Supreme Court also said in the Suresh judgment that in cases involving national security, there might be exceptional circumstances where it was appropriate to deport a person to face a risk of torture, if the national security considerations were deemed to "outweigh" the risk, stating: "We do not exclude the possibility that in exceptional circumstances, deportation to face torture might be justified".²¹ The court ruled that such an approach would be compatible with Canadian immigration law and its Charter of Fundamental Rights. This finding, dubbed the "Suresh exception", is wholly inconsistent with international law and has been criticized by the UN Committee on Torture.²²

Despite the concerns of the Supreme Court over the reliability of diplomatic assurances against torture, the Canadian government sought such assurances to facilitate the deportation in 2004 of two foreign nationals detained in Canada under "security certificates."²³ In April 2004, the Canadian

18 See *Still at Risk*, cited above (Note 4), pp. 76-9.

19 See *Empty Promises*, cited above (Note 4), pp. 18-19, and *Still at Risk*, cited above (Note 4), pp. 47-9.

20 *Suresh v. Canada (Minister of Citizenship and Immigration)*, 2002 SCC 1. File No.: 27790, 11 January 2002, para. 124, at: http://www.lexum.umontreal.ca/csc-scc/en/pub/2002/vol1/html/2002scr1_0003.html

21 *Ibid.*, para. 78.

22 United Nations Committee against Torture, 34th Session, Consideration of Reports Submitted by States Parties under Article 19 of the Convention. Conclusions and Recommendations of the Committee against Torture: Canada, CAT/C/CO/34/CAN, May 2004, para. 4(a), at: <http://www.icj.org/IMG/pdf/CAT.CO.34.CAN.pdf>.

23 Security certificates permit the detention and deportation of foreign nationals on national security grounds, based on secret evidence. For more information on the security certificate regime, see *Still at Risk*, cited above (Note 4), pp. 47-55.

government obtained diplomatic assurances from Morocco in relation to Adil Charkaoui, a Moroccan suspected of involvement in terrorism whom Canada deemed a threat to national security. On the basis of the assurances from Morocco – to the effect that Charkaoui would be treated in accordance with international human rights law – the Canadian government determined in August 2004 that deportation proceedings should commence. In February 2005, however, a federal court judge released Charkaoui on bail and the Canadian government agreed to review its August 2004 determination in light of information that Charkaoui was subject to an outstanding arrest warrant in Morocco. In January 2006, Charkaoui challenged the security certificate against him in the Appeals Court.²⁴

Canada also obtained assurances against torture in the case of Mohamed Zeki Mahjoub, an Egyptian national. Mahjoub, who earlier had been granted refugee status, was acknowledged by the Canadian government to be at risk of torture if returned to Egypt, particularly in light of his 1999 *in absentia* conviction in that country on terrorism charges. In February 2005, a Canadian federal court blocked Mahjoub's deportation, despite the assurances given by Egypt that he "would be treated in full conformity with constitutional and human rights laws".²⁵ During the proceedings, the representative from the Canadian immigration ministry conceded that reports about human rights abuses in Egypt submitted by Mahjoub "presented a credible basis for calling into question the extent to which the Egyptian government would honour its assurances".²⁶

Canada has also relied on assurances in the case of a Chinese family wanted in China on multiple counts of smuggling and bribery. Lai Cheong Sing, his wife Tsang Ming Na and three children were excluded from refugee status in Canada on the basis of their alleged crimes.²⁷ The panel considering the refugee claim took into account the existence of assurances from China that Lai would not be subject to the death penalty or torture upon return. In April 2005, the Federal Court of Appeal rejected a challenge to the denial of refugee status, and in September 2005, the Supreme Court refused to hear Lai's appeal.²⁸ He is now said to be subject to a government pre-removal risk assessment prior to deportation.²⁹

24 Appeals court hears request to stop proceedings against alleged terrorist, in the Canadian Press, 12 January 2006.

25 Mahjoub v. Canada (Minister of Citizenship and Immigration) 2005 FC 156, F.C.J. No. 173, 31 January 2005, para. 31, at: <http://reports.fja.gc.ca/fc/2005/pub/v3/2005fc36384.html>.

26 Ibid., para. 33.

27 For more information, see *Still at Risk*, cited above (Note 4), pp. 55-7.

28 See Chinese fugitive appeals refugee-status ruling, in: *The Globe and Mail*, 14 June 2005.

29 China's "most wanted" Lai released after Hu visit, *Agence France Presse*, 23 September 2005.

Georgia

In October 2002, the Georgian government extradited five Chechens to Russia, despite a request by the European Court of Human Rights (ECtHR) for extradition to be suspended until the court had reviewed their cases.³⁰ The men were part of a group of thirteen Chechens detained by Georgia on arms smuggling charges. Russia subsequently offered assurances that the health and safety of the men would be protected and that it would co-operate fully with the ECtHR. However, Russia later refused to grant a delegation from court access to the men, despite its promises of co-operation.

In April 2004, the ECtHR ruled that Georgia had violated the detained men's human rights. The court also held that the extradition to Russia of one of the group still detained in Georgia would breach Georgia's obligations under Article 3 of the European Convention, notwithstanding the assurances offered by Russia.³¹ The court found Russia in breach of its obligations to co-operate with the court, which had "detrimentally affected" its ability to examine the complaints against Georgia and made examination of the application against Russia "impossible." This case demonstrates the difficulty of verifying compliance with assurances when the receiving state fails to co-operate.

Germany

The German authorities sought assurances against torture from Turkey to facilitate the extradition of Metin Kaplan, a radical Muslim cleric. In May 2003, a German court halted his extradition on human rights grounds, including the insufficiency of diplomatic assurances against torture from the Turkish authorities.³² In response to the judgment, the German authorities sought enhanced assurances from Turkey. In May 2004, Kaplan's extradition was approved by a German court, and he was extradited to Turkey in October 2004 after an appeal against the decision failed.³³ In June 2005, Kaplan was sentenced to life in prison following his conviction on terrorism charges by a Turkish court.³⁴

30 See *Empty Promises*, cited above (Note 4), pp. 24-6.

31 See European Court of Human Rights, Press release by the Registrar – Chamber Judgment, *Shamayev and 12 others v. Georgia and Russia*, 12 April 2005, at: <http://www.echr.coe.int/Eng/Press/2005/April/ChamberjudgmentShamayevand12Others120405.htm>. Georgia was found to have breached Articles 3, 5, 13, and 34 of the Convention, and Russia to have breached Articles 34 and 38.

32 See *Empty Promises*, cited above (Note 4), pp. 31-2.

33 See Richard Bernstein, *Germany Deports Radical Long Sought by Turks*, in: *The New York Times*, 13 October 2004.

34 See BBC News online, "*Cologne Caliph*" jailed for life, 20 June 2005, at: <http://news.bbc.co.uk/2/hi/europe/4113148.stm>.

The Netherlands

In January 2005, a Dutch appeals court upheld a district court decision preventing the extradition of a Kurdish woman to Turkey.³⁵ Turkey had provided diplomatic assurances that Nuriye Kesbir, an official with the Kurdish Workers Party (PKK), would not be subject to torture or ill-treatment on return. The United Nations Special Rapporteur on Torture as well as Human Rights Watch intervened in the case.

The Supreme Court determined in May 2004 that there were insufficient grounds to halt Kesbir's extradition to Turkey to face war crimes charges, but recommended that the Dutch government seek enhanced assurances from Turkey. The planned extradition was blocked in November 2004, however, when the district court in The Hague ruled that even additional assurances offered by Turkey – that Kesbir would “enjoy the full rights emanating from” the ECHR – were insufficient to mitigate the risk that Kesbir would be subject to torture on return. Kesbir was released from custody in January 2005 after the government's appeal against the judgment was rejected. The appeals court held:

In view of the real risks that she [Kesbir] runs, there can only be a question of adequate assurances if concrete guarantees are given that the Turkish authorities will ensure that during her detention and trial, [Kesbir] will not be tortured or exposed to other humiliating practices by police officers, prison staff or other officials within the judicial system. None of the aforementioned assurances meets this requirement.³⁶

Sweden

Probably the best known case involving diplomatic assurances against torture involved two Egyptian nationals whom Sweden deported to Egypt in December 2001. Ahmed Agiza and Mohammed al-Zari were denied asylum in Sweden on national security grounds because of alleged involvement in terrorism in Egypt. Following assurances from Cairo that they would not be tortured and would be given fair trials, they were transferred to Egypt on a US-government-leased aircraft in December 2001.³⁷ The men were denied an opportunity to challenge in a Swedish court the decision to return them to Egypt.

Despite the assurances, and a post-return monitoring mechanism agreed upon separately between Sweden and Egypt, there is credible evidence that the men were subject to torture in detention following their return to Egypt,

35 See *Still at Risk*, cited above (Note 4), pp. 72-76.

36 De Staat der Nederlanden (Ministerie van Justitie) tegen N. Kesbir, Het Gerechtshof's Gravenhage, LJN: AS3366, 04/1595 KG, 20 January 2005, para. 4.4 (unofficial English translation on file with Human Rights Watch).

37 See *Empty Promises*, cited above (Note 4), pp. 33-36.

as well as ill-treatment during their transfer.³⁸ Agiza was sentenced to twenty-five years hard labour following conviction by a military court in an unfair trial in April 2004 monitored by Human Rights Watch (the sentence was later reduced to fifteen years).³⁹ Al-Zari was released from detention in October 2003 after almost two years detention without charge.

The United Nations Committee against Torture decided in May 2005 that Sweden had violated its obligations under the convention by transferring Agiza to Egypt notwithstanding the assurances offered by Egypt (see below). Agiza and al-Zari's cases provide a clear example of the ineffectiveness of diplomatic assurances as a safeguard against torture, even when coupled with a post-return monitoring mechanism.

Turkey

In March 1999, the Turkish government extradited Rustam Mamatkulov and Abdurasulovic Askarov to Uzbekistan after obtaining assurances from the Uzbek government that the men would not be subject to torture or the death penalty upon return.⁴⁰ The transfers were made even after a request by the ECtHR not to extradite the men until their applications to the court had been considered (a request for "interim measures"). Mamatkulov and Askarov were tried in June 1999 in Uzbekistan on terrorism charges, together with twenty other defendants. Both men were convicted following an unfair trial, monitored by Human Rights Watch, and sentenced to lengthy prison terms.⁴¹ The men's lawyers have been unable to contact them in order to determine how they have been treated since being returned to Uzbekistan.

The men's lawyers brought a case on their behalf against Turkey in the ECtHR alleging that the authorities had violated their rights. The first instance decision by the court, in February 2003, found no violation of Article 3, but did rule that Turkey had denied the men their right to petition the ECtHR (a violation of Article 34 of the Convention). In February 2004, the Grand Chamber of the European Court of Human Rights reconsidered the case, following an appeal by the men's lawyers and a petition by Human Rights Watch and the AIRE Centre.

The Grand Chamber renewed the finding that Turkey had denied the men access to the ECtHR and had breached court rules relating to interim measures. The court also ruled that Turkey's refusal to suspend the extradi-

38 See *Still at Risk*, cited above (Note 4), pp. 57-66.

39 See Human Rights Watch, *Sweden Implicated in Egypt's Abuse of Suspected Militant – Egypt Violated Diplomatic Promises of Fair Trial and No Torture for Terrorism Suspect*, 5 May 2004, at: <http://hrw.org/english/docs/2004/05/05/egypt8530.htm>.

40 See *Empty Promises*, cited above (Note 4), pp. 26-29.

41 "The trial was closed to the public. Attorneys hired for the defense; all family members of the defendants, including relatives of Mamatkulov and Askarov; local human rights defenders; and the general public were excluded." Taken from: European Court of Human Rights, Application Nos. 46827/99 and 46951/99, *Mamatkulov and Askarov v. Turkey*. Intervention submitted by Human Rights Watch and AIRE Centre, 28 January 2004.

tions had denied the men the opportunity to place evidence before the court that could have established they were at risk of torture or other ill-treatment if returned to Uzbekistan.⁴² The Mamatkulov and Askarov case again highlights the difficulties of verifying compliance with assurances where the states involved are unwilling to co-operate.

United Kingdom

Efforts by the United Kingdom in the first half of the 1990s to deport a Sikh separatist to India on national security grounds provide an important early example of the problems associated with reliance on diplomatic assurances against torture. In a landmark November 1996 ruling, the Grand Chamber of the European Court of Human Rights held that the deportation would violate the UK's non-refoulement obligation under Article 3 ECHR, notwithstanding the assurances received from India in 1992 and 1995.⁴³

Against a background of evidence that "the violation of human rights by certain members of the security services in Punjab and elsewhere in India is a recalcitrant and enduring problem", the court ruled that it was "not persuaded that the above assurances would provide Mr. Chahal with an adequate guarantee of safety".⁴⁴ The decision in Chahal remains the leading case in the ECtHR on diplomatic assurances against torture, and is an important restatement of the absolute nature of the prohibition against torture.⁴⁵

Despite the European Court judgment in Chahal, the UK government tried again in 1999 to use diplomatic assurances against torture, this time to facilitate the return of four Egyptian nationals suspected of involvement in terrorism.⁴⁶ The British Prime Minister was personally involved in efforts to return the men to Egypt, even after clear advice from the Home Office (Interior Ministry) and Foreign Office that assurances offered by Cairo would not protect Hani Youssef and three others from the risk of torture upon return.⁴⁷ The returns were ultimately halted only after the Egyptian government refused to provide assurances.

In 2003, a UK court blocked the extradition of Akhmed Zakaev to Russia, despite assurances from the Russian government that Zakaev would not

42 "Turkey's failure to comply with the indication given under Rule 39 [Interim Measures], which prevented the Court from assessing whether a real risk existed in the manner it considered appropriate in the circumstances of the case, must be examined below under Article 34." European Court of Human Rights, Application Nos. 46827/99 and 46951/99, *Mamatkulov and Askarov v. Turkey*, Judgment of 4 February 2005, para. 77.

43 See European Court of Human Rights, Application No. 22414/93, *Chahal v. the United Kingdom*, Judgment of 15 November 1997 (1997) 23 EHRR 413.

44 *Ibid.*, para. 105.

45 Regarding the latter, see for example, Clare Ovey/Robin White, *European Convention on Human Rights*, 3rd Edition, Oxford 2002, p.58.

46 See *Still at Risk*, cited above (Note 4), pp. 69-72.

47 The details of the Prime Minister's involvement came to light in July 2004, after Youssef successfully brought a civil action for wrongful imprisonment against the UK government in the British High Court.

be ill-treated in detention on return.⁴⁸ The court heard evidence from the Russian Deputy Minister for Prisons that Zakaev, a Chechen politician alleged to have committed offences in Chechnya in 1995 and 1996, would not be harmed in Russian custody. In ruling that “there is a substantial risk that Mr. Zakaev would himself be subject to torture”, the judge in the case took account of the assurances offered by the Russian minister:

I am sure that he [Deputy Minister for Russian Prisons] gave that assurance in good faith. I do, however, consider it highly unlikely that the Minister would be able to enforce such an undertaking, given the nature and extent of the Russian prison estate.⁴⁹

In April 2004, the UK government revisited the possibility of using assurances against torture as a mechanism to facilitate the deportation of a group of foreign nationals suspected of involvement in terrorism, then subject to indefinite detention without charge in the United Kingdom.⁵⁰ After Britain’s highest court ruled in December 2004 that indefinite detention breached human rights law, the government announced in January 2005 that deportation with assurances would form part of a twin-track strategy to replace its indefinite detention policy.⁵¹

The UK government has already concluded “memorandums of understanding” with the governments of Jordan, Libya, and Lebanon, and is said to be negotiating similar agreements with Egypt, Syria, Algeria, Tunisia, Morocco, and Saudi Arabia.⁵² The agreements are effectively blanket diplomatic assurances covering all potential transfers of persons from the UK to the country in question. While the agreements provide for post-return monitoring, this bears no resemblance to the systematic monitoring of detention facilities carried out by the ICRC, contains no public reporting mechanism, and is incapable of providing protection against ill-treatment. Given the proven ineffectiveness of assurances against torture, and the poor

48 See *Empty Promises*, cited above (Note 4), pp. 29-30.

49 The Government of the Russian Federation v. Akhmed Zakaev, Bow Street Magistrates’ Court, Decision of Hon. T. Workman, 13 November 2003.

50 See Human Rights Watch, *Neither Just, Nor Effective: Indefinite Detention Without Trial in the United Kingdom Under Part 4 of the Anti-Terrorism, Crime and Security Act 2001*, 24 June 2004, p. 18, at: <http://hrw.org/backgrounder/eca/uk/anti-terrorism.pdf>.

51 See Human Rights Watch, *U.K.: Law Lords Rule Indefinite Detention Breaches Human Rights*, 16 December 2004, at: <http://hrw.org/english/docs/2004/12/16/uk9890.htm>; Human Rights Watch, *Commentary on Prevention of Terrorism Bill 2005*, March 2005, pp. 9-11, at: <http://hrw.org/backgrounder/eca/uk0305>.

52 BBC News Online, *Lebanon deal on terror suspects*, 23 December 2005, at: http://news.bbc.co.uk/1/hi/uk_politics/4556096.stm; Human Rights Watch, *UK: Torture a Risk in Libya Deportation Accord*, 18 October 2005, at: <http://hrw.org/english/docs/2005/10/18/libya11890.htm>; Human Rights Watch, *UK/Jordan: Torture Risk Makes Deportations Illegal*, 16 August 2005, at: <http://hrw.org/english/docs/2005/08/16/jordan11628.htm>; Human Rights Watch and Liberty, *UK: Empty promises can't protect people from torture – Joint letter to Tony Blair from Human Rights Watch and Liberty*, 23 June 2005, at: <http://hrw.org/english/docs/2005/06/23/uk11219.htm>.

records of the countries in question with regard to torture, the policy raises the prospect of renewed violations of the UK's obligations under human rights law.

United States

The case of Maher Arar is among the most notorious examples of transfers to torture with the use of assurances.⁵³ In September 2002, US authorities apprehended Arar, a dual Canadian-Syrian national, in transit from Tunisia through New York to Canada. Arar was held in detention in the US for almost two weeks and transferred to Jordan by US authorities, before being driven into Syria and handed over to Syrian authorities. The US government has claimed that prior to Arar's transfer, it obtained assurances from the Syrian government that Arar would not be subjected to torture upon return.⁵⁴

Arar was released without charge from Syrian custody ten months later and has credibly alleged that he was beaten by security officers in Jordan and tortured repeatedly, including with cables and electrical cords, during his confinement in a Syrian prison.⁵⁵ The transfer was effected despite Arar's repeated statements to US officials that he would be tortured in Syria, and his repeated requests to be sent home to Canada.

The US Department of Homeland Security has initiated an internal review of the case.⁵⁶ The role of the Canadian authorities in the case is currently the subject of a Commission of Inquiry in Canada.⁵⁷ In October 2005, the expert designated by the Commission to investigate Arar's treatment during detention in Syria confirmed he had been tortured.⁵⁸ It remains unclear on what basis the US government determined that the assurances against torture would be reliable given that the country offering them has a well-documented record of torture, including in the annual human rights reports from the US State Department.

53 See *Empty Promises*, cited above (Note 4), pp. 16-7; *Still at Risk*, cited above (Note 4), pp. 33-6.

54 See *Still at Risk*, cited above (Note 4), p. 33, fn. 94.

55 See Maher Arar's complete statement to media, CanWest News Service, 4 November 2003, at: <http://www.informationclearinghouse.info/article5156.htm>.

56 See *Still at Risk*, cited above (Note 4), p. 36, fn. 107.

57 See Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, at: <http://www.ararcommission.ca/eng>.

58 *Commission Of Inquiry Into The Actions Of Canadian Officials In Relation To Maher Arar*. Report of Professor Stephen J. Toope, Fact Finder, 14 October 2005, at: http://www.ararcommission.ca/eng/ToopeReport_final.pdf.

In May 2005, the United Nations Committee against Torture decided the case of *Agiza v. Sweden*.⁵⁹ The Committee ruled that by sending Ahmed Agiza to Egypt in awareness of the risk that he would be tortured Sweden was in breach of its obligation under Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, despite the assurances against torture obtained from Cairo.

Before considering the merits of the case, the Committee acknowledged “that measures taken to fight terrorism [...] are both legitimate and important. Their execution, however, must be carried out with full respect to the applicable rules of international law, including the provisions of the Convention.”⁶⁰

With respect to the question of assurances, the Committee was unequivocal: “The procurement of diplomatic assurances, which, moreover, provided no mechanism for their enforcement, did not suffice to protect against this manifest risk [of torture in Egypt in the event of expulsion].”⁶¹ It is notable that the language on assurances used by the Committee refers to the lack of enforcement mechanism in the assurances procured from Egypt, since diplomatic assurances are by their very nature unenforceable and without legal effect.⁶²

The factors disclosing this risk included: Egypt’s “consistent and widespread use of torture against detainees” especially those “held for political and security reasons”; the fact that Sweden’s own security intelligence services regarded the complainant as implicated in terrorist activity, and “the interest in the complainant by the intelligence services of two other States [the United States and Egypt]”.⁶³ A further factor was the treatment suffered by Agiza in Sweden prior to expulsion “by foreign [US] agents but with the acquiescence of the [Swedish] police”, which the Committee concluded amounted to cruel, inhuman, or degrading treatment or punishment.⁶⁴

The Committee also ruled that Sweden had further breached its obligation under Article 3 by failing to provide “an effective, independent and impartial review”⁶⁵ of the decision to expel Agiza.

The Committee against Torture decision in *Agiza* builds on the *Chahal* decision by the European Court of Human Rights, and lends significant weight to the growing body of expert opinion that diplomatic assurances are an ineffective safeguard against torture.

59 UN Convention against Torture, Decision: Communication No. 233/2003, *Agiza v. Sweden*, CAT/C/34/D/233/2003, 20 May 2005, at: <http://www1.umn.edu/humanrts/cat/decisions/233-2003.html>.

60 *Ibid.*, para. 13.1.

61 *Ibid.*, para. 13.4.

62 See *Still at Risk*, cited above (Note 4), pp. 21-23.

63 *Agiza v. Sweden*, cited above (Note 59), para. 13.4.

64 *Ibid.*, para. 13.4.

65 *Ibid.*, para. 13.8.

The practice of states seeking diplomatic assurances against torture can be observed throughout the OSCE region. Such assurances threaten the absolute nature of the prohibition against torture, including non-refoulement. By abandoning a fundamental principle – that torture is never justified – in the cause of countering terrorism, we undermine the values which bind our societies, and thereby help modern terrorism achieve its aim.

The geographic scope of such assurances, and the nexus between human rights and security raised by their use, makes the OSCE well placed to exercise leadership on the issue, both politically, through the Chairman-in-Office and the Ministerial Council, and practically, through ODIHR and the Action against Terrorism Unit.

Building on the Copenhagen Document and the OSCE Charter on Preventing and Combating Terrorism, the OSCE should work to ensure that the threat from terrorism is met in way that upholds rather than undermines the absolute nature of the torture ban. Standing firm against torture no matter the threat requires courage. But failing to do so will endanger more than a half-century of progress to eliminate its scourge.

The OSCE Human Dimension Process and the Process of Customary International Law Formation¹

Introduction

The Organization for Security and Co-operation in Europe (OSCE)² has been one of the most progressive and effective organizations for the advancement of human rights in recent history. In promoting respect for human rights among participating States, preventing human rights violations, setting high and detailed human rights standards, obtaining a wide consensus and the commitment of states to adhere to these standards, aiding states in implementing the commitments, monitoring compliance, and applying various means and mechanisms to encourage and enforce this compliance, the OSCE has been the leader in human rights work in the wider Europe since the end of the Cold War. The OSCE human dimension³ has expanded the reach of an international body into the internal affairs of each participating State, in terms of extent⁴ and content⁵, further than any other international organization.⁶ The evolving formula that the OSCE has employed to fulfil its human dimension mandate, while definitely not perfect, has been more appropriate, and thus more effective, than other European or global organizations in dealing with the actual challenges to human rights in those areas where they are most often and most severely violated.

1 The views expressed in this article are those of the author alone and do not necessarily reflect the views of the OSCE, the government of any OSCE participating State, or PAE Government Services Inc. Nor do the views herein expressed necessarily reflect those of the International Criminal Tribunal for the former Yugoslavia or the United Nations in general.

2 OSCE will be used to signify both CSCE and OSCE in this article.

3 Formerly known as the "third basket" of the Helsinki Final Act, the human dimension combines human rights with democracy and the rule of law. Acceptance of human rights standards entails the acceptance of democracy and the rule of law as a basis for peace and co-operative security.

4 OSCE participating States have declared that the commitments of the human dimension "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.

5 Thomas M. Franck, *The Emerging Right to Democratic Governance*, *American Journal of International Law* 1/1992, pp. 46-91, here: p. 67: "According to Professor Theodor Meron [...] the 'language of Copenhagen goes far beyond any existing human rights instruments.' The document is detailed to an unprecedented degree, establishing a standard that the UN General Assembly might profitably emulate in a resolution." This refers to the 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 4), pp. 439-465.

6 Except for the European Union, which is arguably beyond the scope of an "international organization".

In spite of this largely positive track record, many international lawyers (including those involved with human rights) still dismiss the OSCE human dimension commitments due to their lack of legally binding status. This article endeavours to illustrate that this is unwarranted and a missed opportunity to support the work that international human rights lawyers do (for the most part activism and advocacy). This article attempts to provide these lawyers with two possible “entry points” into the OSCE by suggesting, first, a manner in which the human dimension commitments in OSCE documents may participate in the process⁷ of regional customary law formation and, second, that despite the denial by some states of their legally binding status, the OSCE human dimension commitments nevertheless retain the attributes and elements of law and that their binding force should hence be recognized as such.

This contribution starts by discussing the status and character of the OSCE and its human dimension commitments,⁸ and ascertains whether the way the OSCE commitments come into being and the effect that they have are consistent with the process of the formation of customary international law. The second section examines the method by which customary international law originates and finds evidence of state practice and *opinio juris* in connection with the OSCE. After asking whether the intention of the OSCE participating States to act as a political organization disqualifies their documents as *opinio juris* and whether the distinction between political and legal obligation is so crucial, section three makes a brief excursus to investigate what the actual difference is between the political and the legal under international law. The fourth section tries to find a more promising way to address this problematic by looking at the debate concerning “soft law” and “hard law”. Within this section, the contribution seeks to uncover what it is that determines the “hardness” of law, and investigates whether OSCE commitments can be said to be based on “hard” obligations and have “hard” binding force, thus possibly fulfilling the criteria necessary to serve as the subjective element of *opinio juris* for the formation of customary international law. Following this discussion of the applicability to OSCE commitments of the process of customary international law formation, the fifth section returns to the ongoing debate on the legal status of the OSCE. Finally, as the status of the OSCE, its documents, and the commitments contained therein pose a challenge for the traditional manner in which the sources and character of international law are determined, I will ask whether modes of definition and operation in current customary international law are appropriate for international human rights law or whether we must somehow endeavour to escape

7 On customary international law as a process, see Rosalyn Higgins, *Problems & Process: International Law and How We Use It*, Oxford 1994.

8 As this is not the main focus of this article, I will not give a complete descriptive account of the OSCE human dimension documents and compare them to comparable instruments. Likewise, the purpose of this article is not to exhaustively determine which provisions of OSCE documents are customary, but rather to investigate whether and how the OSCE *modus operandi* can participate in the formation of regional custom.

the trap of “positivism’s binary paradigm”⁹ and find new ways for international human rights lawyers to better confront the challenges of the advancement of human rights within the world.

The Status of the Organization for Security and Co-operation in Europe

The OSCE¹⁰ started off in the early 1970s as a series of conferences attended by top officials from both political blocs in Cold War Europe as well as neutral countries. The purpose of the conferences was essentially to maintain dialogue and foster co-operation through a “low-profile diplomatic process”¹¹ From the beginning, the OSCE’s *modus operandi* was focused on the political side of international relations. Even though the structure and mandate of the “conference-turned-organization” have changed dramatically since the end of the Cold War, the character of a behind-the-scenes discussion and co-operation forum persists. The new OSCE possesses many of the traits one expects of an international organization, including recognition as a “regional arrangement” under Chapter VIII of the UN Charter and Observer Status in the General Assembly of the UN,¹² in spite of the fact that it still does not have a founding charter, and thus is arguably not an international legal entity.¹³ OSCE bodies, like the UN General Assembly, are currently not authorized to make decisions that are explicitly legally binding on its participating States. While there have been attempts to “legalize” the OSCE¹⁴ (and a working group is currently debating this matter, as discussed in the conclusion), the prevailing opinion, championed by the United States, is to maintain

9 Steven R. Ratner, Does International Law Matter In Preventing Ethnic Conflict?, *International Law and Politics* 3/2000, pp. 591-698, here: p. 612.

10 For a description of the OSCE’s historical development, institutions, and mechanisms, see Organization for Security and Co-operation in Europe, *The OSCE Handbook*, Vienna, 2000; Arie Bloed, Two Decades of the CSCE Process: From Confrontation to Co-operation. An Introduction, in: Bloed, cited above (Note 4), pp. 1-118; Marcus Wenig, The Status of the OSCE under International Law – Current Status and Outlook, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1997*, Baden-Baden 1998; Stuart Ford, OSCE National Minority Rights in the United States: The Limits of Conflict Prevention, *Suffolk Transnational Law Review* 1/1999, pp. 1-55; Rachel Brett, Human Rights and the OSCE, *Human Rights Quarterly* 3/1996, pp. 668-693; Ulrich Fastenrath, The Legal Significance of CSCE/OSCE Documents, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 1995/1996*, Baden-Baden 1997, pp. 411-427. See also section 5 of the current paper concerning the OSCE’s implementation and enforcement mechanisms.

11 *OSCE Handbook*, cited above (Note 10) chapter 8.

12 Cf. Wenig, cited above (Note 10), p. 369. On p. 378, he adds: “This means that with regard to the CSCE/OSCE the politically relevant bodies of the UN have interpreted the concept of ‘regional arrangement’ in such a way as to disregard the earlier requirement of a founding treaty under international law.”

13 Cf. *ibid.* p. 371; Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe: Analysis and Basic Documents, 1993-1995*, The Hague/London/Boston 1997, p. xix; See also the conclusion of the current paper.

14 Cf. Bloed, cited above (Note 4), p. 24; Bloed, cited above (Note 13), p. xix.

the Organization as an informal diplomatic discussion group, albeit with executive powers. There seems to be a conscious effort to maximize the benefits of an established organizational structure and minimize the disadvantages that usually accompany it. The OSCE wants to be considered a normal international organization while maintaining “flexibility” in its options for action. The desire to be viewed as a *de facto* legal entity can be seen from this self-description:

The OSCE has a unique status. On the one hand, it has no legal status under international law and all its decisions are politically but not legally binding. Nevertheless, it possesses most of the normal attributes of an international organization: standing decision-making bodies, permanent headquarters and institutions, permanent staff, regular financial resources and field offices. Most of its instruments, decisions and commitments are framed in legal language and their interpretation requires an understanding of the principles of international law and of the standard techniques of the law of treaties. Furthermore, the fact that OSCE commitments are not legally binding does not detract from their efficacy. Having been signed at the highest political level, they have an authority that is arguably as strong as any legal statute under international law.¹⁵

This ambiguous legal status has not stopped the OSCE from drafting legally binding treaties, such as the Convention on Conciliation and Arbitration within the OSCE, the Treaty on Conventional Armed Forces in Europe (CFE), and the Open Skies Treaty.¹⁶

In character with its strictly political, diplomatic origins, and its basis in the concepts of “co-operative security”, “community of values”, and “community of responsibility”, decisions within the OSCE are made on a consensual basis.¹⁷ Decision making by consensus means that decisions enter into force, and thus are binding, immediately – the “universality principle”. This requirement for consensus gives the decisions and documents of the OSCE added weight in terms of state practice and *opinio juris*, as shall be discussed below.

That OSCE documents and the commitments contained therein are politically binding has been stated by the OSCE and is well recognized.¹⁸ While this is usually followed by the claim that the norms and principles created are not legally binding, this absence of the legal character or “legalness” of the commitments has been questioned. Many of the human dimension commit-

15 *OSCE Handbook*, cited above (Note 10) p. 3.

16 Unlike documents of the OSCE, these legal treaties apply only to those participating States that have ratified them. Cf. *ibid.* pp. 37, 90, 127-131.

17 See ODIHR, *OSCE Human Dimension Commitments: A Reference Guide*, Warsaw 2001, pp. xv-xvi.

18 Cf. *ibid.*, p. xv; Arie Bloed/Pieter van Dijk (eds.), *Protection of Minority Rights Through Bilateral Treaties*, The Hague 1999, p. 5.

ments are similar to those listed in overtly legally binding instruments,¹⁹ although they are considered to go further in terms of normative content.²⁰ Some commentators have stated that the OSCE commitments have purposely been made to be not legally binding,²¹ while others have claimed that the commitments cannot be legally binding.²² Yet this is not the end of the argument, as Steven R. Ratner points out: “The non-treaty nature of the OSCE documents only tells us what they are not, not what they are.”²³ Then, somewhat surprisingly, the International Court of Justice in the *Nicaragua* case²⁴ referred to the Helsinki Final Act²⁵ as evidence of *opinio juris*, thus opening up the possibility that the Final Act and perhaps also other OSCE documents may qualify as customary international law. Much of the literature on the OSCE has not dared to mention this possibility. While a few authors have raised the question, they have usually done so in passing, without giving it detailed consideration.²⁶

The most common position on the status of OSCE commitments is that the difference between the politically and the legally binding is, in reality, of little importance, since the commitments are still considered binding by the participating States – i.e. they fulfil the criteria of normativeness and obligatoriness. In this much quoted passage, van Dijk and Bloed underscore the low degree of significance of this distinction:

The binding force of these documents is not seriously doubted. Van Dijk correctly states: “A commitment does not have to be legally binding in order to have binding force; the distinction between legal and non-legal binding force resides in the legal consequences attached to the

19 Such as the International Covenant on Civil and Political Rights (ICCPR), the European Convention on Human Rights (ECHR), and the Council of Europe Framework Convention for the protection of National Minorities (FCNM).

20 Cf. ODIHR, cited above (Note 17), p. xv: “In a number of cases, OSCE human dimension commitments go far beyond the level provided for in ‘traditional’, legally binding human rights instruments.”

21 Cf. Fastenrath, cited above (Note 10), p. 415: “It should be added that there is no reason to think that the participating States wanted to neglect their registration obligations under the UN Charter and the Vienna Convention on the Law of Treaties. More likely is that they were concerned about domestic legislative procedures which at the very least would have caused substantial delays in the Helsinki Final Act’s entry into force, if they would even have caused it to fail.”

22 Cf. Brett, cited above (Note 10), p. 676.

23 Ratner, cited above (Note 9), p. 609; Wenig, cited above (Note 10), p. 370.

24 *Military and Paramilitary Activities in and against Nicaragua*, ICJ Reports (1986); Christine Chinkin, The Challenge of Soft Law: Development and Change in International Law, in *International and Comparative Legal Quarterly* 38/1989, pp. 850-866, here: p. 858.

25 The Helsinki Final Act is the “founding” document and principle source of guidance for the OSCE.

26 E.g., Bloed, cited above (Note 4), p. 23; Fastenrath, cited above (Note 10), pp. 422-423; to this author’s knowledge, Stuart Ford has made the only serious attempt to test whether OSCE documents could become customary international law, cf. Ford, cited above (Note 10), pp. 26-38; He shows evidence of custom from OSCE documents, but does not move beyond the “artificial distinction” between the politically binding and the legally binding. The present article will attempt to proceed further with this argument in sections 3 and 4.

binding force”, not in the binding force as such. Violation of politically, but not legally binding agreements is as inadmissible as any violation of norms of international law. In this respect there is no difference between politically and legally binding rules.²⁷

Thus, OSCE documents arguably do not fit the mould of treaties, even though in many cases they have similar characteristics.²⁸ However, does this mean that these documents and commitments are irrelevant to international law? If the commitments are still binding on the OSCE participating States, does it really matter whether they match narrow definitions of international law?

As that question remains open, I will placate the lawyers by testing the OSCE commitments against the usual criteria of customary international law. I will not try to determine whether a specific provision of the OSCE human dimension commitments has become custom, but rather whether the OSCE “process”²⁹ is compatible with the “process”³⁰ of the formation of regional customary law.

OSCE Human Dimension Commitments as Custom?

It is beyond the scope of this contribution to examine exhaustively the troubled development of customary international law (CIL) and its many varying and competing theories.³¹ Therefore, I will concentrate on those as-

27 Bloed, cited above (Note 4), p. 22.

28 For more on treaty form and OSCE documents, see Ford, cited above (Note 10), pp 27-30; Fastenrath, cited above (Note 10), pp. 413-417.

29 ODIHR, cited above (Note 17), p. xiv-xv.

30 See Higgins, cited above (Note 7); also Michael Byers, Custom, Power, and the Power Of Rules Customary International Law from an Interdisciplinary Perspective, in *Michigan Journal of International Law* 17/1995, pp. 109-180, here: p. 113.

31 On customary international law, see the “official definition” in Art. 38(1)(b) of the Statute of the International Court of Justice; see Karol Wolfke, *Custom in Present International Law*, Dordrecht 1993, pp. 2-10, on the origins, confused terminology, early dissatisfaction, and inconsistent court decisions; Dinah Shelton, Law, Non-Law and the Problem of “Soft Law”, in: Dinah Shelton (ed), *Commitment and Compliance – The Role of Non-Binding Norms in the International Legal System*, Oxford 2000, pp. 1-13, here: p. 7, on how the definition of CIL changes to fit the times; see also the case of the *SS Lotus*, Permanent Court of International Justice Decisions 1927, on the need for state practice; *North Sea Continental Shelf (FRG/Den.; FRG/Neth.)*, ICJ Reports (1969), on the need for both state practice and *opinio juris*; Byers, cited above (Note 30), p. 137, on CIL as a social institution; Theodor Meron, *Human Rights And Humanitarian Norms As Customary Law*, Oxford 1991, on CIL and human rights; Charney, Universal International Law, in: *The American Journal of International Law* 2/1993, pp. 529-551, here: p. 546, on uncertainty or flexibility in the components of CIL; J. Patrick Kelly, The Twilight of Customary International Law, *Virginia Journal of International Law* 2/2000, pp. 449-543, here: pp. 452-455, on the meaninglessness and non-empirical character of CIL; Anthea Elizabeth Roberts, Traditional and Modern Approaches to Customary International Law: A Reconciliation, in *The American Journal of International Law* 4/2002, pp. 757-779, here: p. 775, on how the traditional formula excludes all non-state actors, e.g., the ICRC; Higgins, cited

pects of CIL necessary for the argument concerning the status of OSCE commitments. After a brief description of the particular conception of CIL that I will be employing here, I will present evidence of state practice and *opinio juris* from the activities and experience of the OSCE to demonstrate the possibility that the OSCE commitments can qualify, according to the required criteria, as regional customary law.

Elizabeth Roberts divides the various theories on CIL into the traditional and modern approaches.³² The former lays more emphasis on state practice, while proponents of the latter – which includes international human rights law – tend to employ *opinio juris* to further their political and moral agendas. “The dynamo perspective concentrates on modern custom and embraces it as a progressive source of law that can respond to moral issues and global challenges.”³³ Trying to distinguish between these two elements, both of which are recognized as necessary for the creation of CIL, is often difficult. The International Court of Justice (ICJ) and various scholars claim sometimes that a particular manifestation, e.g., a declaration of an international organization, can be evidence of either state practice, *opinio juris*, or both.³⁴ The subjective element of *opinio juris* is also difficult to ascertain due to psychological and epistemological problems, as well as ambiguity as to what exactly “as law” means.³⁵ In spite of the general confusion over the definition, classification, and role of customary international law within the field, in my discussion below, I utilize the basic formula of the two components, while admitting its problematic state beforehand.

As the scope of this contribution is limited to activity within the OSCE region, no claim to establishing international, i.e. global, custom is being made. The possibility of *regional* custom was indirectly allowed for by the ICJ in the *Asylum Case*,³⁶ even though the Court did not find evidence of it in that particular case.

Evidence of State Practice

There are at least three areas in which we may look to identify sufficient evidence of state practice for OSCE human dimension commitments: the process of drafting OSCE documents, the documents themselves, and multi- and bilateral minority rights treaties in the OSCE region that have incorporated OSCE commitments.

above (Note 7), pp. 19-38; Paul H. Brietzke, Insurgents in the “New” International Law, *Wisconsin International Law Journal* 1/1994.

32 Cf. Roberts, cited above (Note 31), p. 758.

33 Ibid., p. 759; on the “establishment’s” reaction to modern custom, see Brietzke, cited above (Note 31).

34 Cf. Wolfke, cited above (Note 31) p. 45.

35 Cf. *ibid.*, pp. 7-9, 19-25; Byers, cited above (Note 30) p. 136.

36 *Colombia v. Peru*, ICJ Report (1950). See also Ford, cited above (Note 10), p. 30; Wolfke, cited above (Note 31), p. 9.

The ICJ stated in, *inter alia*, the *Namibia Advisory Opinion* of 1971 and the *Fisheries Jurisdiction* cases of 1974 that *participation in codifying conferences* can be evidence of state practice: “Two concepts have crystallized as customary law in recent years arising out of the general *consensus* revealed at that Conference.”³⁷ The OSCE process of formulating human dimension commitments in consensus-based political decision-making forums is illustrative of this type of state practice.³⁸ While still controversial to some, accepting *resolutions of international organizations* as evidence of state practice is now commonplace.³⁹ The situation is complicated further by declarations also occasionally being treated as evidence of *opinio juris*, as in the infamous *Nicaragua* case mentioned above. While most references have been to General Assembly resolutions, OSCE documents are also eligible as evidence of state practice. The qualifiers⁴⁰ of type of language and proportion of support for the resolutions are met as, OSCE documents usually use mandatory terminology, express obligations, and are accepted unanimously. In addition, while OSCE commitments have been around for over 25 years in the Helsinki Final Act, the shortened required time to demonstrate consistent state practice as elaborated in the *North Sea Continental Shelf* cases means that many of the most progressive have been developed since the end of the Cold War. Thus Stuart Ford would be correct in saying: “Stretching as they do over a period of nearly ten years, these declarations are evidence of a general state practice consistent with OSCE principles.”⁴¹

The most immediate impact of OSCE commitments has been to create the foundation for, and at times even the exact wording of, *multi- and bilateral treaties on minority rights* signed in the 1990s between some OSCE participating States.⁴² The adoption of and reference to OSCE human dimension commitments⁴³ in these treaties has turned “politically binding” obligations into legally binding ones.⁴⁴ The use of OSCE commitments in these treaties can also be considered evidence of regional state practice.⁴⁵

37 *Fisheries Jurisdiction* cases, ICJ Reports (1974), paragraphs 52 (UK) and 44 (Germany); *Namibia* ICJ Reports (1971).

38 Cf. Shelton, cited above (Note 31), p. 1: “The process of drafting and voting for non-binding normative instruments also may be considered a form of state practice.”

39 Cf. e.g. *North Sea Continental Shelf* cases, cited above (Note 31); Higgins, cited above (Note 7), pp. 22-25.

40 Cf. Michael Akehurst, *A Modern Introduction to International Law*, London 1987, pp. 26-27.

41 Ford, cited above (Note 10), p. 32.

42 For more on OSCE minority rights commitments and these treaties, see Bloed/van Dijk, cited above (Note 18); Jane Wright, The Protection of Minority Rights in Europe: From Conference to Implementation, in: *International Journal of Human Rights* 1/1998, pp. 1-31; Hartmut Hillgenberg, A Fresh Look at Soft Law, *European Journal of International Law* 3/1999, pp. 499-515.

43 Mainly those of the Copenhagen Document.

44 Cf. Fastenrath, cited above (Note 10), p. 417: “Certain treaties under international law have referred to CSCE/OSCE documents and taken their political obligations over into the legally binding treaty [...] A number of these treaties [...] explicitly incorporate the commitments on the protection of national minorities contained in CSCE documents, espe-

The second component required for the formation of custom is the subjective element referred to in the ICJ Statute simply as “accepted as law”. This supplementary requirement in addition to the requirement of state practice means that the practice in question must be performed as an obligation or that one must perform it while believing that one is acting according to existing law.⁴⁶ The potential for confusion is obvious, and even the drafters of the Statute had doubts about the exact meaning of custom. Even the ICJ decisions at times confuse the terminology used to indicate *opinio juris*, e.g., as law, by law, legal conviction, consent, acquiescence, will of a state.⁴⁷ Essentially, *opinio juris* requires that States engage in a particular practice because they perceive they are bound or obligated to do so. As mentioned above, recent developments in CIL have emphasized *opinio juris* over state practice, especially when dealing with issues such as human rights; the traditional criteria are therefore changing.⁴⁸ “A lower standard of practice may be tolerated for customs with a strong moral content because violations of ideal standards are expected.”⁴⁹ Once again, resolutions, decisions, and declarations of international organizations that are formulated in such a way as to state that they should be considered as law or binding commitments and obligations⁵⁰ for member states can be evidence of *opinio juris*. In the much-discussed *Nicaragua* case, the ICJ stated that the attitude of states towards, *inter alia*, the OSCE’s Helsinki Final Act, as well as the “effect of consent to the text”, were evidence – “with all due caution” – of *opinio juris*.⁵¹

Thus, the Helsinki Final Act and other OSCE documents fulfil criteria for state practice both on account of being decisions of an international organization and in terms of participation in the drafting of the documents, and as articulations of the *opinio juris* of the participating States that signed and accepted the documents and commitments contained therein. It appears as though the OSCE process of, on the one hand, creating standards and, on the other, establishing obligations to those standards on the part of its participating States may fit the requirements of customary international law formation.

cially the Copenhagen Document [...] The result of such references is that political obligations are transformed into legal ones.”

45 Cf. Chinkin, cited above (Note 24), pp. 856-857; and ICJ *Continental Shelf (Libya v. Malta)* case, ICJ Reports (1985), pp. 29-30.

46 *North Sea Continental Shelf cases*, cited above (Note 31), pp. 43-44.

47 Cf. Wolfke, cited above (Note 31), pp. 1-25, 44-51, 152-153.

48 For more on the impact of the rise of international human rights law on *opinio juris*, see Meron, cited above (Note 31).

49 Roberts, cited above (Note 31), p. 790.

50 Cf. Franck, cited above (Note 5), p. 67 on the OSCE’s Charter of Paris for a New Europe of November 1990: “Although the Charter is not a treaty, its language is weighted with the terminology of *opinio juris*. It is deliberately norm creating.”

51 *Military and Paramilitary Activities in and against Nicaragua*, cited above (Note 24), para. 99f; see also Chinkin, cited above (Note 24), p.858; Alan Boyle, Some Reflections on the Relationship of Treaties and Soft Law, in *The International and Comparative Law Quarterly* 4/1999, pp. 901-913, here: p. 906.

“The CSCE/ OSCE documents express an *opinio juris* which, together with the ensuing practice, could provide the starting point for new regional international customary law.”⁵²

Yet one question remains: Does *opinio juris* refer only to the *legal* in the strictest sense of that term? Or, to follow Byers, does there not rather have to be a shared understanding of the legal relevance of the context in which the practice takes place?⁵³ If custom was originally a social institution, should not the process of customary international law formation reflect that? Or should this process remain constricted by positivism’s artificial segregation of the legal from the political?

This returns us to the question of intent behind the status of OSCE documents. As mentioned previously, there are many indications that both the original framers and the reformers in the 1990s consciously decided to make the OSCE and its documents only politically binding. The Helsinki Final Act and subsequent OSCE documents clearly state that, in accordance with Article 102 of the UN Charter, each of the documents should be transmitted to the Secretary-General of the UN, but that they are not document “eligible for registration” under the same article.⁵⁴ Furthermore, the documents state that the participating States pay due regard to the principles listed, but “note that the present Declaration does not affect their rights and obligations” under international law. Have these provisions been inserted to disallow definitely any legal status for the documents? Or were they merely entered in order to avoid giving the agreements the form of treaties, with all the baggage this entails? One could infer from these provisions that, as mentioned in section 2, the OSCE wants to enjoy all the benefits of being an international organization with binding force on its participating States without having to endure the disadvantages.⁵⁵ If these arrangements to sidestep the legal aspects of treaty formulation were included to show that the participating States did not take their commitments seriously, and thus that they were to be considered non-binding, why would it be continuously stressed that the participating States have a “firm commitment to the full implementa-

52 Fastenrath, cited above (Note 10), p. 423.

53 Cf. Byers, cited above (Note 30), pp. 139-142; on page 140, he writes: “*Opinio juris*, in terms of states believing that they are acting in accordance with preexisting or simultaneously developing legal rules, is not particularly helpful, either as a practical tool for determining the existence of customary rules, or as an explanation of how those rules arise.”

54 The consequences of non-registration mean that states cannot institute proceedings in the ICJ alleging violations of OSCE commitments, see Ratner, cited above (Note 9), p. 611.

55 Disadvantages of concluding a formal treaty could include extensive deliberations at treaty conferences, a watering down of provisions to the lowest common denominator, inclusion of reservations, lengthy ratification procedures, involvement of national legislatures, and long delays in entering into force (vide the UN Bill of Rights). Some of the advantages of maintaining “flexibility” are that the organizational structure can be dynamic, allowing easier modification to fit evolving circumstances; the documents and commitments can build on each other without having to determine cancellation of previous treaties or how they relate to each other; and the whole process is kept out of the hands of the lawyers. Cf. ODIHR, cited above (Note 17), p. xvi; cf. also Wright, cited above (Note 42); and Wenig, cited above (Note 10), p. 373.

tion of all [OSCE] principles and provisions” and attach “high political significance” to those commitments?⁵⁶

Therefore it follows that the OSCE documents are drafted in this manner not in order to deny them binding force, but rather to circumvent the complications involved in making conventional law. This leaves open the possibility that if it can be demonstrated that the participating States are not in opposition to OSCE commitments obtaining some sort of non-conventional legal consideration, e.g., in terms of custom or general principles, then *opinio juris* could be established, leading to the formation of customary international law.⁵⁷

However, a more fundamental issue is at stake here: Specifically within international law, what is the real difference between “politically binding” and “legally binding”, between a political and a legal obligation?

The fact that, when assessed realistically, the difference between a treaty and the binding “political” effect of a non-treaty agreement is not as great to a politician as is often thought may also play a role in the decision to opt for a non-treaty form of agreement. Even treaties, if they are not simply to exist on paper, are dependent on continuing cooperation between states. And when that willingness to cooperate diminishes, it is unlikely that attempts will be made to enforce them either in court or through reprisals – owing to anticipated costs and political consequences – even if such possibilities do exist from a legal point of view.⁵⁸

Political versus Legal

Some may claim that the difference between a legal obligation and a political one is that violating the former involves a breach of the law, while there is no equivalent in the case of the latter. However, distinguishing between the political and the legal with respect to international law is somewhat misguided, because, at this level, the legal is utterly permeated by the political.⁵⁹ International law is itself created from political processes: political negotiations, consensus amongst states, politically influenced court decisions, etc.⁶⁰ Cus-

56 Cf. Charter of Paris for a New Europe, Paris, 21 November 1990, in: Bloed, cited above (Note 4), pp. 537-566.

57 Cf. Ford, cited above (Note 10), pp. 37-38. See also the conclusion of the current paper.

58 Hillgenberg, cited above (Note 42), p. 5.

59 Shelton, cited above (Note 31), p. 11: “Some scholars have distinguished hard law and soft law by stating that breach of law gives rise to legal consequences while breach of a political norm gives rise to political consequences. Such a distinction is not always easy to make. Testing normativity based on consequences can be confusing, since breaches of law may give rise to consequences that may be politically motivated.”

60 For more on the fundamental role of the political in international law, see Byers, cited above (Note 30), Kelly, cited above (Note 31).

tomary international law is created through political practice, and politically influenced *opinio juris* must, according to Guggenheim, have the acceptance of the leading powers.⁶¹ According to Byers, legal scholars

have to varying degrees generally assumed that international law is created through processes which are at least procedurally objective and in that sense apolitical [...] Unfortunately, many international legal scholars have ignored the effects of power relationships on the development of customary rules, or have made ineffective attempts to explain these effects away.⁶²

One distinction may lie in the preferred forms of approach (co-operative versus adversarial) and decision making (political consensus versus legal adjudication), and the remedies connected to them. The legal remedies of access to a judicial system,⁶³ individual petitions,⁶⁴ and compensation/reparation via the European Court of Human Rights and the European Court of Justice are not available within the OSCE,⁶⁵ though the monitoring and reviewing of the UN Human Rights Committee have parallels within the OSCE process. However, the lack of these instruments does not lessen the level of obligation states have towards OSCE commitments, just the means to which one has recourse.⁶⁶ Moreover, as mentioned above, even if these legal instruments are available, decisions on whether and how to employ them are political. These types of instruments are more effective when dealing with situations of isolated or “minor” human rights violations in states where the level of culture of compliance is already quite advanced (e.g., Western Europe).⁶⁷ Alston and Weiler point out that within the EU there is excessive reliance on and faith in “the power of legal prohibitions and judicial enforcement”⁶⁸, and that these measures are insufficient by themselves for an effective human rights regime, which also requires political measures. An adversarial adjudication system may not be the most effective way to deal with situations involving gross and systematic human rights violations. Ethnic conflict, minority issues, wide-

61 Cf. Paul Guggenheim, quoted in: Wolfke, cited above (Note 31), p. 49.

62 Byers, cited above (Note 30), pp. 116, 133.

63 For details of the Court of Conciliation and Arbitration within the OSCE, see Bloed, cited above (Note 13), p. xix; *OSCE Handbook*, cited above (Note 10), p. 37.

64 Cf. ODIHR, cited above (Note 17), p. xvii: “It is also important to note that the absence of an individual complaints process does not preclude that individual cases might be brought to the attention of the political bodies of the OSCE.”

65 Cf. *ibid.* p. xvii. When restructuring the Organization, the OSCE refrained from creating such mechanisms because it did not want to duplicate already existing instruments.

66 Cf. Ratner (Note 9), p. 610: “Other than the inability of states to seek recourse for violations through international adjudicatory bodies, the OSCE commitments are just as binding on states – just as normatively significant – as treaties.”

67 Cf. David Wippman, *The Evolution and Implementation of Minority Rights*, in: *Fordham Law Review* 66/1997, pp. 597-626, here: p. 625.

68 Philip Alston/Joseph H.H. Weiler, *An “ever closer Union” in need of a human rights policy: the European Union and Human Rights*, in Philip Alston (ed.), *The EU and Human Rights*, Oxford 1999, pp. 12-13.

spread abuse of state power, and other such scenarios call for prevention, mediation, and capacity-building, not reparations. The remedies involved may, therefore, indeed be a key difference between OSCE “politically binding” instruments and other, “legally binding”, human rights instruments. However, when dealing with the sensitive and volatile issue of gross human rights violations, perhaps the OSCE’s co-operative methods are a strength and not a weakness.

Of course, as discussed above, the distinction between the political and the legal – also concerning remedies – is usually blurred, and may not be noticed or seen as of great importance:

One can assume that the partners in a non-treaty agreement are aware that if they do not conclude a treaty, they thus also exclude certain legal consequences of a treaty. This primarily concerns consequences relating to non-fulfilment; namely, compensation and the possibility of enforcement through dispute settlement procedures and reprisals. Whether the parties’ ideas go much further than this may frequently be in doubt. Usually the negotiations concentrate on the substance of what the two parties want, leaving aside concomitant rules on validity, interpretation, implementation, consequences of non-fulfilment or preconditions for termination of the agreement.⁶⁹

Since this distinction between “politically binding” and “legally binding” can be considered to be inadequate, inaccurate, and somewhat contrived, it might be more helpful to look at the status of the OSCE process and its resulting commitments in terms of “soft law” versus “hard law”.

Soft Law and Hard Law

The term “soft law” arose in connection with de-colonization and the right to self-determination, economic co-operation and the right to development, and, more recently, in relation to environmental agreements. That the momentum for concluding soft law agreements appears to have increased soon after the finalizing of the Vienna Convention on the Law of Treaties⁷⁰ illustrates that states were looking for alternative means to regulate their relations outside of the strict formality of conventional international law, i.e., “hard law”. As demonstrated above, not choosing the treaty form for an international agreement does not preclude its achieving legal significance nor deny its binding

⁶⁹ Hillgenberg, cited above (Note 42), p. 12.

⁷⁰ Cf. Chinkin, cited above (Note 24), p. 860. *Vienna Convention on the Law of Treaties*, 1155 U.N.T.S. 331 (1969); Article 2(1)(a) of the Vienna Convention defines a treaty as “an international agreement concluded between States in written form and governed by international law”. The qualification of “by international law” is to distinguish from those treaties under domestic law, cf. Hillgenberg, cited above (Note 42), p. 7.

force.⁷¹ The usual purposes of soft law instruments in general have been to facilitate in the interpretation of treaties, to “test the waters” and workability of certain provisions, and to prepare the ground for conventional treaties (e.g., the Copenhagen Document and the Framework Convention on National Minorities). Soft law agreements can themselves have “norm-generating, norm-regulating and norm-legitimizing (or delegitimizing) functions”.⁷²

So while soft law arrangements can retain a certain legal status, they also have many practical and political advantages over traditional treaties, some of which have already been described. Hartmut Hillgenberg lists some reasons for avoiding the conventional treaty form, which could also be valid for the OSCE:

- a general need for mutual confidence-building;
- the need to stimulate developments still in progress;
- the creation of a preliminary, flexible regime possibly providing for its development in stages;
- impetus for co-ordinated national legislation;
- concern that international relations will be overburdened by a “hard” treaty, with the risk of failure and a deterioration in relations;
- simpler procedures, thereby facilitating more rapid finalization (e.g. consensus rather than a treaty conference);
- avoidance of cumbersome domestic approval procedures in case of amendments.⁷³

Yet how does one classify agreements into “soft law” and “hard law”? Beyond the category of treaties, how does one determine the “hardness” of the law?

Reisman has identified three elements in lawmaking, which makes the binding nature of the law a matter of degree. These are policy content, authority of the prescriber, and “the ability of the norm-makers to make the prescriptions controlling – to ensure that states comply with them”,⁷⁴ i.e. implementation and enforcement mechanisms. The “hardness” of the policy con-

71 Hillgenberg, cited above (Note 42), p. 7: “However, this does not necessarily mean that all non-treaty agreements only follow ‘political’ or moral rules. There is no provision of international law which prohibits such agreements as sources of law, unless – obviously – they violate *jus cogens*.” Boyle, cited above (Note 51), p. 903: “Non-binding instruments may still be useful if they can help generate widespread and consistent state practice and/or provide evidence of *opinio juris* in support of a customary rule.”

72 Fastenrath, cited above, (Note 10), p. 419; see also Shelton, cited above (Note 31) p. 10; Boyle, cited above (Note 51), pp. 902-903; on the OSCE documents fulfilling these functions, see Bloed/van Dijk, cited above (Note 18), p. 6.

73 Cf. Hillgenberg, cited above (Note 42), p. 4. For more on the relative advantages of soft law over conventional law, see Chinkin, cited above (Note 24), pp. 861, 863; Brett, cited above (Note 10), p. 684; Wenig, cited above (Note 10), p. 382.

74 W. Michael Reisman, The Concept and Functions of Soft Law in International Politics, in: Emmanuel G. Bello/Bola A. Ajibola (eds), *Essays in Honour of Judge Taslim Olawale Elias*, vol. 1, Dordrecht 1992, pp. 135-136.

tent depends upon the language used (mandatory or permissive) and the level of detail and substance of the text: Non-treaty instruments have featured language with stronger terms of obligation, a higher degree of precision, and further-reaching normative content than many “legal” treaties.⁷⁵ Many OSCE Human Dimension documents are expressed using the language of mandatoryness. The Copenhagen Document, for instance, contains terms and phrases such as “full adherence to”, “ensure that their laws conform to obligations”, and “reaffirm their commitment to implement fully”. In terms of policy content, the Copenhagen Document is considered “harder” than other human rights instruments. Of the Framework Convention, Bloed and van Dijk write: “Although this Convention aims at legalizing politically binding OSCE commitments, in fact it remains below the OSCE level.”⁷⁶ In terms of the authority of the prescribing agency, the fact that OSCE human dimension documents are adopted unanimously by consensus and recognized as having “high political significance” suggests “hard” levels of bindingness.

Some treaties (by definition “hard law”) can in fact be “soft” as far as their effects are concerned. Likewise, there are non-treaties (officially “soft law”) that are effectively “hard”.⁷⁷ So, with the effectively hard but officially soft Copenhagen Document and the effectively soft yet officially hard Framework Convention in mind, let us turn to the last components in the lawmaking process: implementation, enforcement, and compliance.

With this final element, politics once again enters the fray, since one must look at the various means that organizations have at their disposal for ensuring compliance with their “soft” legal norms. Are the strictly legal instruments and the mechanisms that they employ the most effective for the professed purpose of protecting human rights? Or does the superior effectiveness of other instruments foster greater compliance with norms, thus raising the status of those instruments in terms of obligation and binding force?⁷⁸ The main treaty-based legal mechanisms for ensuring compliance were previously touched upon when discussing remedies. The limitations of these systems for dealing with human rights, ethnic tension, and minority issues have been extensively debated.

For the protection of human rights, the most effective form of implementation is prevention. Mechanisms that seek to forestall the worsening of critical situations as well as long-term capacity-building programmes that set out to prevent violations and aid in the implementation of human rights

75 “The provision concerned should, at all events potentially be of a fundamentally norm-creating character.” *North Sea Continental Shelf* cases, cited above (Note 31), para. 72; See also Shelton, cited above (Note 31), p. 4: “Some soft law instruments may have a specific normative content that is ‘harder’ than the soft commitments in treaties.”

76 Bloed/van Dijk, cited above (Note 18), p. 1. Comparisons of the various minority rights regimes of the OSCE, the Council of Europe, and UN can be found in Wright, cited above (Note 42) and Ratner, cited above (Note 9).

77 Cf. Boyle, cited above (Note 51), pp. 906-907; Chinkin, cited above (Note 24), n. 5.

78 I am not suggesting that might makes right, but how legally significant (especially in CIL) can a paper tiger be?

commitments are more effective in ensuring future compliance than mechanisms that address violations after the fact in the hope that they will not be repeated.⁷⁹ Preventive mechanisms can contain legal elements as well, as illustrated with regard to the OSCE's High Commissioner on National Minorities:

[With] his often ground-breaking application of existing standards for purposes of conflict prevention (and, in effect, as a proactive mechanism of implementation), the HCNM has become a source of "soft jurisprudence," drawing upon textual instruments, doctrine, and state practice in the composition of his own argumentation to arrive at a specific recommendation.⁸⁰

The OSCE arguably has the best capabilities and the best record of implementation and enforcement of human dimension commitments in the areas where it matters the most: regions of high tension and post-conflict recovery. The mechanisms include:⁸¹ political forums for creating human dimension norms and discussing implementation and compliance with these norms; Human Dimension Implementation Meetings for monitoring and reviewing states' compliance with commitments; the Office of Democratic Institutions and Human Rights for monitoring and capacity-building programmes to assist in the implementation of commitments within participating States; election-monitoring for ensuring that commitments to free and fair elections are adhered to; long-term field missions on the ground with day-to-day contacts for advising on implementation and compliance; the yet-to-be-used Court of Conciliation and Arbitration within the OSCE; and, of course, the High Commissioner on National Minorities.⁸² Thus, the OSCE process, documents, and commitments can be deemed "hard" in terms of the three elements of lawmaking and therefore have a "hard" binding nature.

In sum, the OSCE has avoided the disadvantages that come with treaties, and the legal remedy that it in actuality lacks – a working judicial system – is not exactly appropriate for the type of work that it does. At the same time, it enjoys the benefits of soft law: the flexibility to be innovative in setting standards and to react to new situations quickly; it has many of the mechanisms necessary for ensuring compliance with its commitments; and its commitments have the binding force necessary to be taken seriously on the international stage.

79 Cf. Boyle, cited above (Note 51), p. 912.

80 John Packer, Making International Law Matter in Preventing Ethnic Conflict: A Practitioner's Perspective, in: *New York University Journal of International Law and Politics* 3/2000, pp. 715-724, here: p. 717.

81 For an exhaustive description of the various bodies and instruments, see *OSCE Handbook* cited above (Note 10).

82 The work of the HCNM has been written about extensively. For more insightful comments, see Bloed, cited above (Note 13), Bloed/van Dijk, cited above (Note 18), Ratner, cited above (Note 9), Packer, cited above (Note 80).

So it seems safe to conclude that while the OSCE may officially be soft in the sense of not having generated conventional law, it is actually quite hard as far as its legally binding status is concerned. If this is true, then maybe some of the definitions and delineations of international law should be re-examined.

If states expect compliance and in fact comply with rules and principles contained in soft law instruments as well as they do with norms contained in treaties and custom, then perhaps the concept of international law, or the list of sources of international law, requires expansion. Alternatively, it may have to be conceded that legal obligation is not as significant a factor in state behaviour as some would think.⁸³

What about *opinio juris*? This depends on how one understands “accepted as law”. Is it possible, by stepping out of the narrow positivist stance, to see the OSCE’s hard “soft law” as qualifying as *opinio juris*? And since evidence of state practice has already been established, could it be possible to consider the human dimension commitments as regional customary law?

The OSCE human dimension (documents, commitments, instruments) is a *de facto* treaty regime,⁸⁴ as it is founded on *pacta sunt servanda*⁸⁵ – on the good faith of the participating States.⁸⁶ It is a treaty in the sense that there are legitimate expectations⁸⁷ among the States that each will act in good faith, but this *de facto* contractual agreement does not address merely a single document, but rather the OSCE process as a whole. This intention to act in good faith in a *de facto* contractual agreement (combined with its “hard” obligations and binding force), may thus amount to evidence of *opinio juris*.

Therefore, if we must appease the positivists and fulfil their incoherent criteria and definitions of customary international law, the OSCE human dimension process may indeed qualify as regional customary law.

83 Shelton, cited above (Note 31), p. 11.

84 Hillgenberg, cited above (Note 42), p. 26: “In the final analysis, it is of little import whether one attaches limited legal quality to such self-contained regimes. In any event, their political function resembles that of treaties: non-treaty agreements, too, provide the parties to international arrangements with the power to ‘to justify and persuade’.”

85 Cf. Vienna Convention, cited above (Note 70), Art. 26.

86 See Organization for Security and Co-operation in Europe, Charter for European Security, Istanbul, November 1999, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH, *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 425-443, here: p. 428; and Organization for Security and Co-operation in Europe, Budapest Summit Declaration. Towards a Genuine Partnership in a New Era, 5-6 December 1994, in Bloed, cited above (Note 13), pp. 145-149, para. 19.

87 Cf. Byers, cited above (Note 30), p. 166.

As previously mentioned, there have been various attempts over the years to alter the legal status of the OSCE in order to establish it as an international legal entity. A working group is currently investigating the options for establishing the OSCE primarily as a legal personality with legal capacity and privileges and immunities, and a draft convention has been developed to address these issues. According to a Permanent Council report on this issue,⁸⁸ an overwhelming majority of participating States are in favour of a convention, with some participating States pushing for a model bilateral agreement instead. Such a convention would establish the OSCE as a legal entity, which would include the legal capacity to participate in legal proceedings. An attached report by the Secretariat,⁸⁹ which discusses OSCE's current legal status, uses the criteria (according to "doctrine") of intention of the states (*opinio juris*), continuity (state practice), and implied powers to conclude that the OSCE has become a *de facto* subject under public international law with the capacity to act in its own right. While the report does mention the "verification of compliance with [...] OSCE commitments" and "the establishment of norms and rules of conduct in areas of concern to the OSCE", it does not directly discuss the binding force these have on participating States. Yet one receives the impression that the work of verification and the status of the norms are not in question. The problematic of the legal position of the Organization does not concern the actual authority and status of the human dimension process, but lies elsewhere. Nevertheless, one can see that the OSCE is actively trying to resolve the question of legal status, which will no doubt also have implications for the status of the OSCE human dimension commitments.⁹⁰

Conclusion: Escaping the Trap of Positivism's Binary Paradigm?

Traditional customary international law has been the solidification of tradition, i.e., it has been conservative. This is now reinforced by the conservatism of positivism. Considering the present state of world affairs, international human rights law is necessarily normative, prescriptive, and activist. To

88 *OSCE Legal Capacity and Privileges and Immunities: Report of the Permanent Council to the Ministerial Council*, PC.DEC/383, 26 November 2000, Annex.

89 SEC.GAL/20/00, Restricted, 6 March 2000, II.4.

90 Most recently, the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE stated that the Organization would greatly benefit from being accorded legal personality. The Panel recognized that creating a founding Charter would be a "time-consuming process" (as referred to above), while mentioning the already existing draft convention. Of course, political consensus is still the major obstacle; cf. CIO.GAL/102/05, 30 June 2005. The Final Report and the Recommendations of the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE are reproduced in this volume, pp. 359-379; on the question of a statute or charter for the OSCE, see in particular, p. 369.

adapt a saying from Marx, it is no longer about describing the law, but changing it. International human rights law has already changed the face of international law dramatically. Now the OSCE human dimension process is challenging the traditional conceptions of both customary and conventional international law. Its very existence is a call for a re-examination of the doctrine of customary international law and of positivism's artificial segregation of the legal from the political.

Certainly, the forums may move the solutions substantially toward acquiring the status of international law. Those solutions that are also positively received by the international community through state practice or other indications of support will rapidly be absorbed into international law, notwithstanding the technical legal status of the form in which they emerged from the multilateral forum. While this process may not conform to traditional customary lawmaking, nothing in the foundations of the international legal system bars such an evolution in the international lawmaking process. The international community itself holds the authority to make changes in this process.⁹¹

Traditional international law instruments and modes of thinking have also proven insufficient in dealing with serious human rights concerns. While much progress has been made over the past 50 years, the "legal" human rights mechanisms are still ineffective and have made little real impact on the human rights situation on the ground where it is needed most.

Nowadays, some international human rights lawyers, scholars, and judges have become activists and have tried to employ international human rights law for the fundamentally "political" mission of advancing respect for and adherence to international human rights standards. Regionally, lawyers and politicians have used the "sacred" nature of law to establish fundamental political and moral "truths" in reaction to the massive abuse of the principles that Western civilization thought it was based upon.

However, the attempt by some of these new activists to maintain and operate from the positivist legal regime have caused them to overestimate the ability of these instruments to exercise their sacred mandate – how can one maintain faith in a powerless priest?

International jurists [...] sometimes naively expect legal norms and processes to determine outcomes in international relations [...] Until the architecture of an international legal system is completed, international jurists should not expect more from international standards than these can deliver, while they should work creatively to maximize what can be achieved now.⁹²

91 Charney, cited above (Note 31), p. 545.

92 Packer, cited above (Note 80), p. 724.

Some international human rights lawyers have underestimated the significance and usefulness of the OSCE human dimension commitments for their work. This article has endeavoured to show these lawyers why they are mistaken to overlook these commitments. As demonstrated above, OSCE human dimension commitments can be considered as regional customary law, thus providing these commitments with the binding legal basis that has been continuously denied. Moreover, as OSCE commitments are “harder” than those of most legal mechanisms, it is worth reconsidering the criteria for determining the value and weight of sources of international law. The binding force of these human dimension commitments has been recognized and utilized for political purposes by diplomats. International lawyers should employ these commitments for legal purposes in promoting human rights. Likewise, in this 30th anniversary year of the Helsinki Final Act, the OSCE should have greater confidence in its role in Europe and its position among international organizations. In its human dimension commitments, it has not only developed human rights standards that are among the most progressive of their kind in the world, but it has also created effective mechanisms for their promotion in member states. This is the success story and value of the OSCE that should be celebrated in this anniversary year.

For diplomats and practitioners, international law is just another tool in their toolbox. For lawyers to restrict themselves to just this tool, or, in fact, to just one very limited version of this tool, leaves them professionally impoverished and reduces both their potential scope of activity and their effectiveness. Whether or not the OSCE Human Dimension commitments are recognized as emerging regional customary law, international human rights lawyers would benefit from employing these commitments in their work.

The insistence of some lawyers on remaining within the sacred precinct of positivist law blurs their vision and reduces their ability to address the realities outside. While they recognize the power and privilege inherent in maintaining their sacred status, they must find ways to effectively engage in the world in order to save it. If they want to truly promote the cause of human rights, they must be creative and alter their doctrine to allow for new methods of influence and inspiration that can further their goals.

Debating Election and Election Monitoring Standards at the OSCE: Between Technical Needs and Politicization

Among the multiple items discussed in the ongoing debate on OSCE reform, the one related to the conduct and evaluation of democratic elections is of particular significance for at least three main reasons. First, given their role in ensuring that making the will of the people is the source of domestic governance, free and fair elections belong to the OSCE's most central values. Second, the issue of fair and free elections is directly linked to the set of complaints raised by the government of Vladimir Putin about the OSCE's "double standards" policy and the "unchecked autonomy" of ODIHR (as well as field missions). Third, contrary to most Russian demands for OSCE reform, Moscow's stands are here shared and backed by a number of participating States – namely the Central Asian republics, Belarus, and Armenia. In the case in point, Russia is questioning the relevance of the criteria for free and fair elections established by the 1990 Copenhagen Document on the human dimension and the objectivity of ODIHR's election monitoring activities. As a consequence, since 2001, the OSCE has been confronted with a delicate hybrid problem that has both a purely technical aspect (*election standards*) and a highly subjective political dimension (*monitoring standards*).

Updating OSCE Election Standards: A Technical Necessity

Although a domestic matter, the conduct of national elections is regulated by a number of legally and politically binding international norms. These norms find their most universal expression in Article 21 of the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights (Article 25).¹ They are also reflected in the Declaration on Criteria for Free and Fair Elections (26 March 1994) and the Universal Declaration on Democracy (16 September 1997), both issued by the Inter-Parliamentary Union. As to regional norms, their basic expression is to be found in Article 3 of the 1952 Additional Protocol No. 1 to the European Convention on Human Rights and Fundamental Freedoms, Article 23 of the 1969 Inter-American Convention on Human Rights, Article 13 of the 1981 African Charter on Human and Peoples' Rights and – last but certainly not least – the 1990 OSCE Document of the Copenhagen Meeting of the Conference on the

¹ Article 25 of the Covenant has to be approached in the light of a special "general comment" emanating from the monitoring body of the Covenant (the Human Rights Committee), cf. UN Doc. CCPR/21/21Rev.1/Add.7 of 27 August 1996.

Human Dimension of the CSCE (paras 5 and 7). Whether universal or regional, all the instruments proceed from the premise that only free and fair elections (or sometimes “honest”, “genuine”, “impartial”, or “sincere” elections) provide legitimacy for a true democratic government.²

While the right to a representative government is thus firmly entrenched in international human rights law, there is no widely-accepted view on the exact meaning of the catchphrase “free and fair elections”.³ Arguably, however, elections can be considered as “free” when conducted in the absence of significant pressure on, intimidation of, or violence towards voters, and be labelled “fair” when all candidates are basically treated on a non-discriminatory basis.⁴ The prerequisites of freedom are easier to achieve (and to be better assessed) than those of fairness. Indeed, even in a well-established democracy an election cannot be fully fair (that is to say offer *absolutely* equal chances to all candidates or parties), while it can claim to be free. What is clear is that the combined conditions required by freedom and fairness are only to be met within states where the rule of law is effective. The Copenhagen Document, which was adopted in the aftermath of the collapse of Communism in Europe, has been built precisely on the assumption that elections cannot be separated from a context in which democratic institutions are fully operational.⁵

The Copenhagen Document Criteria

The Copenhagen Document offers a comprehensive list of criteria for the conduct of democratic elections. Combining the elements of freedom and fairness, the criteria prescribe:

1. *Periodicity of elections.* Democratic elections are expected to be held at “reasonable intervals”, as established by law (para. 7.1), it being also understood that the seats in at least one chamber of the national legislature have to be freely contested in a popular vote (para. 7.2).
2. *Guarantee of universal and equal suffrage to adult citizens* (para. 7.3). All citizens reaching the age of majority must be able to exercise the right to vote without any discrimination whatsoever.

2 For more details, see Guy S. Goodwin-Gill: *Free and Fair Elections. International Law and Practice*, Inter-Parliamentary Union, Geneva 1994, pp. xv-123.

3 According to Jon M. Ebersole, The United Nations Response to Requests for Assistance in Electoral Matters, in: *Virginia Journal of International Law*, Vol. 13, Fall 1992, p. 94, one of the earliest references to this catchphrase appeared in a 1956 United Nations report concerning Togo’s accession to independence.

4 See Jorgen Elklit/Palle Svensson, The Rise of Election Monitoring: What Makes Elections Free and Fair?, in: *Journal of Democracy*, 3/1997, pp. 33-35.

5 Since its adoption, the Copenhagen Document has inspired comparable developments in other regions: see for instance the 2001 Inter-American Democratic Charter issued by the OAS, at: http://www.oas.org/charter/docs/resolution1_en_p4.htm, and the 2001 Norms and Standards for Democratic Elections as framed within the Parliamentary Forum of the Southern African Development Community, at: <http://www.eisa.org.za/PDF/sadcpf.pdf>.

3. *Secrecy of ballots.* Votes are to be cast by secret ballot or by equivalent free voting procedure (para. 7.4).
4. *Transparency of vote counting and final results.* Votes must be counted honestly and the official results made public (para. 7.4).
5. *Guarantee of the right to be elected.* The right of citizens to seek political or public office, individually or as representatives of political parties, must be respected without any discrimination (para. 7.5).
6. *Guarantee of political pluralism and free competition of political parties on a non-discriminatory basis.* Individuals must be able to establish, in full freedom, political parties enjoying legal guarantees to enable them to compete with one another on a basis of equal treatment before the law (para. 7.6).
7. *Freedom from violence or intimidation.* Legislation must guarantee that political campaigning be conducted in an atmosphere in which neither administrative action, nor violence, nor intimidation (a) bar the parties and the candidates from freely presenting their views and qualifications, or (b) prevent the voters from learning about and discussing them or from casting their votes free of fear of retribution (para. 7.7).
8. *Non-discriminatory access to the media.* No legal or administrative obstacles should stand in the way of access to the media on a non-discriminatory basis for all political groupings and individuals wishing to participate in the electoral process (para. 7.8).
9. *Effective implementation and respect of the result of the election.* Candidates elected in conformity with electoral procedures must be duly installed in office and permitted to remain there until their term expires or is otherwise terminated in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures (para 7.9).

Russian Complaints and Demands

Russia and a number of CIS countries claim to be unhappy with the criteria established in the Copenhagen Document as they presently stand. In November 2000, in reaction to the controversial American presidential elections, Russia and Belarus tabled a proposal calling for a comparative review of electoral legislation of all of the 55 participating States of the OSCE (to be conducted by ODIHR) with a view to assessing their conformity with the Copenhagen Document.⁶ In the same spirit, during the debate on OSCE reform initiated by the Romanian Chairmanship in 2001, Russia proposed the “even application” of the Copenhagen Document criteria as a discussion

6 MC.DEL/24/00 of 20 November 2000 (Russia/Belarus proposal) and MC.DEL/41/00 of 24 November 2000 (Russian statement).

item.⁷ Going a step further, the Moscow Declaration on the State of Affairs in the OSCE, issued on 3 July 2004 by nine members of the CIS, channelled blunt and harsh criticisms *vis-à-vis* ODIHR's election-monitoring activities.⁸ A few months later, on the eve of the Sofia Ministerial Council Meeting, Belarus and the Central Asian states submitted draft proposals expressly aimed at stopping the "politicization" of election monitoring in the OSCE area.⁹ Soon after the Sofia Meeting, Russia and all the Central Asian states with the exception of Turkmenistan tabled a draft decision along the same lines at the Permanent Council on the "further improvement of OSCE election standards and election monitoring".¹⁰

Russia and most CIS member countries are criticizing the Copenhagen Document criteria on three main grounds.¹¹ First, those countries argue that the criteria (having been adopted a decade ago) do not address the problems of effective participation in elections by individuals belonging to such vulnerable groups as internally displaced persons, disabled people, and national minorities. Second, they allege that the criteria offer only vague guidelines rather than exact standards, allowing for different interpretations and hence double standards in practical monitoring. Third, they consider that the non-legally binding character of OSCE election-related commitments constitutes, under the present circumstances, an additional factor inhibiting both respect for the Copenhagen Document criteria and their effectiveness. In order to cope with the serious problems that currently exist, Russia, has argued that the elaboration of a "Code of international commitments of the OSCE participating States for the organization and conduct of democratic elections", entailing the fleshing out of the Copenhagen text in the format of a "Copenhagen 2 Document", is urgently needed. Beyond its intrinsic merits, a document of this kind would (according to Moscow) demonstrate the OSCE's capacity to improve its human dimension activities and even justify the Organization's continued relevance in the landscape of European security and co-operation.¹²

7 PC.DEL/971/01 of 27 November 2001 (earlier position: PC.DEL/2/01 of 8 January 2001); retained by the Romanian Chairmanship in the perspective of the Bucharest Ministerial Council Meeting (MC.DD/5/01 of 27 November 2001), the Russian suggestion was not accepted. Moscow adopted similar stands at the Human Dimension Seminar on Electoral Processes, ODIHR.GAL/39/01/Rev.1 of 19 July 2001, p. 5, and the 2001 Human Dimension Implementation Meeting, ODIHR.GAL/60/Rev.1 of 9 November 2001, p. 48.

8 See PC.DEL/630/04 of 8 July 2004 (a text endorsed by all CIS states except Georgia, Azerbaijan, and Turkmenistan).

9 See PC.DEL/1022/04 and PC.DEL/1023/04 of 27 October 2004 (Belarus), as well as PC.DEL/1025/04/Corr.1 of 17 December 2004 (Central Asian States except for Uzbekistan).

10 See PC.DEL/1225/04/Corr.1 of 17 December 2004.

11 The most recent exposition of Moscow's overall position is to be found in the keynote speech delivered by Alexander Veshnyakov, Chairman of the Central Election Commission of the Russian Federation, at the 2004 Supplementary Human Dimension Meeting on "Electoral standards and commitments", in: PC.SHDM.GAL/11/04, cited below (Note 20), pp. 24-28.

12 See *ibid.*, p. 28.

In November 2001, ODIHR undertook an inventory of existing election-related norms, commitments, principles, and best practices that have emerged since 1990 for democratic elections in the OSCE participating States. Issued in August 2002, the inventory proposed three clusters: human rights foundations of democratic elections, necessary ingredients of a democratic electoral system, and good practices in electoral matters.¹³ Commending the initiative, the Permanent Council tasked ODIHR to further develop the inventory and to report on progress made by 30 June 2003.¹⁴ In addition, the Porto Ministerial Council acknowledged (at the initiative of Russia) that “democratic elections can be conducted under a variety of electoral systems”¹⁵ and asked the Permanent Council “to consider the need to elaborate additional commitments on elections”.¹⁶

In its progress report, ODIHR offered a more sophisticated inventory, organized according to the functional components of an election process.¹⁷ The document identified four areas in which additional commitments (not explicitly referenced in the Copenhagen Document) could be envisaged: public confidence in elections, transparency of the election process, accountability of the electoral administration, and effective implementation of universal and equal suffrage. All four related to practical problems identified on the basis of ODIHR’s experience of a decade of election monitoring. The progress report also addressed emerging problems such as electronic voting, low turnouts, recall elections, and referenda (which should not be used to end or change a term of office), while acknowledging improvement of women’s participation, access for disabled voters to the election process, enhanced inclusion of national minorities, and the interaction between international and domestic observers. In December 2003, the Maastricht Ministerial Council endorsed the approach suggested by ODIHR. In a carefully balanced decision, it tasked the latter to “consider ways to improve the effectiveness of its

13 OSCE, Office of Democratic Institutions and Human Rights, *International Standards and Commitments on the Right to Democratic Elections. A Practical Guide to Democratic Elections Best Practice*, ODIHR.GAL/44/02 of 21 August 2002 and ODIHR.GAL/44/02/Rev.1 of 20 November 2002. The text was discussed at the OSCE Human Dimension Implementation Meeting on 18 September 2002.

14 See OSCE, Permanent Council, Decision No. 509, *International Standards and Commitments. A Practical Guide to Democratic Elections Best Practice*, PC.DEC/509 of 5 December 2002.

15 Organization for Security and Co-operation in Europe, Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, MC.DOC/1/02, 7 December 2003, Decision No. 7, Election Commitments, MC(10).DEC/7, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 421-455, here: p. 452.

16 Ibid.

17 OSCE, Office for Democratic Institutions and Human Rights, *Existing Commitments for Democratic Elections in OSCE Participating States*, ODIHR.GAL/39/03 of 30 June 2003. This progress report was submitted for discussion to the 2004 Supplementary Human Dimension Meeting on “Electoral standards and commitments”.

assistance to participating States in following up [its own] recommendations”¹⁸ (a direct concern for the European Union and the United States), while asking once more that the Permanent Council consider the need to elaborate (as sought by Russia) additional commitments on elections aimed at “supplementing existing ones”.¹⁹

As a follow-up to the Maastricht Ministerial decision, two Supplementary Human Dimension Meetings took place in Vienna – on “Electoral standards and commitments” (15-16 July 2004)²⁰ and “Challenges of election technologies and procedure” (21-22 April 2005), respectively.²¹ Both addressed the central issue of a possible “Copenhagen 2 Document” and, in conformity with OSCE standard practice, issued only non-mandatory recommendations on the matter. The proceedings revealed an overwhelming current of opposition (led by the United States and the European Union) to the re-drafting of the Copenhagen Document.²² The idea of transforming the criteria contained in the Copenhagen Document into new legally binding commitments (another of Moscow’s preferred options) was also discarded by a clear majority of participants, who stressed that the political nature of the criteria made them more practical to address on a regular basis.²³ More positively, however, there was general recognition of the need for additional commitments based on elements not reflected in the Copenhagen Document and beginning with those identified in ODIHR’s inventory. In short, what seemed acceptable for all was a “Copenhagen Plus” and not a “Copenhagen 2” text.

In this connection, two areas of consensus emerged. The first was related to the specific needs of persons belonging to vulnerable groups, i.e. the extension of equal and universal suffrage to persons belonging to these groups, in particular to those that traditionally have low participation rates: women, young people, national minorities, disabled people, and internally displaced persons – with some isolated attempts as well to include legally incarcerated persons, migrant workers, and “non-citizens” of Russian ethnicity living in Estonia and Latvia.²⁴ The second area of general consensus con-

18 Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, Decision No. 5/03, Elections, MC.DEC/5/03, p. 81, at: <http://www.osce.org>.

19 Ibid.

20 Final Report of the meeting: PC.SHDM.GAL/11/04 of 28 October 2004. Actually, the idea of the supplementary meeting was proposed by Russia at the 2002 regular Human Dimension Implementation Meeting.

21 Final Report of the meeting: PC.SHDM.GAL/5/05 of 12 July 2005. Beside new election technologies, the meeting also re-opened the debate on updating the Copenhagen Document.

22 See, e.g., PC.SHDM.GAL/11/04, cited above (Note 20), p. 2; see also PC.SHDM.DEL/24/04 of 16 July 2004 (United States position).

23 See PC.SHDM.GAL/11/04, cited above (Note 20), p. 3.

24 The last category was referred to by Alexander Veshnyakov in his keynote speech to the 2004 Supplementary Human Dimension Meeting on “Electoral standards and commitments”, cited above (Note 11), p. 27. With respect to internally displaced persons, three million of whom are to be found in the OSCE area, it is to be noted that there are as yet no OSCE election-related commitments. On that issue, see the statement delivered at the

cerned a matter on which the Council of Europe has already adopted specific standards: *electronic voting*. The latter is emerging as a common preoccupation in the OSCE area because – besides offering the potential of increasing voter participation, producing faster and more accurate tabulation of results, and better meeting the special needs of persons belonging to vulnerable groups – it poses serious challenges to public confidence, transparency, and accountability. Another area of possible additional commitments, the effective implementation of OSCE election commitments, appeared to be less consensual. The need to ensure appropriate follow-up to ODIHR’s election recommendations did lead to proposals, such as the discussion of these recommendations at Permanent Council meetings and a system of regular reporting by the participating States concerned. However, some voices (most predictably from the CIS member countries) considered that follow-up mechanisms should be “differentiated and adapted to various political contexts”.²⁵

At present, Russia is insisting that a blueprint for a “Copenhagen Plus Document” be rapidly elaborated (at expert level), drawing on the Venice Commission’s Code of Good Practice in Electoral Matters as well as on two legally binding texts directly inspired by Moscow: the Convention on Standards of Democratic Elections, Electoral Rights and Freedoms in the States-Participants of the Commonwealth of Independent States and the Draft Convention on Election Standards, Electoral rights and Freedoms proposed by the Association of Central and Eastern European Election Officials (ACEEEO).²⁶ As they now pertain to the debate on election standards, those instruments deserve some brief comments:

- *Code of Good Practice in Electoral Matters*. The idea of this document emanated from the Parliamentary Assembly of the Council of Europe, which, in November 2001, called on the European Commission for Democracy through Law (Venice Commission) to create a special body to discuss electoral issues on a regular basis and to devise an instrument specifying the “common European electoral heritage”,²⁷ i.e. the underlying principles of European electoral systems. The Assembly argued that existing basic rules for the conduct of elections were dispersed among too many texts and piecemeal in nature. Thus a consolidated instrument

2004 Supplementary Human Dimension Meeting by Walter Kälin, UN Representative on the human rights of internally displaced persons, PC.SHDM.NGO/1/05/ of 22 April 2005.

25 PC.SHDM.GAL/11/04, cited above (Note 20), p. 10.

26 See Alexander Veshnyakov’s keynote speech to the 2004 Supplementary Human Dimension Meeting on “Electoral standards and commitments”, cited above (Note 11), pp. 25-26). Initially, Russia favoured “either a European Convention [on election standards] or a compilation of commitments in a *Copenhagen-2* format”. PC.DEL/563/02 of 16 July 2002; see also PC.DEL/339/02 of 10 May 2002.

27 Parliamentary Assembly of the Council of Europe, Resolution 1264 (2001), *Code of good practice in electoral matters*, 8 November 2001. See also the Clerfayt Report on “Drafting a standard Code of Practice in electoral matters and the establishment of a permanent European control body”, Parliamentary Assembly of the Council of Europe, Doc. 8327 of 10 February 1999.

was needed for obvious reasons – at minimum to strengthen the credibility of election monitoring, as well as to offer a template to member states for drafting or revising electoral legislation. In fact, the initiative was also largely dictated by the endemic rivalry between the Parliamentary Assembly of the Council of Europe and the OSCE on several human dimension matters – and electoral monitoring, in particular. Given that ODIHR is generally present on the spot on a long-term basis (well before election day), it often assumes the natural role of coordinating the short-term monitoring missions deployed by other European bodies. Understandably, ODIHR's high-profile leading role frustrates the Council of Europe's parliamentarians, who feel that they cannot present their institutional opinion on equal terms with the OSCE.²⁸ Be that as it may, a Code of Good Practice in Electoral Matters was adopted by the Venice Commission in October 2002²⁹ and subsequently endorsed by the Committee of Ministers. The Parliamentary Assembly recommended that the Committee of Ministers transform it into a legally binding Council of Europe convention.³⁰ The Ministers did not follow suit. In a special declaration, they decided only to call on governments and parliaments to take the Code into account when drawing up and implementing electoral legislation and to disseminate it more widely in relevant circles.³¹

In the spirit of the Copenhagen Document, the Code identified (in addition to the principle of periodicity of elections) *universal, equal, free, secret, and direct suffrage* as the five pillars of the “common European electoral heritage”. It also stressed that democratic elections were not possible without respect for fundamental human rights (in particular freedom of expression, assembly, and association), the stability of electoral legislation, which must have at least the rank of statute law (as a protection against potential political manipulation) and, finally, procedural guarantees providing for the organization of elections by an impartial body, monitoring by both national and international observers, the effective management (including security) of polling stations, and, finally, the transparency of funding of political parties and electoral

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- 28 This argument is clearly mentioned in a subsequent Clerfayt Report on a “Code of good practice in electoral matters”, Parliamentary Assembly of the Council of Europe, Doc. 9267 of 15 October 2001, para. 50. Since 1997, as a general rule, ODIHR has coordinated its monitoring activities with the Parliamentary Assembly of the Council of Europe and the European Parliament, as well as with the OSCE's own Parliamentary Assembly.
 - 29 Parliamentary Assembly of the Council of Europe, *Code of good practice in electoral matters*, Doc. 9624 of 13 November 2002. As requested by the Parliamentary Assembly, the Venice Commission also established a special working organ named “Council for Democratic Elections”.
 - 30 See Parliamentary Assembly of the Council of Europe, Recommendation 1595 (2003), *Code of Good Practice in Electoral Matters*, 30 January 2003.
 - 31 See Committee of Ministers of the Council of Europe, CM/AS (2004) Rec 1595 final of 21 June 2004. See also CM/AS (2003) Rec 1595 final of 13 October 2003.

campaigns. As recognized by one member of the Venice Commission, the Code and ODIHR's own inventory of commitments, though sharing a common objective (preservation and development of the European electoral heritage), differ in style and approach: ODIHR's inventory is focused on practical problems and the Code on basic principles.³²

- *The CIS Convention and the ACEEEO's Draft Convention.* These texts require joint consideration because of the shared legal approach that underpins them and the fact that both reflect Russia's political stance. The "Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States" was signed by seven CIS States on 7 October 2002; it entered into force on 24 November 2003, following ratification by three of them.³³ As to the Draft Convention on Election Standards, Electoral Rights and Freedoms, which the ACEEEO adopted at its eleventh annual conference (Moscow, September 2002), its elaboration was suggested and undertaken by the Central Election Commission of the Russian Federation.³⁴ It offers practically the same substance as the CIS Convention, with articles differently organized or presented in a different order.³⁵ For instance, both texts include similar provisions banning foreign financial assistance to political parties or candidates, strictly regulating the role of international observers and referring extensively to national minorities. The basic difference between the ACEEEO draft text and the CIS Convention is that the latter provides for an "Interstate Electoral Council", composed of national Central Electoral Commissions, tasked to assist in election observation, as well as to monitor the Convention's implementation (Article 21).

Asked to deliver legal advice on the ACEEEO Draft Convention, the Venice Commission reported a number of technical legal imperfections (absence of explicit mention of presidential elections, imprecise wording on remote voting, redundant reference to the principle of "genuine elections" which is an aspect of free suffrage, insufficient reference to the principle of proportionality with respect to the right to elect and be

32 For detailed differences between the two texts, see the comments made by Professor Christoph Grabenwarter at the 2004 Supplementary Human Dimension Meeting on "Electoral standards and commitments", in: PC.SHDM.GAL/11/04, cited above (Note 20), pp. 42-43.

33 See Alexander Veshnyakov's keynote speech to the 2004 Supplementary Human Dimension Meeting on "Electoral standards and commitments", cited above (Note 11), pp. 25-26.

34 See the Resolution of the Eleventh General Assembly of the ACEEEO on the adoption of the Draft Convention, Moscow, 28 September 2002.

35 For the text of the Draft Convention, see Parliamentary Assembly of the Council of Europe, Draft Convention on election standards, electoral rights and freedoms, Doc. 9646 of 20 December 2002. The ACEEEO is a Budapest-based NGO set up in 1991 at the initiative of the International Foundation for Electoral Systems (IFES). Its main aim is to encourage information exchange and to promote the conduct of fair, open and democratic elections in Central and Eastern European countries.

elected) and signalled that, contrary to current international law practice, Article 3 para. 3 imposed prohibitions on individuals. It also expressed reservations about Article 2 para. 7, which, by providing for a general prohibition on participation of foreigners in electoral campaigns, conflicted with the law of the European Union. The Commission did admit that the proposed Convention reflected the essential features of the European electoral heritage. However, it pointed out that its drafters seemed to have been more preoccupied with establishing how democratic elections must be conducted than with defining the detailed features of the democratic vote. In short, the text privileged election standards more than voting rights.³⁶

Updating OSCE Election Monitoring Standards: A Politicized Issue

International monitoring aims to assess the extent to which an election complies with international standards for free and fair elections. As such, it is especially critical for emerging democracies, where traditions of impartiality are lacking. Since the success of an election is dependent upon acceptance of its outcome by all the actors involved, confirmation of its lawfulness by international monitors (if not formal certification, the promotion of which ODIHR has carefully been avoiding) represents a confidence-building measure that enhances trust in the system of access to power and contributes to political stability under normal conditions. Furthermore, in conflict situations, certification can serve conflict prevention purposes or, more often, crown post-conflict peacebuilding programmes. The OSCE can be credited (through ODIHR) with playing a pioneering role in this connection, since it is the only intergovernmental organization whose participating States are committed to both the conduct of free and fair elections and to acceptance of international monitoring.

ODIHR's Pivotal Role

Monitoring of free and fair elections is certainly the most high-profile activity performed by ODIHR. However, under para. 8 of the Copenhagen Document, the participating States committed themselves to inviting only observers representing other participating States (as well as interested NGOs) to monitor the elections taking place on their territory. ODIHR gradually came into the picture later. In 1993, the Rome Ministerial Council Meeting agreed on the general principle of strengthening ODIHR's election monitoring func-

36 See Venice Commission, Opinion No 253/2003, CDL-EL (2004) 006 of 1 March 2004. For a comparative table of the draft Convention and the Venice Code of Good Practice, see Opinion No 253/2003, CDL-EL (2004) 008 of 4 March 2004.

tion.³⁷ Next, the Budapest Summit (1994) decided that the ODIHR would play “an enhanced role in election monitoring, before, during and after elections”³⁸ and, in this context, would assess the conditions for the free and independent functioning of the media; it also instructed ODIHR to devise a handbook for OSCE election monitors.³⁹ Finally, the Istanbul Charter for European Security reaffirmed the commitment to conduct free and fair elections and *expressly* obliged participating States to invite observers from ODIHR.⁴⁰

ODIHR monitors elections (generally parliamentary and presidential) using a methodology developed in its Election Observation Handbook, which includes a formal “Code of Conduct for OSCE/ODIHR Observers”.⁴¹ A number of other practical reference guides supplement the Handbook. They deal with specific issues, such as the resolution of election disputes, participation of persons belonging to special categories of people (national minorities and women), legal electoral frameworks, and domestic observation.⁴² Arguably, ODIHR makes use of a transparent methodology for both long-term and short-term election monitoring. Regularly adapted to respond to the normal evolution of electoral contexts and new challenges, that methodology has (after over 150 observed elections) certainly stood the test of time. It contributed to establishing ODIHR as the leading regional body for election monitoring with a high-profile image of professionalism and impartiality.⁴³

Russian Politically Motivated Accusations against ODIHR

However, ODIHR has been (and still is) the direct target of harsh criticism from Russia and other CIS member states under the generic argument of “double standards”. In the Moscow Declaration on the State of Affairs in the OSCE, ODIHR has bluntly been accused of violating its mandate by “giving

37 See CSCE, Fourth Meeting of the Council, Rome, 30 November-1 December 1993, Decisions of the Rome Council Meeting, para. IV.4, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe, Basic Documents, 1993-1995*, The Hague/London/Boston 1995, pp. 192-214, here: p. 203.

38 Budapest Document 1994, Budapest, 6 December 1994, Budapest Decisions, para. 12 of chapter VIII, in: *ibid.*, pp. 145-189, here: p. 177.

39 See *ibid.*

40 See Organization for Security and Co-operation in Europe, Charter for European Security, Istanbul, November 1999, para. 25, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 425-443, here: p. 433. The text also committed the participating States to securing the full right of persons belonging to national minorities to vote and to facilitating the rights of refugees to participate in elections taking place in their home countries.

41 The Handbook was first published in 1997. Its fifth edition was published in 2005.

42 *Resolving Election Disputes in the OSCE Area. Towards a Standard Election Dispute Monitoring System* (2000), *Guidelines to Assist Minority Participation in the Electoral Process* (2001), *Guidelines for Reviewing a Legal Framework for Elections* (2001), *Handbook for Domestic Election Observers* (2003) and *Handbook for Monitoring Women's Participation in Elections* (2004).

43 An official of the European Commission has recently recognized that “it is from ODIHR that the European Union drew inspiration when developing its own important capacity in the area of election observation”, PC.SHDM.GAL/5/05, cited above (Note 21), p. 52.

selective, intensified attention to some countries while ignoring the problems of other participating States”, displaying “unwillingness to take into account the realities and specific features of individual countries”, and frequently muddling through “politicization”.⁴⁴ In the following months, Belarus and the Central Asian states charged ODIHR with using inconsistent monitoring standards, establishing Election Observation Missions that were imbalanced in terms of the composition of their staff (i.e. with overwhelmingly English-speaking monitors recruited from the same restrictive list of participating States), taking unilateral stands, and, above all, issuing assessment reports devoid of balance or objectivity, which amounted to interference in the internal affairs of sovereign States.⁴⁵ Moscow attributes such trends to the excessive autonomy enjoyed by ODIHR (because of insufficient control from the OSCE’s political decision-making bodies) and, to the lack of an exact OSCE monitoring methodology. It calls accordingly for the development of “uniform criteria” based on “objective standards”, which would compel ODIHR to adhere strictly to the principles of political neutrality and impartiality and, thus, perform “unbiased evaluations” across the OSCE area.⁴⁶

At first sight, the Russian demand seems to concern a technical revision of ODIHR’s election observation methodology with a view to its harmonization with the CIS standards outlined in the 2002 Convention on the Standards of Democratic Elections, Electoral Rights and Freedoms in the Member States of the Commonwealth of Independent States and developed through special “Regulations on the observation mission” approved at Ministerial level (December 2002).⁴⁷ However, the Russian argumentation should not be taken entirely at face value. Complaints about political bias and monitoring methodology form only the visible tip of the iceberg. The real problem is fundamentally political in nature and one in which ODIHR does not represent the direct or real foe. It has to do with the bald fact that ODIHR and Russian-controlled CIS observer groups arrive at diametrically opposed evaluations of elections taking place in the CIS space. A number of cases of conflicting assessments have unfolded in the last couple of years. Thus, in March 2004, while ODIHR concluded that the presidential elections in Russia “did not

44 PC.DEL/630/04, cited above (Note 8).

45 See PC.DEL/1022/04 and PC.DEL/1023/04 of 27 October 2004 (Belarus), and PC.DEL/1225/04/Corr.1 of 17 December 2004 (Central Asian states, except Uzbekistan). See also MC.DEL/61/04 of 7 December 2004 (Russian position at the Sofia Ministerial Council).

46 The Russian and CIS position was announced by Alexander Veshnyakov and Assan Kozhakov, Deputy Chairman of the CIS Executive Committee, at the 2005 Supplementary Human Dimension Meeting on “Challenges of election technologies and procedure”, PC.SHDM.GAL/3/05 of 21 April 2005.

47 Noticeably, the CIS Convention reserves the right of the states parties “to deprive of accreditation those international observers who are breaching the laws, generally accepted principles and the international law standards” (Article 15 para. 7). An identical provision is also included in the ACEEEO Draft Convention under Article 19 para. 8.

adequately reflect principles necessary for a healthy democratic election”,⁴⁸ CIS monitors gave a laudatory evaluation. Similarly, ODIHR reported that the parliamentary elections held in Belarus (October 2004), Uzbekistan (December 2004), and Tajikistan (February 2005) fell significantly short of OSCE standards – while the CIS monitors hailed them as “transparent”, “free”, and “legitimate”. In the same vein, the second round of the Ukrainian presidential elections of November 2004 was found massively fraudulent by ODIHR, but credited with transparency and fairness by the CIS monitoring group. Even more significantly, while ODIHR considered the repeat second round of the Ukrainian presidential elections of December 2004 as free of major irregularities, the CIS group considered its outcome “illegitimate”. An analogous scenario developed with respect to the March 2005 parliamentary elections in Moldova, which were considered by ODIHR to be in general compliance with most international commitments, but were stigmatized by the CIS as a rigged consultation in favour of a pro-Western (though Communist-style) government. All these examples tend to demonstrate that the crux of the matter is not standards, but high political stakes. It can be argued that Russia is less angered by ODIHR as such than by the undermining of its foreign policy in the politico-strategic backyard of the CIS.

The OSCE Reaction

At the OSCE, positions on the issue of election monitoring are much more rigid than those on election standards. Indeed, from the proceedings of the two Supplementary Human Dimension Meetings organized in 2004-2005 on election matters, one conclusion clearly emerges: General opinion (here again led by the United States and the European Union) does not concur with the Russian/CIS criticisms and continues to praise ODIHR for its impartiality and professionalism.⁴⁹ Apart from the generalization of ODIHR’s monitoring operations across the whole OSCE area,⁵⁰ the only main element of consensus concerns the geographical diversification of the composition of OSCE’s Election Observation Missions through an extra-budgetary fund specially set up in 2001 for this purpose.⁵¹ However, the problem is complicated by the fact that not all participating States seem willing or able to second observers at any given time.⁵²

48 OSCE, Office for Democratic Institutions and Human Rights, Russian Federation, Presidential Election, 14 March 2004, OSCE/ODIHR Election Observation Mission Final Report, ODIHR.GAL/39/04 of 2 June 2004, page 1.

49 PC.SHDM.GAL/5/05, cited above (Note 21), p. 12.

50 Initially, on the basis of an “added value” argument (according to which monitoring elections in mature democracies would only be an unduly costly formality), the ODIHR abstained from operating in Western Europe and North America. However, as from 2002, the trend was reversed with the monitoring of elections in Spain, the United States, France, the United Kingdom, Turkey, and of the June 2004 European Parliament elections.

51 See PC.SHDM.GAL/5/05, cited above (Note 21), p. 4.

52 See PC.SHDM.GAL/5/05, cited above (Note 21), pp. 4. and 12.

Conclusion

During its OSCE Chairmanship in 2005, Slovenia has rightly set election issues among its priority concerns.⁵³ For its own part, the 2005 Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE addressed the issue in its final report.⁵⁴ The report's recommendations reflect the two elements of what could be the basis of a forthcoming compromise between the dissatisfied CIS countries and the rest of the participating States: development of additional *election commitments* (in particular to take due account of the challenges raised by new technologies) and of *election monitoring standards* guaranteeing equal status to all participating States versus fresh commitments on post-election follow-up to ensure better implementation of ODIHR's recommendations. The report proposed that "special attention should be devoted to election monitoring standards based on experience acquired. Criteria and methodology that ensure objectiveness, transparency and professionalism should be further developed and an approach taken that guarantees equal treatment of all participating States"⁵⁵ – while also suggesting that "the existing handbook on election monitoring and other election mechanisms and practices should be periodically updated with the active involvement of election practitioners from various election monitoring bodies".⁵⁶ On the other hand, it has encouraged governments and ODIHR "to pay more attention to post-election follow-up through dialogue and practical co-operative support"⁵⁷ and has called upon ODIHR to "report to the Permanent Council (PC) on election follow-up"⁵⁸ after consultation with the participating State concerned.

The latest development in the general field of election standards and monitoring has been, on 27 October 2005, the endorsement by ODIHR (together with some 20 intergovernmental and non-governmental organizations) of a Declaration of Principles for International Election Observers and a related Code of Conduct for International Election Observers jointly framed by the United Nations Electoral Assistance Division, the Carter Center, and the National Democratic Institute for International affairs.⁵⁹ While a number of options remain open, four interim conclusions can be advanced at this stage:

1. The adoption of additional *election commitments* supplementing existing ones and reflecting evolving election issues is legitimate, provided

53 See CIO.GAL/64/05 of 9 May 2005 and CIO.GAL/104/05 of 4 July 2005.

54 *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, CIO.GAL/100/05 of 27 June 2005, reproduced in this volume, pp. 359-379.

55 *Ibid.*, pp. 368 (para. 24c).

56 *Ibid.* (para 24c).

57 *Ibid.* (para 24d).

58 *Ibid.* (para 24d).

59 Available at: http://www.accessdemocracy.org/library/1923_declaration_102705.pdf.

that the aim is to arrive at a “Copenhagen Plus” and not a “Copenhagen 2 Document”.

2. As to additional *monitoring standards*, their development is also not superfluous: By definition, democracy and the standards of democratic processes are always perfectible.⁶⁰ Nevertheless, additional standards could only be welcome to the extent that they do not have a straitjacketing effect by allowing a monitored state’s self-judgment to prevail over the conclusions arrived at independently by ODIHR. It is worth noting that during the 2005 Supplementary Human Dimension Meeting on “Challenges of election technologies and procedure”, some participants (most predictably from the CIS) raised the idea that ODIHR could submit its final election reports to the Permanent Council *prior to release*.⁶¹ ODIHR’s autonomy of judgment must be preserved at all costs, lest the credibility of the OSCE in election monitoring be doomed.
3. Russia’s insistence on strengthened *OSCE-CIS relationships* is perfectly acceptable. However, the fostering of co-operation and co-ordination between the OSCE and the CIS in the field of election monitoring should not be achieved at the price of lowering the OSCE’s demanding monitoring standards under the guise of “harmonization”.
4. Election standards and election monitoring standards are no doubt essential for ensuring that free and fair elections are possible, but equally crucial is the prompt and effective *compliance with ODIHR’s recommendations*. No reform of the OSCE election regime would be meaningful without an agreed-upon procedure for follow-up to ODIHR’s post-election reports.

60 For a critical approach towards ODIHR’s methodology, see Hrair Balian’s sharp analysis, ODIHR’s Election Work: Good value?”, in: *Helsinki Monitor* 3/2005, pp. 169-75.

61 PC.SHDM.GAL/5/05, cited above (Note 21), p. 12.

Promoting Democracy by Means of International Election Observation: The ODIHR Election Observation Mission to Albania¹

The parliamentary elections held in Albania on 3 July 2005 were observed by the international monitors of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR). The aim in observing the poll was to examine – as far as possible across the whole country – Albania's compliance with the international standards for free, fair, and democratic elections to which it had committed itself within the framework of the OSCE (then CSCE) by signing the Copenhagen Document of 1990.² By sending an election observation mission, ODIHR made a further contribution to the democratization process in Albania's starkly polarized political culture, which is dominated by long-lasting and intense power struggles between the two largest parties. In the past, Albania's development into a democracy under the rule of law has regularly been interrupted by political and social turmoil that periodically brought the country to the brink of collapse.

Albania's Precarious Democratization Process

Following the end, in 1991, of the Communist one-party rule of the Albanian Party of Labour, Albania embarked upon a turbulent transformation process. The Socialist Party of Albania (SP), the successor party to the Albanian Party of Labour, did succeed in winning the country's first free elections in 1991 and provided Albania with both its President, Ramiz Alia, and its government under Prime Minister Fatos Nano. However, against a background of mass anti-Communist demonstrations, the flight of large numbers of refugees to Italy, and nationwide looting of food, it was not long before an all-party government was formed with the involvement of the opposition parties, and, above all, the Democratic Party (DP) under Sali Berisha. Parliamentary elections were brought forward to 1992, which enabled the DP to form a new government.

The newly elected President Berisha instigated a wave of arrests and trials of former Communist officials, which lasted from 1992 until 1996.

1 The following contribution reflects solely the opinions of its authors and is not intended to reflect the positions of any of the organizations and missions discussed in the text.

2 Conference on the Human Dimension of the CSCE, Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht 1993, pp. 438-465, sections 6-8.

These increasingly took on the character of a political cleansing operation targeting the SP, which saw both Nano and Alia receive long prison sentences. The repressive policies of the ruling DP and the failure of Berisha's attempt to have his Presidential powers extended by constitutional referendum led to several splits within the DP and a number of cabinet reshuffles. In the run-up to the 1996 parliamentary elections, a total of 50 opposition candidates were denied the right to stand. In addition, a new electoral code was passed that greatly disadvantaged the smaller opposition parties. ODIHR expressed its doubts as to the fairness of the 1996 parliamentary elections, which were boycotted by the opposition parties and from which the DP under Berisha again emerged victorious. A joint request by the OSCE and the Council of Europe to have the elections rerun under the oversight of international observers was rejected by Berisha.

The last vestiges of the Berisha administration's political credibility evaporated in 1997 in the wake of a national scandal involving fraudulent investment schemes. The collapse of the so-called pyramid schemes saw a third of Albania's population, attracted by the high interest rates promised by, among others, members of the government, lose the bulk of their wealth. The Berisha government was suspected of having enriched itself as well as of involvement in numerous money laundering operations.³

Following the collapse of the pyramid schemes, Albania found itself on the brink of civil war: Rioting citizens had looted weapons arsenals of the military and the government had lost control of large parts of the country, including parts of the capital, Tirana. To re-establish the state's authority, Berisha turned to the international community, requesting a military and police presence with a mandate from the UN Security Council. This led to the stationing of up to 7,000 personnel in the country. In this chaotic social and political situation (including an assassination attempt on Berisha), the OSCE – and ODIHR in particular – assumed in 1997 the difficult task of monitoring the parliamentary elections with a body of 500 international election observers. These elections brought the opposition SP to power, under their leader Fatos Nano, who had been freed from prison by supporters shortly before the poll and granted amnesty by Berisha. A coalition of the SP and several smaller parties controlled some two-thirds of parliamentary seats. Political oppression continued undiminished under Nano in 1998. In a simple reversal of positions, it was now directed at members of the DP, who largely boycotted parliamentary activities. Following the arrest of leading DP officials and the assassination of the party's vice president, Azem Hajdari, Berisha called for the overthrow of the government and the occupation of Parliament. In the aftermath of the crisis, Nano's government was forced to dissolve it-

3 On the issue of money laundering and the possible involvement of the government as an endemic problem in Albania, see Helen Santiago Fink/Sebastian Baumeister/Ledia Muco, Money Laundering: The Case of Albania, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 415-428, here: pp. 421ff.

self. Pandeli Majko was chosen from the ranks of the SP to be the new Prime Minister. A referendum was also held on a new constitution, which took effect in November 1998.

In 1998-99, during the Kosovo conflict, support for the DP grew in the north of the country. This was the base of operations of the Kosovar UÇK/KLA, which was suspected of having received weapons from military arsenals plundered in 1997 with the collusion of DP party officials. The war created around half a million Kosovar refugees, further intensifying the already tense internal situation in Albania.

In 1999, Majko stood down as Prime Minister after losing to Fatos Nano in an election for the position of party chairman. He was replaced by his former deputy, Ilir Meta. ODIHR described the elections held in 2001 as an improvement on earlier polls, noting, however, that they did not comply with international standards in all respects.⁴ The result was that Meta's SP-led coalition government retained power. In 2002, an internal struggle within the SP led to Meta, who was known to favour reform, being unseated through the efforts of Nano and his traditionalist wing. Majko made a brief return to office as a compromise candidate acceptable to both wings of the party. Nano's longer-term return to power was finally achieved by means of an agreement with his longstanding political rival, Berisha. In July 2002, Parliament elected former General Alfred Moisiu to the presidency. He was a close associate of Berisha's, but officially unaligned. In return, the votes of the DP helped Fatos Nano secure the position of Prime Minister. These increasingly co-operative relations between the SP and the DP now enabled Albania to enter into negotiations with the EU, within the scope of the Stabilization and Association Process. However, the local elections of October 2003 were the cause of renewed tensions when the DP accused the governing party of ballot-rigging and successfully demanded that the results of many counts be reviewed. Nonetheless, Nano's government was successful in consolidating its position in Parliament and remained in power until the 2005 elections. Ilir Meta and several other SP members split from the party in 2004 and founded a new party, the Socialist Movement for Integration (SMI), which was the third largest parliamentary party until the elections of July 2005.

The 2005 parliamentary elections must thus be judged not just against the background of Albania's turbulent political development and the continuing polarization in the positions of the SP and the DP, but also in terms of the protracted inner-party conflicts, especially those within the Socialist Party.

4 Cf. OSCE/ODIHR (eds), *Republic of Albania, Parliamentary Elections, Final Report*, Warsaw, 11 October 2001.

Following the grave irregularities in the parliamentary elections of 2001, a new electoral code was passed by the Albanian Parliament in 2003, replacing the previous version, whose defects were obvious.⁵ By April 2005, this too had been amended in line with the recommendations of an expert team from ODIHR and the Council of Europe.⁶ Nonetheless, it continued to be criticized for not complying with the stipulation in the Albanian constitution that the distribution of seats in Parliament match as closely as possible the national share of the vote won by each party.⁷ To achieve this, the 40 “additional member” seats of the 140-member Albanian Parliament would need to be distributed in a way that takes account of losing votes cast in the contests for the 100 seats decided using the first-past-the-post system (i.e. according to the mixed member system). However, under Albania’s Electoral Code, the additional member seats are merely shared out according to the proportion of second votes received by each party, and the proportion of votes received by defeated candidates in first-past-the-post contests is disregarded (i.e. the parallel voting or supplementary member system is used).⁸ In addition, the larger parties can make strategic use of the voting system by calling on their supporters to split their first and second votes between themselves and their smaller allies, thus increasing the number of seats of the electoral alliance as a whole. The availability of this trick, known as the “Dushk strategy”,⁹ disadvantages smaller parties that have not entered into alliances with the larger parties, i.e. the SP and the DP. Its only benefit is to the larger parties, making it easier for them to win a majority of seats. Although this strategy is perfectly legitimate in formal legal terms, it amounts to a *de facto* perversion of both voter intentions and the constitutional requirement for proportionality.

Problems with electoral registration were a further issue during the 2005 parliamentary elections. Shortly before the election, responsibility for voter registration and the creation of new electoral registers was passed from the Central Elections Commission (CEC) to the local authorities, who had the task of updating the electoral registers with the help of their registers of residents. The electoral registers were then to be verified by means of house-calls made by employees of the local registration offices. These, however, faced

5 Cf. Assembly of the Republic of Albania (ed.), *The Electoral Code of the Republic of Albania*, approved by Law no. 9087, amended by Laws nos. 9297, 9341, and 9371, Tirana 2005.

6 Cf. ODIHR/Council of Europe, Joint Recommendations on the Electoral Law and the Electoral Administration in Albania, 20 November 2004, *Opinion no. 273/94*, CDL-AD (2004)017, Warsaw/Strasbourg.

7 Cf. *Albanian Constitution*. Approved by the Albanian Parliament on 21 October 1998, Article 64.2, at: <http://www.president.al/english/pub/doc/Albanian%20Constitution.pdf>.

8 Cf. *The Electoral Code of the Republic of Albania*, cited above (Note 5), Articles 65-68.

9 The strategy is named after the constituency of Dushk, where this method was used to secure the SP its majority in the parliamentary elections of 2001. On the Dushk phenomenon, see, for example, Altin Raxhimi, A Democratic Upset, in: *Albanian Daily News*, 9-10 July 2005, pp. 2 and 11.

nearly insurmountable logistical difficulties in terms both of the time available and the staff requirements, especially since many voters were not properly registered or were not at home when the officials called at their houses. Over the last decade, Albania's larger cities, in particular, have seen rapid growth in the number of informal residents as people have moved away from the countryside. Furthermore, large numbers of Albanian citizens have emigrated to EU countries without informing the Albanian authorities. As a result, Albania's local registry offices were unable to perform the difficult but vital task of producing accurate electoral registers. In many cases, they had not even received appropriate training. The most common errors included adding names to the register although the necessary personal documentation was not provided, or simply making mistakes in data entry. The lack of authoritative information on street names and house numbers (and, indeed, the fact that many streets do not have names, nor houses numbers) was an additional obstacle to the creation of comprehensive, accurate electoral registers. Yet another problem concerned voter registration in illegally built housing blocks and peripheral urban districts, as all voters resident in these areas were given the same code, which enabled manipulation of the poll.¹⁰ There were also complaints that over 1,400 Tirana-based students had not been allowed to vote in the capital but rather required to vote in their towns of origin or removed entirely from the electoral rolls.¹¹ As a result, voter registration was a highly contentious issue in the entire period leading up to the elections. This was not least a result of the fact that so many potential voters remained unregistered, especially in cities, where they amounted to a significant proportion of those eligible to vote. There were also fears that the large number of double entries on the electoral roll would enable some to vote more than once.

The final criticism of the way the new electoral code had been implemented concerned the creation of constituencies of unequal size. As a rule, constituencies were not supposed to contain more than 25,000 voters. In practice, however, some contained over 45,000, others hardly more than 20,000.¹² However, comparability of constituency size is essential to ensure that each vote has an equal weight, especially in the first-past-the-post competitions, and this is necessary to ensure that the universal principle of equal suffrage is upheld – a general principle of Albania's electoral code.¹³ In addi-

10 Cf. OSCE Parliamentary Assembly/OSCE/ODIHR/European Parliament/Parliamentary Assembly of the Council of Europe (eds), *International Election Observation Mission, Parliamentary Election, Republic of Albania, 3 July 2005, Statement of Preliminary Findings and Conclusions*, Tirana, 4 July 2005, p. 6 (hereafter cited as *Statement of Preliminary Findings and Conclusions*).

11 This occurred despite the fact that the rights of individual students to register to vote in the town in which they were studying had been upheld by the courts. Cf. *ibid.*, p. 12.

12 Cf. OSCE/ODIHR (ed.), *Guide for Short-Term Observers. Republic of Albania, Parliamentary Elections 2005*, Tirana, Annex C, p. 86.

13 Cf. *Electoral Code of the Republic of Albania*, cited above (Note 5), Article 3.5.

tion, the recommended maximum number of 1,000 eligible voters per polling station was often exceeded.

Phases, Organization, and Activities of the ODIHR Election Observation Mission

ODIHR's observation of the Albanian parliamentary elections was instigated on the invitation of the Albanian government. In April 2005, ODIHR sent a needs assessment mission, consisting of four experts, to Tirana for a week. This mission's task was to gather as much information as possible on the progress that had been made in preparing for the elections – including the identification of problem areas – to act as a basis for recommendations on sending an international ODIHR observation mission. The members of the needs assessment mission held discussions with the President, the Prime Minister, the President of the Parliament, ministry representatives, members of the CEC, and representatives of political parties and the international community in Albania. The results of these discussions and the progress report on preparations for the election were reflected in the mission's final report.¹⁴ The report describes the Albanian electoral system as overly complex and open to manipulation, despite the reforms introduced by the government in its amendment of the Electoral Code of 10 January 2005. The ongoing incompleteness of voter lists, which contained a number of duplications and inaccuracies, was also criticized. The findings and recommendations of the needs assessment mission's report determined the key focal points of the ODIHR Election Observation Mission (EOM).

The EOM proper was established at the start of the pre-election period in May 2005. It consisted of a Core Team with 14 members, and a total of 26 long-term observers (LTOs), who were to work in pairs in twelve regions of Albania. The Observation Mission received comprehensive support from the OSCE Presence in Albania in the form of information. The key tasks of the LTOs, each of which was responsible for a number of constituencies, included observing and assessing the work of the Zone Election Commissions (ZECs), campaigning, and looking out for infringements of the Electoral Code. The LTOs were also charged with establishing and maintaining contacts with local and regional election commissions, local authorities, political parties and their candidates, and local media and civil society organizations. The EOM published two interim reports during the pre-election period detailing the findings and assessments of the LTOs and the Core Team. They also spent much of their time co-ordinating the more than 400 short-term ob-

14 Cf. OSCE Office for Democratic Institutions and Human Rights, *Republic of Albania, Parliamentary Elections 2005, OSCE/ODIHR Needs Assessment Mission Report, 12-16 April 2005*, Warsaw, 29 April 2005, and OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Election Observation Mission to Albania, Parliamentary Elections 2005, Interim Report 1, 17-30 May 2005*, Tirana, 6 June 2005.

servers (STOs)¹⁵ that joined the Mission in the immediate run-up to the election and on polling day itself.¹⁶ Both the statement given by the EOM at a press conference the day after the election, at which it gave its initial impressions of the conduct of the poll, and the Mission's formal preliminary statement¹⁷ were based in part upon extensive observation activities and the vote-counting work of the STOs. Further observations of vote-counting and an overview of complaints received by the CEC were contained in a third interim report, published some ten days after the election.¹⁸ The final report of the EOM was drawn up following the announcement of the final election results and published in November 2005. As well as an overall analysis, it contains concrete recommendations for improving future elections in a number of areas, including the electoral system and voter registration.¹⁹

Observing Campaigning

Official campaigning in Albania's parliamentary elections began 30 days before polling day. The two largest parties in particular – the SP and the DP – used rallies and adverts to gain popular support. The campaigning profile of even the third largest party, the SMI, was significantly lower than that of the big two. The smaller parties were virtually invisible, and generally relied on campaign posters rather than public meetings to get their message across. During this phase, it became clear that the DP, in particular, was going to actively include its smaller allies – especially the Republican Party (RP) – in its election campaign. At events organized by the DP and its allies, in particular, voters were frequently encouraged to vote for the DP candidate in their constituency and to give their second (additional member) vote to the DP's smaller ally. Election posters also openly encouraged voters to make use of vote splitting. It became even clearer that the big two parties were using the “Dushk strategy” when, for example, the names of several members of the DP were found on the party lists of allied parties, especially that of the RP.²⁰

On the whole, organized campaign events remained peaceful, though there were a few violent confrontations between DP and SP supporters away

15 STOs were sent by 36 OSCE participating States and were joined by observers from the Parliamentary Assemblies of the OSCE and the Council of Europe (PACE) and from the European Parliament.

16 For details of the overall structure of ODIHR Election Observation Missions and their tasks before, during, and after an election, see OSCE/ODIHR (eds), *Election Observation Handbook*, Warsaw 2005, pp. 25ff.

17 *Statement of Preliminary Findings and Conclusions*, cited above (Note 10).

18 OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Election Observation Mission to Albania, Parliamentary Election 2005, Interim Report 3, 4-14 July 2005*, Tirana.

19 OSCE Office for Democratic Institutions and Human Rights (ODIHR), *Republic of Albania, Parliamentary Elections, 3 July 2005, OSCE/ODIHR Election Observation Mission Report*, 7 November 2005, Warsaw. The report can be accessed at: http://www.osce.org/documents/odihr/2005/11/16905_en.pdf.

20 Cf. OSCE/ODIHR, *Election Observation Mission to Albania, Parliamentary Elections 2005, Interim Report 2, 31 May-16 June 2005*, Tirana, p. 5.

from the main election events. There was little to separate the two main parties in terms of policies, which focused, in the main, on regional or local concerns such as water and electricity provision, road building, and improving opportunities for education and training. There was criticism of the fact that, in some constituencies, the SP used public buildings and vehicles to distribute advertising materials and posters, which was considered an abuse of public money for party-political ends. There was also evidence that the SP had pressurized public employees, such as teachers, to participate in campaign events. A further problem during the campaign phase concerned the widespread practice of destroying or covering up campaign posters. It is interesting that most of the parties and candidates affected by such activities did not turn to the CEC, which was officially responsible for such matters, but rather approached the OSCE Presence or the ODIHR Election Observation Mission. This was often explained as the result of a lack of trust in the CEC's procedures. There were occasional allegations of police officers attempting to influence or intimidate supporters of a political party. The way the election was reported in the media, and particularly on the main television channels and radio stations, provided the ODIHR Mission with little cause for criticism.²¹ Coverage was generally balanced and fair, at least with regard to the main parties. ODIHR's only complaint was that so much airtime was given over to the SP and the DP that information about the other parties tended to fall off the radar, despite the fact that the Electoral Code provides for them to receive half of the screen-time enjoyed by the major parties.²² On the whole, the key political rights – the rights of assembly, freedom of opinion, and freedom of speech – were respected during the entire campaign phase.

Observing Polling and Vote-Counting

Working in pairs, STOs monitored voting and vote-counting by carrying out spot checks on polling day. On average, four observers were assigned to each of Albania's one-hundred constituencies.²³ In accordance with the Albanian Electoral Code, most polling stations were located within public buildings – mostly schools and nurseries. In rural areas, in particular, some were found in private houses, bars, restaurants, or shops, as no suitable public building existed. Each polling station was managed by an eight-strong Voting Centre Commission (VCC), whose members had been nominated by the parties and were responsible for ensuring that all proceeded smoothly. Just prior to the election, in many constituencies, a majority of the members of the VCCs

21 Cf. *Statement of Preliminary Findings and Conclusions*, cited above (Note 10), pp. 10f.

22 Four independent local organizations comprehensively monitored Albanian television, radio, and newspapers, led by the Albanian Coalition Against Corruption (ACAC). See ACAC (ed.), *Media Monitoring, Parliamentary Elections in Albania 2005*, Reports Nos. 1-3, Tirana 2005.

23 On average, a constituency contained between 40 and 60 polling stations; one had as many as 104. See Note 12.

were replaced by their parties, mostly out of fear that they would be bribed. These changes, which were often made at the last minute, meant that many Commission members had not attended training courses and were ill-informed as to what their duties entailed.

Differences could frequently be observed between the way the VCCs in rural areas and those in cities performed their tasks. The latter generally went about things more professionally and properly. Nonetheless, in many polling stations, insufficient care was taken to check the identity of voters by means of official identity papers. Many instances were observed where technical equipment such as ultraviolet-sensitive ink and UV lamps for marking the fingertips of voters and checking that no one attempted to cast a second ballot were incorrectly used.²⁴ There was considerable evidence of “family voting”, particularly in rural areas.

In these elections, for the first time, a single location had been designated the counting centre for each constituency. This created major logistical and staffing difficulties, as it meant extra counters would need to be found. In practice, however, what generally happened was that members of the VCCs – many of whom were already tired after supervising the election – were deployed to count the votes. The individuals given this double responsibility were placed under enormous stress and many could barely cope with the physical demands of a counting procedure that officially did not even allow for breaks. As a result, the counting teams frequently took several days to complete the count. The same factors also led to irregularities in the counting and recording of votes. In addition, because members of the counting teams could be appointed up to two hours before the end of polling, they also tended to lack adequate training. With only five counting teams per constituency, there was such a delay in getting regional results to the CEC that virtually no contests were declared as planned on the day after the election.²⁵ Average voter participation was around 50 per cent, which reflects widespread indifference with regard to the parliamentary elections and suggests a high degree of frustration with the political system.

When incumbent Prime Minister Nano stated his acceptance of the results declared by the CEC,²⁶ it demonstrated that, despite the numerous difficulties, Albania was growing more mature in terms of both civil society and political parties. After decisions were reached on the numerous complaints lodged by virtually every political party, the CEC announced in early September that the DP under Berisha’s leadership had won in 56 constituencies, the SP in 42, and that a single SMI candidate and a single independent candi-

24 Evidence also emerged of the existence of blank birth certificates, which were being used to forge voter identities. Cf. *Statement of Preliminary Findings and Conclusions*, cited above (Note 10), p. 12.

25 Prior to the election, centralized counting had been welcomed by all political parties as a means of preventing manipulation.

26 Statement by Prime Minister Nano at a press conference in Tirana, 7 July 2005.

date had each won their contests.²⁷ Once the second (additional member) votes had been counted, it was clear that the electoral alliance led by the Democratic Party had won 74 of the 140 seats and thus controlled an absolute majority in the new Parliament. This then cleared the way for Sali Berisha to be chosen by Parliament to be Albania's new Prime Minister.

Assessing the Conduct of the Elections

Overall, the ODIHR Election Observation Mission found no serious or systematic infringements of the Albanian Electoral Code or general principles of free and fair elections in Albania's 2005 parliamentary elections. Nonetheless, according to the Statement of Preliminary Findings and Conclusions produced by the ODIHR Mission and the observers of the Parliamentary Assembly of the OSCE, the Parliamentary Assembly of the Council of Europe and the European Parliament, the poll only partly complied with international standards for democratic elections. The main points of criticism concerned administrative failures in voter registration and the voting process itself and the electoral strategies of the parties.²⁸ Nonetheless, it can be assumed that the results of the election were an adequate reflection of both the will of the electorate and the balance of support for the two main parties, although the use of alliances was seriously detrimental to the parliamentary representation of smaller, independent parties.

Subject to these reservations, Albania's 2005 parliamentary elections, which were generally untroubled by the violent clashes between political camps that had characterized previous polls, can be considered to mark a step forward in the country's democratic development. Fears expressed prior to the elections of systematic manipulation were not confirmed to any great extent. There is, however, a need for improvement in the area of electoral administration, particularly with regard to the creation of accurate voter lists, the appointment and training of VCCs and counting teams, improving counting procedures, and the need for the ZECs to comply with deadlines. The professional and non-partisan co-operation that characterized the work of the CEC and most of the ZECs can be viewed as a positive development, although their performance is certainly in need of improvement. The widespread acceptance of the results by the losing side at both local and national levels is encouraging, as is the willingness of the DP in particular to accept young, well educated politicians into its ranks.²⁹ Nonetheless, comprehensive

27 The final results and the distribution of seats in the new Parliament are contained in ODIHR's *Election Observation Mission Report*, cited above (Note 19), p. 30.

28 The statement on the preliminary results of the Observation Mission concluded that Albania's current electoral system remained open to party political abuse and called for a further reform of the Electoral Code. Cf. *Statement of Preliminary Findings and Conclusions*, cited above (Note 10), p. 4.

29 Cf. Raxhimi, cited above (Note 9).

reform of the electoral register based on an improved citizen registration system and changes to the Electoral Code to rule out the “Dushk strategy” are prerequisites for improving future elections in Albania. All in all, however, the generally calm and non-violent course that these elections took encourages optimism with regard to the ongoing democratization of the political system.³⁰ To improve the electoral process, Albania’s political system requires both time and experience of democracy in action, as well as willingness on the part of civil society actors to insist upon democratic processes.

Findings of the International Election Observation Mission

Thanks to the presence of the ODIHR Election Observation Mission and the actions of ODIHR observers, the 2005 parliamentary elections in Albania were held in the full glare of international publicity. This had a disciplining effect on the parties and the members they had appointed to the elections commissions. With its team of 400 short-term observers, the Mission managed to visit 1,200 of Albania’s ca. 4,750 polling stations and 80 of the 100 counting centres, ensuring a representative analysis of the electoral process as a whole and apparently preventing any large-scale infringements of the Electoral Code. International election observation in Albania also brought a degree of transparency to electoral procedures, enabling a certain amount of compliance with international standards. The crucial thing here is that an opportunity was provided to promote a stabilizing culture of electoral law and to root it in the minds of Albanian citizens. Not only was this significant for the development of Albanian civil society, the ODIHR EOM also lent the national result a high degree of credibility, facilitating its widespread acceptance by the country’s political parties. All too often in Albania’s past, a lack of trust in the results of an election has been the trigger for violent clashes.

In general, by generating publicity international election monitoring helps to create transparency and prevent electoral manipulation and is hence conducive to democracy. This certainly applies to the 2005 ODIHR Mission to Albania. At the same time, it is necessary to bear in mind that international election observation can do no more than document technical procedures, qualitative criteria, and quantifiable results. The possibility of detecting hidden forms of manipulation prior to the election, such as secret agreements between political parties, are limited. Given Albania’s internal polarization, however, the contribution of international election monitoring to promoting democratization in Albania, as delivered by the ODIHR Mission, can hardly be overestimated in terms of its effects on both civil society and politics. Albania’s political culture requires just this sort of support from the international community if it is to continue down the path of stabilization. In the

30 This despite the death of one person on polling day in the vicinity of a polling station in Tirana. Cf. *Statement of Preliminary Findings and Conclusions*, cited above (Note 10), p. 12.

last instance, however, the political will and willingness of the government and Albania's political parties to observe democratic norms and international electoral standards as they are required to do by their country's status as an OSCE participating State are decisive for ensuring free and fair elections.

Building Co-operative Security

The OSCE's Sleeping Beauty: The Politico-Military Dimension Waits for the Magic Kiss

Once upon a time, the CSCE had three baskets: the politico-military, the economic-environmental, and the human. When it was in its teenage years, these became the institution's three dimensions. Once it had grown up, it noticed that one dimension was much stronger than the others. It concentrated on this dimension, which appeared to be doing so well. It largely gave up on the one that never worked. But, with respect to the third dimension – the one that had once been so important but, of late, was increasingly facing problems – it did not know what to do.

Although the OSCE has been attempting to rethink its politico-military dimension for quite a while, the situation remains inconclusive. The members of the OSCE family continue to be divided on the matter, particularly since they have decided to address the problems of the Organization, their child, in all their complexity, seeking remedies for a host of policy and organizational problems.

This article addresses the problems the politico-military dimension of the OSCE has been facing recently. It analyses the objective conditions and the interests of the major players as well as the various proposals put forward lately to give a new lease on life to this dimension. Although subjective factors contribute to the problem and the solutions offered, it is the starting assumption of this article that there are objective underlying reasons why the politico-military dimension faces problems when some participating States are interested in helping it regain the gleam it once had.

There is no reason to reiterate those shortcomings of the OSCE that represent general constraints on its activity. However, attention should be called to the fact that some of the characteristic features that experts often cite as strengths of the Organization (comprehensive participation of European states, flexible and adaptable organizational structure, etc.¹) may also be considered weaknesses. It has been fashionable to speak about the crisis of the OSCE. There is one major difference between the current situation and those faced in the past: It used to be only academic experts who noted the OSCE's decline. Now those who act on behalf of the Organization also share the same critical view – although the language they use is understandably somewhat toned down. The sense of crisis and the crisis proper should be differentiated. The former undeniably exists, whereas the latter requires some qualification.

1 I have listed those factors in the chapter: Improve What You Can – Ignore What You Can't: Reform and the Prospects of the OSCE, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 41-59.

I think it is better to speak of a relative decline. This is a combination of loss of importance and a loss of orientation. The loss of importance can be identified relative to both the Cold War era and to the first post-Cold War decade. The loss of orientation has occurred because there is no cohesive set of ideas supported by each participating State to show the Organization the way.

The Transformation of the European Security Landscape and Its Impact upon the Politico-Military Dimension

Since the Cold War ended, Europe has had to adapt to a new situation. The continent is no longer the centre of confrontation between two systems, it no longer has privileged status in the international system in this negative sense of hosting *the* conflict. Although the Cold War was an all-out conflict with many sides (military, political, economic, ideological), its core was military. Hence, with the end of this conflict, the importance of military matters also declined in Europe. In sum, a double decline was noticeable: The decline of the continent's importance in world politics and the decline of the significance of military matters. The two have been cumulative. Throughout the 1990s, the war in the former Yugoslavia made it possible to believe that the military aspect of security was just as relevant as it had been before. This is partly the reason why we are having a belated debate on the role of military matters in European security in the early years of the 21st century.

The end of the Cold War and the elimination of the structural causes of conflict in the Western Balkans by 2000 have given way to other types of conflict. Although most of them – except for a few² – are political in nature, the bulk also have humanitarian causes, such as the mistreatment of minorities and disrespect for human rights, at their roots. Consequently, their purely military relevance is generally low. It is necessary to emphasize this, as the politico-military dimension has traditionally been identified as having military matters – and particularly arms control – at its core. Due to this somewhat unusually narrow definition, matters that common sense would regard as politico-military fall between various dimensions.

A further problem is presented by the fact that there is only one point of reference: a scholarly definition of the politico-military dimension. Accordingly, it “was exclusively applied to international, inter-state relations and primarily to military matters. Consequently, it included disarmament, arms control, confidence- and security-building measures, and security dialogue. Since the early 1990s, conflict prevention, crisis management, and post-conflict rehabilitation have been added, although these tasks are not limited to the politico-military dimension. More recently, the term has also been applied

2 The few exceptions are the so-called frozen conflicts in the former Soviet Union, including the anything-but-frozen conflict over Chechnya. Among their root causes are usually secessionist claims.

to efforts to address transnational threats such as terrorism, organized crime, and trafficking in weapons.”³ It is clear from the definition that the contours of the politico-military dimension have changed over time. This happened in parallel with the main security concerns of the states in the Euro-Atlantic area. However, as security concerns have grown more complex, it has become increasingly difficult to draw clear dividing lines between the various dimensions of security. Let me add three comments here: 1. The negotiations on arms control during the Cold War were closely associated with the core military security matters of those times. Hence, arms control meant more than it does nowadays in the European context. 2. During the early 1990s, when conflict prevention and crisis management started to dominate the agenda, the boundaries of the politico-military dimension were challenged for the first time. Most conflicts, including ones that had nothing to do with the politico-military dimension, had complex causes and required complex treatment. The division of activities into dimensions started to become eroded. 3. This has continued as transnational threats have come to dominate the European security agenda. Here, as in the case of conflict prevention and crisis management, not all of the OSCE’s activities have belonged to the politico-military dimension. Although, terrorism comes under this dimension, the reaction to it, and particularly the non-military response, does not fully belong to this sphere. The same applies to transnational organized crime. Consequently, the concept of the politico-military dimension has gone through a number of adaptations to prevent it from being entirely emptied of content.

The Changing Content of the Politico-Military Dimension

Ever since the Helsinki Final Act, the politico-military dimension (or basket) has always had a strong arms control aspect. This greatly contributed to the management of the Cold War and its immediate aftermath. Confidence-building measures (CBMs, later known as confidence- and security-building measures or CSBMs) and efforts to limit conventional arms were the traditional objects of arms control in the CSCE. While the former were integral to the CSCE/OSCE, the latter had only a loose connection with the Organization but were not a direct part of its work.⁴ The relevance of both has de-

3 Wolfgang Zellner, *Managing Change in Europe. Evaluating the OSCE and Its Future Role: Competencies, Capabilities, and Missions*, CORE Working Paper No. 13, Hamburg 2005, p. 7.

4 This was due to the fact that not each participating State of the CSCE/OSCE took part in the negotiating process. During the negotiations on Mutual and Balanced Force Reductions (MBFR) of 1973-89, it was a select few members of NATO and the Warsaw Treaty Organization, whereas in the talks on Conventional Armed Forces in Europe (CFE) of 1989-90 and the talks on adapting the CFE Treaty of 1997-9 all members of the two alliances, respectively 23 and 30 countries from among the 55 participating States, attended. Hence, it could not be regarded as a CSCE forum.

clined due to the change in the overall conflict environment. Moreover, no new CSBMs have been adopted, and the CFE process was brought to a halt after the signing of the adaptation agreement in 1999.

Although the CFE Treaty and its adaptation process, which is still incomplete, do not form part of the OSCE *acquis*, the treaty's future is so closely associated with other matters of European security that it forms part of the broad security agenda the Organization addresses. When the adaptation agreement comes into force, it will be possible for additional countries to accede to the CFE Treaty, and this may open the way to turn it into a pan-European arrangement. There are various links between the CFE Treaty and the (rest of the) politico-military dimension. The most significant at present is Russia's grievance at the refusal of 26 States Parties to the CFE Treaty of 1990 to ratify the adaptation agreement.⁵ Nowadays, discussions on European arms control begin and end there. Russia's reasons for wanting the adaptation agreement to come into force include the desire to turn the CFE process into a pan-European arrangement; to involve the new NATO member states, and especially the three Baltic republics; and to have it recognized that the political commitments taken by Russia upon signature of the adaptation agreement and not yet fully put into effect are not related to its coming into force. Although Russia has not fully implemented its commitment to withdraw its forces from the territory of Georgia and Moldova, it is certainly inching towards faithful implementation. The recent accord to withdraw its forces from Georgia may open a window of opportunity again. But even if this problem is eliminated, those pieces of arms control that have their roots in the Cold War would not bring about a change big enough to set the full politico-military dimension of the OSCE into motion.

The last time the OSCE adopted a new set of confidence- and security-building measures (at its Istanbul Summit Meeting in November 1999), the most important innovation the document produced was its agreement on regional measures. It declared that the "participating States are encouraged to undertake, including on the basis of separate agreements, in a bilateral, multilateral or regional context, measures to increase transparency and confidence [...] Taking into account the regional dimension of security, partici-

5 It is known that some European NATO members were in favour of ratification despite strong US reservations and were considering lobbying Washington to change its stance. As relations between the US and a number of European states have deteriorated significantly due to the war in Iraq, however, the European countries have tended to de-emphasize this relatively minor issue rather than burdening relations further. The US, on the other hand, argues that "unconditional" ratification would leave certain states that have complex security relations with Moscow indirectly involving the CFE Treaty – primarily Georgia and Moldova – exposed to Russian pressure. This dates back to the statement of then Secretary of State, Madeleine Albright who pointed out as early as 1997 that "any CFE agreement must take into account the interests not just of NATO's 16 allies or any individual country, but of all 30 CFE states". Secretary of State Madeleine K. Albright, Statement at North Atlantic Council Ministerial Meeting, Sintra, Portugal, 29 May 1997. As released by the Office of the Spokesman, at: <http://secretary.state.gov/www/statements/970529.html>.

pating States, on a voluntary basis, may therefore complement OSCE-wide confidence- and security-building measures through additional politically or legally binding measures, tailored to specific regional needs.”⁶ The conditions upon which such regional measures can be agreed are more or less self-evident. Among other things, such measures must a) be in accordance with the OSCE’s basic principles, b) contribute to the strengthening of the security and stability of the OSCE area, including the concept of indivisibility of security, c) add to transparency and confidence, d) complement (not duplicate or replace) OSCE-wide CSBMs or arms control agreements, e) be in accordance with international laws and obligations, f) be consistent with the Vienna Document, g) not be detrimental to the security of third parties in the region.⁷ The only element of this set of conditions that requires further elucidation is that such regional (sub-regional/bilateral) CSBMs should “contribute to the [...] indivisibility of security”.⁸ When, within a region where the level of arms control commitments is in any case the highest in the world (i.e. Europe), states agree upon additional sub-regional or bilateral arms control measures, this demonstrates the existence of varied security needs. It is an indirect demonstration of the fact that European security is not indivisible. More precisely put, *those elements of security that can be addressed by arms control measures do not provide either for the indivisibility of security or for the perception of such indivisibility*. It remains to be seen if other measures can provide for the indivisibility of security. Furthermore, it is obvious that the wording here is due to a diplomatic compromise aimed at strengthening the conditions of sub-regional/bilateral CSBMs.

This major step on the part of the participating States can be interpreted in a variety of ways. It can be regarded as a positive contribution to further enriching CSBMs in the European context. Even more important may be that the OSCE countries wanted to explicitly recognize the varied security situations of the participating States. In this way, it was underlined that while there is need for CSBMs in some parts of the OSCE area, they are not necessary elsewhere. Because these regional measures are intended to complement Europe-wide measures, and not merely to enact them locally in the name of subsidiarity, their advent demonstrates that the fragmentation of European security also makes differentiation necessary in the area of CSBMs.

The rationale for OSCE-wide measures has undergone a change as NATO has expanded to include new member states, which accept its democratic principles and partnership mechanisms. These states no longer demand additional confidence-building measures among themselves (unlike Greece

6 OSCE, Vienna Document 1999 of the Negotiations on Confidence- and Security-Building Measures, FSC.DOC/1/99, adopted at the 269th Plenary Meeting of the OSCE Forum for Security Co-operation in Istanbul, 16 November 1999, paras 138 and 139, p. 42.

7 Cf. *ibid.*, para. 142.

8 *Ibid.*, para. 142.2.

and Turkey among the “old” members⁹). Had they given any indication they needed special CSBMs in bilateral or sub-regional contexts, the conclusion would have been drawn that pre-existing rivalries between the new members of the Alliance meant that they remained possible security risks. One may conclude that CSBMs are not there to indicate the persistence of security risks but rather to further security. Still, this view is not generally shared. It is also to be expected that some bilateral CSBMs adopted before NATO accession would be phased out in the coming years.¹⁰ It is arguable that bilateral and sub-regional CSBM accords do not necessarily have to be terminated upon accession to the Alliance and that such a decision should be left to the parties. Particularly since the existence of bilateral CSBMs is not an indication of a security problem but rather a demonstration of security co-operation. Furthermore, bilateral CSBMs of this kind, such as the unique Romanian-Hungarian Open Skies accord, can set an example to countries in other parts of the world. The claim that the need for sub-regional/bilateral CSBMs is eliminated when the states to which they apply become members of a common alliance is not well founded. Some states have taken this position, mistakenly arguing that the continued application of existing arrangements after accession would be evidence of an ongoing security problem. The latter position is part and parcel of a broader agenda that plays down the importance of arms control in international security.

Once it was clear that European security was no longer jeopardized by the possibility of a major conflict between two military blocs, but rather that the that needed to be faced were local and sub-regional, it became only a question of what the role of arms control in post-conflict settlements would be. There was one conflict that was ripe for resolution: The war in the former Yugoslavia, particularly with respect to the three main players in Bosnia and Herzegovina (Bosnia itself, Croatia, and the then Federal Republic of Yugoslavia). The resolution was made possible by peace imposed upon the region in the Dayton Agreement and the peace operation established on the territory. Later, it became apparent that the introduction of arms control measures and their extensive on-site monitoring may contribute to stabilization, particularly if the effectiveness of monitoring is increased by a permanent military presence. This, however, will not bring about stability unless the sources of conflict are addressed. This happened to some degree in the year 2000. It will also happen in the second half of the first decade of the 21st century if the pending status and statehood issues of the former Yugoslavia are regulated to the satisfaction of all parties and without snowballing destabilization.

9 For the bilateral CSBMs agreed upon between the two see Zdzislaw Lachowski, *Confidence- and Security-Building Measures in the New Europe*; SIPRI Research Report No. 18, Oxford 2004, pp. 151-155.

10 The termination of the 1998 Hungarian-Slovak CSBM agreement in January 2005 was a good example. The forthcoming termination of the Romanian-Hungarian bilateral Open Skies agreement is intended to demonstrate the same.

Two agreements were subsequently concluded: one on confidence-building measures in January 1996, the other on arms limitations in June 1996. Both of these post-Dayton agreements benefited significantly from earlier documents (the former from the 1994 OSCE document on CSBMs, the latter from the CFE Treaty), reproducing elements contained within them. Without the European “technology” of conventional arms limitations and CSBMs, the two arrangements would have been extremely difficult to achieve at all, and certainly could not have been concluded within such a short period of time. The implementation of both agreements was highly successful, which was certainly due to the facilitating role played by the foreign forces controlling the territory where arms reductions had to take place and the transparency measures implemented. Although one may say that the population of the former conflict parties were tired of violence – and in that sense that the conflict was “ripe for resolution” – it is more important to consider the role of extensive foreign military assistance in the implementation of arms limitations and confidence-building measures. If we conclude that the implementation of such measures – which has certainly fostered neighbourly relations – was conditional on foreign military presence, this does not hold out much promise as far as finding indigenous solutions for extant (frozen) conflicts. If, however, we conclude that the parties would have returned to normality one day with or without external (including military) assistance, the conclusion is entirely different.

It is correct to conclude that long-lasting conflicts usually have lasting repercussions on the parties following their formal resolution. This is no doubt the case not only in the former Yugoslavia but also in some parts of the South Caucasus and elsewhere. Hence, the normalization or re-establishment of good neighbourly relations should not be fostered by external players – states and international institutions alike – merely until a formal resolution is achieved, but also afterwards. In the case of Bosnia and Herzegovina, the reconciliation of the parties forming the Federation has been demonstrated so successfully, that at their review conference in June 2004, the parties agreed that the changed circumstances had made the agreement obsolete in practice and that they would immediately cease to apply most of the measures and terminate the agreement by 29 September 2004.¹¹ A further demonstration of reconciliation was the fact that a single army covering two Federal entities could be set up soon afterwards. This is bound to have repercussions for the arms limitation agreement, an issue that was intensively discussed during 2005.

In light of the success of the post-Dayton arms control arrangements in the former Yugoslavia, experts advocate that similar arrangements should be part and parcel of agreements ending conflicts elsewhere. However, the ques-

11 Cf. Heinz Vetschera, Mission accomplished in Bosnia and Herzegovina: Agreement on Confidence- and Security-Building Measures declared obsolete. *OSCE Magazine* No. 2, June 2005, pp. 28-30.

tion has to be raised about how many conflicts we are going to face in Europe that could be influenced by arms control measures (among others). How could conflicts be made “ripe for resolution”? It does not reduce the importance of arms control measures if there are only a few cases where they can be used effectively.¹² It may, however, reduce the contribution of arms control to neighbourly relations and regional security. Furthermore, if there are only a few cases where arms control (meaning both structural and operational arms control measures) in the broad sense could contribute to conflict settlement, it may make it difficult to present it as a new function of arms control. This is certainly the case since in the European context there are very few international conflicts where arms control could contribute to resolution. Certainly, arms control could be part and parcel of the settlement of inter-state conflicts. But if political conflict resolution is not achieved, there is no room for a settlement that entails arms control. Although this may not be tragic for neighbourly relations it may contribute to arms control losing its relevance.

Post-conflict stabilization efforts in Yugoslavia have convincingly demonstrated the key role that can be played by arms control measures, including CSBMs. During the Kosovo intervention, for example, CSBMs showed that they could contribute to improving the political atmosphere in the hot phase of a conflict. Russia went even further in 2000 by voluntarily arranging a one-off observation visit by representatives of other European states to an area of “ongoing military activities” in Chechnya. As a follow-up, Russia proposed a procedure for triggering verifiable CSBMs in crisis situations in its model for a modernized Vienna Document. Other states have been either reluctant or unable to make use of such measures in voluntary schemes.

It seems that the future of CSBMs in Europe lies in sub-regional and bilateral arrangements. This fact provides evidence that the agenda of narrowly defined CSBM agreements has been exhausted and there is no reason to negotiate further Europe-wide accords. And while this does not exhaust the CSBM agenda in Europe, it certainly causes one problem. The rejuvenation of the OSCE requires measures capable of attracting political attention and providing visibility. Sub-regional and bilateral CSBMs do not belong to this category.

There is an emerging arms control agenda that is closely integrated with questions of human security. The key focuses of this sub-field are landmines, small arms and light weapons (SALW), and man-portable air defence systems (MANPADS). The OSCE has addressed these matters and adopted various documents. In this manner, it has contributed to the new arms control agenda that has been shaping global arms control recently. On landmines,

12 On the basis of the experience gained from the agreements under the Dayton Peace Accords it has been concluded that there “is some reason to believe that similar agreements might have a similarly positive effect in the southern Caucasus”. Neil MacFarlane, *Arms Control, Conflict and Peace Settlements: The Caucasus*, in: Keith Krause/Fred Tanner (eds), *Arms Control and Contemporary Conflicts: Challenges and Response*, Geneva 2001, p. 50.

OSCE participating States were aware of the priority of the Convention on Anti-Personnel Landmines and adopted a complementary measure, thereby fostering ratification of the convention.

The OSCE Document on Small Arms and Light Weapons adopted in November 2000 reflects a recognition of the responsibility the participating States have for the production and the global spread of such weapons. The main objective of the participating States is to combat the illicit trade in SALW without affecting the legitimate arms business. In addition, the OSCE has since produced a set of best-practice guides on issues relating to various stages of the service life of SALW. A compilation of the guides was later published as a handbook. This handbook is intended to help governments, NGOs, and international organizations to address the matter.¹³

Ever since Afghan irregulars used MANPADS against the Soviet forces in the 1980s, it has been known how dangerous these weapons are and how cheaply they can be employed against valuable targets, including civilian planes. Their potential use by terrorists against civilian aircraft left the realm of theory when an Israeli charter plane was targeted by a MANPADS in Kenya. By resolving that the participating States should adopt the principles developed by the Wassenaar Arrangement, the OSCE was instrumental in enhancing the number of states that have committed themselves to abiding by export controls on conventional arms and dual-use goods and technologies, including MANPADS.¹⁴

The politico-military dimension is not confined to arms control, however. When the CSCE was a conference, this dimension was an extensive security dialogue that certainly contributed to mutual understanding. Although the CSCE/OSCE retains this element in the post-Cold War era, it also now has a broader agenda. As the channels used to exchange views have multiplied, for instance, as a result of the intensified exchange of information between the militaries of Euro-Atlantic nations, the visibility of this aspect of OSCE co-operation has experienced a relative decline. Nonetheless, there are certain politico-military developments that would be worth addressing. Strategic concepts have changed, pre-emptive doctrines have been put into practice and applied in some countries, and laws of war have been more extensively violated by armed forces of OSCE participating States than before in the name of the “war on terrorism” – and certainly not only by the state that declared that war. Still, there has been little high-level exchange within the framework of the Organization. Recently, Russia put forward an idea to hold a “high-level seminar on military doctrines and defence policy in the OSCE area”, with a particular focus on the consequences of NATO’s recent enlarge-

13 OSCE, OSCE Handbook of Best Practices on Small Arms and Light Weapons, Vienna 2003, at: <http://www.osce.org>.

14 Cf. Zdzisław Lachowski/Pál Dunay, Conventional arms control and military confidence-building, in: *SIPRI Yearbook 2005: Armaments, Disarmament and International Security*, Oxford 2005, pp. 659-60.

ment.¹⁵ This is an idea worth considering. It is regrettable that when the Russian Delegation to the OSCE was approached for details of the thinking behind the proposal, they appeared unable to give an adequate account. If Russia is interested in “rebalancing” the various dimensions of the OSCE it should put forward initiatives that had been professionally prepared.¹⁶ It has been recognized that this topic is worthy of discussion, and doing so is certainly not an unacceptably high price to pay for convincing Russia of the ongoing value of the OSCE. Thus, the Forum for Security Co-operation (FSC) took the decision in June 2005 and the two-day seminar will actually be held in February 2006.¹⁷ It remains to be seen whether it will be put to good use or not. According to some, it “might be the right place to identify a future-oriented arms control agenda including a review of the 1999 Vienna Document”.¹⁸ It would be regrettable if the seminar convened to discuss matters of doctrine were to be confined to debating arms control at a time when a number of participating States feel entitled to fight wars of intervention and have adopted highly destabilizing offensive nuclear doctrines. The violation of international humanitarian law by participating States, both in the Euro-Atlantic area and beyond, is also disquieting and should be discussed within that framework.

The OSCE has been a major contributor to conflict prevention, crisis management, and post-conflict rehabilitation. Its strength in conflict prevention cannot be accurately estimated without giving attention to those instruments that have been established in other areas, such as the High Commissioner on National Minorities (HCNM). This post was created to address the most prominent conflict source of the 1990s through mediation and low-profile conflict mitigation. It is not easy to say whether the activity of the HCNM effectively contributed to prevention in the case of conflicts that might have increased in political significance or even become violent without his involvement.¹⁹ This is because conflict prevention is not a visible activity

15 Statement by Russian Minister of Foreign Affairs Sergey Lavrov at the Twelfth Meeting of the OSCE Ministerial Council, Sofia, 7 December 2004, p. 2, at: <http://www.mid.ru>.

16 It would be wrong to give the impression that only Russia has launched initiatives at a high level without backing them up with professional preparation. It is sufficient to mention the so-called Byrnes speech of then US Secretary of State Warren Christopher that launched the idea of the Euro-Atlantic Partnership Council (EAPC) in Stuttgart that was followed by intensive preparation.

17 OSCE, Forum for Security Co-operation, Decision No. 3/05, Dates of the OSCE Seminar on Military Doctrine, FSC.DEC/3/05, 29 June 2005.

18 Wolfgang Zellner, *The Reform of the OSCE: Problems, Challenges and Risks*, Paper presented at the Joint Conference of the PSIO Focus and the Faculty of Social Sciences, University of Ljubljana, *The Reform of the OSCE 15 Years After the Charter of Paris for a New Europe: Problems, Challenges and Risks*, 7-8 September 2005, pp. 18-19.

19 It is well founded to conclude, however, that the HCNM had a major impact upon the relations between minorities, the states in which they live, and so-called “kin states” in which the majority population is of the same ethnicity as a minority in another country. The Centre for OSCE Research at the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH) has published several reports giving the results of its empirical research in this area. Details can be found at: <http://www.core-hamburg.de>.

when successful. The factor of “invisibility” creates certain problems, as, unfortunately, the OSCE does not receive credit for successful conflict prevention activities.

The OSCE is a major contributor to carrying forward the resolution of frozen conflicts in the post-Soviet space. It is partly due to the frameworks established by the OSCE (e.g. the Minsk Group) and to international attention in general that these conflicts have remained frozen for such a long time. The conclusion could be drawn that the constant attention of the OSCE significantly contributed to those conflicts not heating up again. It is arguable that more could have been done in order to move the conflicts closer to resolution. Some recent developments have indicated, however, that major changes in state policies may be necessary before solutions can be found. It is sufficient to mention the successful resolution of the conflict in Ajaria due to the policy of the new Georgian leadership or the potential impact of the Ukrainian “Orange Revolution” on Transdnistria. Although some of those separatist conflicts still linger on they are not central to European security.

The OSCE should stand ready and provide a platform for the communication that may ease the settlement of those conflicts. Frozen conflicts may temporarily give the superficial impression that they are closer to resolution than they were. This seems to be the case now as far as the Nagorno-Karabakh conflict is concerned, while others (Abkhazia, South Ossetia, and Transdnistria) give no impression of moving towards resolution. In all likelihood, however, frozen conflicts will not be resolved solely by offering “carrots”. The option of using “sticks” may well be equally important, although these are not in the hands of the OSCE. Furthermore, the co-operation of the main actors is an indispensable precondition of any settlement.

Europe as a whole can live very well with frozen conflicts. This is one of the factors some of the conflict parties need to recognize. It appears, however, that they have not yet done so. For one, the conflict parties do not recognize this situation, and assume that sufficient attention will be paid to their conflicts to “rescue them” in accordance with their own interests. This is the classic tunnel vision familiar to everybody who has ever attended a negotiating course or exercise. Furthermore, there are often interests – both within the conflict zone and in the world at large – that run counter to terminating the conflict. As in conflicts in other regions of the world, there are those who would lose status, economic benefits, or both if the conflict were to come to an end and who therefore oppose its resolution. Although these conflict zones are not and cannot be recognized as state entities, nor may they be erased from the map of Europe or simply labelled “Here be Conflicts”. It is important that they are made objects of both positive and negative attention. By negative attention I mean that efforts should be stepped up to combat the lawlessness prevailing in some of these areas, which have become hotbeds of organized crime, including trafficking. If operations exist in those areas, they

should have a strong police element.²⁰ The fact that there is no effective state responsibility there does not mean that efforts could not be made to prevent the spread of transnational threats. On the positive side, rehabilitation efforts and development projects could improve living conditions. The OSCE could provide these with political support.

The key security concerns in the contemporary environment are all transnational in character. Whether the politico-military dimension regains its relevance will depend primarily upon addressing them. They include terrorism, organized crime, and various forms of trafficking, all of which are inter-linked. Organized crime networks are often implicated in financing terrorist groups, and trafficking is actually a specific form of organized crime. When addressing these matters it is necessary to take into account that they are cross-dimensional, global, and take advantage of a benign environment if state capacity is weak and the level of corruption is high.²¹ Addressing these matters requires long-term attention, very often co-operation with non-participating states, and intervention in the building of state capacity, including the capacity to fight corruption.

Terrorism is the primary threat to global security nowadays, and many OSCE participating States, including the US, the UK, Spain, Russia, and Uzbekistan, have been targeted by terrorism. The OSCE has made a fair effort to address it since 2001. Bearing in mind the objective importance of the matter and the significance several participating States attribute to it, it is unimaginable that it would not continue to do so. As the OSCE does not have the operational capacity to fight terrorism, its role in this area will have to remain supplementary. The establishment of a focal point in the OSCE to address counter-terrorism matters has certainly not lowered the issue's profile.²²

The activity of the OSCE will remain confined to adopting certain political documents and helping countries to build capacity and engage more effectively in global efforts through the transfer of knowledge, for example, by guaranteeing that the twelve UN conventions and protocols relating to terrorism are generally recognized by the participating States. It is necessary that the OSCE continue to perform its role in this area, however, limited or marginal it may be as this enables the Organization to share its valuable knowledge on topics such as alternative ways of addressing terrorism. This is of particular importance when two major players within the OSCE, the US and the Russian Federation, agree in "tend[ing] to over-emphasize the role of military force in fighting terrorism and stress the immediate need to 'cripple

20 Cf. Dov Lynch, New thinking about 'frozen' conflicts, in: *Helsinki Monitor* 3/2005, pp. 192-195, here: p. 194.

21 Cf. also, for example, Wolfgang Zellner, Addressing transnational threats and risks – A key challenge for the OSCE, in: *Helsinki Monitor* 3/2005, pp. 214-217, here: p. 215.

22 In spite of the undeniable importance of appointing a specialist dedicated to addressing terrorism, it is still relevant to ask whether it is organizationally sound to increase the number of functions and thereby to further increase the need for horizontal co-ordination inside the Organization.

the ability of terrorists to operate”²³ Under the current conditions and given the emphasis on operational activities, countering terrorism should entail no more than a minor supplementary role for the OSCE.²⁴

It is in other areas, such as fighting organized crime, including trafficking and corruption, that the OSCE could make a difference. There are two reasons for this: 1. It has built a limited capacity to address some of these phenomena, and particularly human trafficking. 2. As these matters are lower down than terrorism on the list of other organizations’ security concerns, the stage is “less crowded”, i.e. there are not so many organizations that address them in the European context. In common with all transnational security problems, these are cross-dimensional matters. They are just as much part of the politico-military as of the human dimension.

The OSCE has paid a remarkable degree of attention to human trafficking, first in the context of the Western Balkans and later generally. It should be emphasized not only that this is an emerging matter of increasing importance, but also that it is linked to some other transnational threats, such as other forms of trafficking. Moreover, it is also important to mention that it must be addressed in time. Although there are national organs and a number of international bodies addressing the matter operationally, the OSCE has made a unique contribution through raising awareness and politicizing the matter in the European context.²⁵

The OSCE has successfully developed capacity and transferred national knowledge to help the capacity building of those states willing to address corruption. Here again, success is contingent upon the readiness of participating States facing this phenomenon. The EU has regularly called the attention of candidate countries as well as certain states in the Western Balkans to this phenomenon and will certainly continue to do so within the framework of European “new neighbourhood” policy. Some NGOs, primarily Transparency International, have been doing a lot to increase knowledge and raise consciousness. There is room for further activity, however. It is apparent that in countries where corruption is endemic in state structures up to the highest level of government, co-operation will be confined to payment of lip service. In fact, it may be necessary to remove corrupt structures before this attitude can change. The words of the new President of Kyrgyzstan that corruption “has penetrated so deeply into all aspects of our lives that we will have to

23 Ekaterina Stepanova, The OSCE and US-Russian Co-operation in the Fight Against Terrorism, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 59-71, here: p. 70.

24 For more in a similar vein see Gudrun Steinacker, The Role of the OSCE as a Regional Security Organization in Combating International Terrorism, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 89-93.

25 For a good overview of its various aspects see Helga Konrad, Trafficking in human beings – the ugly face of Europe, in: *Helsinki Monitor* 3/2002, pp. 260-271.

continue addressing this problem for a long time to come”²⁶ may serve as reminder. This matter cannot be addressed if political conditions are not favourable. The intrusion necessary to effectively address corruption may itself be used for manipulation. As fighting corruption would entail the transfer of knowledge by some participating States to others, it would be possible again to interpret it as relationship of “mentors and pupils”.²⁷ This kind of language is likely to be used in this context only by those who want to find pretexts for rejecting or impeding the benign co-operative transfer of knowledge in this area.

The OSCE's Key Players and the Politico-Military Dimension: Tactical Interest, Lack of Interest, Negative Interest

The CSCE/OSCE has proved to be a flexible and highly adaptable institution. The emphasis of its *acquis* has shifted over time. It is a sign of the Organization's strength that, on two occasions – upon the inception of the CSCE process in the mid-1970s and upon the fundamental rearrangement of the international system in the end of the 1980s and the beginning of the 1990s – it was successful in adapting itself in order to face the future. Only thanks to this forward-looking willingness to adapt, has the Organization remained relevant in the years that have followed. Although no major changes have taken place at the start of the 21st century as far as the structure of international relations in Europe is concerned, the OSCE has nonetheless recently faced a major challenge. This has grown out of the Organization's increasing marginalization in international relations within the Euro-Atlantic area. The structure of these relations has changed, leaving three major actors in place: the US, the European Union, and the Russian Federation. However, there are significant differences among them. The US is a single, unified actor that has increasingly become the key power in a unipolar international system. However, its dominance is more apparent in international security than in other spheres of international affairs. The EU has become much larger following the May 2004 “big bang” enlargement, and it now unites more than half of OSCE participating States. There are also a number of non-members that align their policies with those of the EU. It could thus be concluded that the “EU circle” is far broader than the member states alone.²⁸ The EU's “circle of friends” also means that formal membership status, and hence enlargement, matters less than is usually assumed. The Russian Federation is of major im-

26 Kurmanbek Bakiev, Kyrgyzstan: Counting on the OSCE, *OSCE Magazine* No. 2, June 2005, p. 15.

27 This terminology is used by Russian Foreign Minister Sergei Lavrov, Reform will enhance the OSCE's relevance, in: *Financial Times*, 29 November 2004, p. 13.

28 For example, the British EU Presidency spoke on behalf of 35 participating States (25 EU members and ten others) at the High Level OSCE Consultations. See United Kingdom Presidency of the Council of the European Union: EU Statement for High Level OSCE Consultations in Vienna, PC.DEL/865/05, 13 September 2005, p. 4.

portance for the Euro-Atlantic area in itself. It is even more important as a regional power that takes the lead in representing those countries in the former Soviet sphere that have not made a successful transition to democracy. It is the relationship of these three power centres that largely determines the OSCE agenda.

The *United States* has to some extent lost interest in those multilateral organizations that reflect the power relations of a previous era. This is partly because it is of the view that it has a better chance to influence international relations bilaterally, relying upon its preponderance of power, and partly because it can rely on other multilateral frameworks and mechanisms that reflect current power relations, such as the G8, various contact groups, or the structures that emerged in connection with the Proliferation Security Initiative. As far as the OSCE is concerned, the US is only interested in maintaining the status quo: "We must recognize that the OSCE cannot resolve every problem, nor should it try. There are certain things this organization does well, such as early warning and conflict prevention, the strengthening of democracy and the rule of law, and promotion of human rights and fundamental freedoms. The OSCE must continue to make this work its first priority."²⁹ A few months later, Secretary of State Colin Powell emphasized at the OSCE Ministerial Council Meeting that the US is "open to increasing the OSCE's activities to promote security and economic development, but not at the expense of the OSCE's core democracy and human rights work".³⁰ This means that, on the one hand, the US is satisfied with the situation of the human dimension being on the top of the OSCE's agenda and does not want to change the emphasis. On the other hand, however, it has also sounded a negative note: "We are against negotiating new traditional style arms control/CSBMs, although we MAY be willing to consider specific proposals if there is a clear security need to be addressed."³¹ The US has been co-operating with the new arms control agenda and has actively supported arms control measures closely linked to human security – e.g. those addressing SALW – or countering terrorism, e.g. efforts to control the proliferation of MANPADS. The US has also clearly expressed its concern at negotiating the same matters in various forums: "We are against opening duplicate negotiations on issues, e.g., on WMD, already being negotiated elsewhere. We are open to appropriate OSCE reinforcing measures."³²

29 United States Mission to the OSCE, Statement to ASRC Session 4: The Way Forward, as delivered by Deputy Representative Douglas Davidson to the Annual Security Review Conference, Vienna, 24 June 2004, p. 2.

30 Remarks by Secretary of State Colin L. Powell to the Ministerial Meeting of the Organization for Security and Co-operation in Europe, Sofia, 7 December 2004, p. 2, MC.DEL/52/04

31 Statement by U.S. Permanent Representative Ambassador Julie Finley, Presented at the morning session of the High Level Consultations, Vienna, 13 September 2005, p. 3 (emphasis in the original); available at: <http://osce.usmission.gov>.

32 Ibid.

The US has, understandably, been extremely forthcoming on countering terrorism as the primary common threat to the OSCE area and has recognized the complementary role the OSCE has been playing in this field. At the same time, however, Washington has tacitly been of the view that the OSCE does not have the operational capacity necessary for countering terrorism. Bearing in mind the inclusive membership of the OSCE in the Euro-Atlantic area, the Organization is certainly well suited for issuing statements and other documents to demonstrate the resolve of the participating States. It has also contributed to the transfer of knowledge among them.

It is possible to characterize the US approach to the OSCE as a vector. The two factors that determine it are: the long-term pragmatic OSCE policy and the short term ideologically based democratization agenda of our times. It is obvious that the latter prevails for the time being and will continue to dominate US thinking for the foreseeable future. As the OSCE has proved instrumental in democratization several times recently, the prime interest of the US is to retain its current values with the minimum adaptation necessary to achieve compromise with other participating States. Hence, the politico-military dimension is not the priority of the US and it cannot be expected that it would become so any time soon. Whenever it attributes importance to this dimension, it does so pragmatically and selectively. All in all, since the US is reluctant to increase the role of the politico-military dimension it can be concluded with some qualification that the US has a *negative interest* in the further development of the dimension.

The position of the *Russian Federation* could be described as diametrically opposed to that of the US. While the US would like to retain the primacy of democratization and the human dimension, Russia would like to reverse current priorities. Russia would like the OSCE to shift its focus from democratization, and to reduce its role in humanitarian affairs, counterbalancing this by increasing the role of the other dimensions. As the economic-environmental dimension does not hold out much promise, it remains to be seen whether something might happen to the politico-military dimension that would give the impression of a better balance between humanitarian and politico-military matters.

Russia has been playing the lead role in criticizing the OSCE for its current bias as far as the various dimensions of its activity and the emphasis on the area "East of Vienna" are concerned. In the so-called Astana Appeal, launched in September 2004, eight former Soviet republics expressed their desire for the reform of the OSCE's agenda. It called for greater attention to be paid to the politico-military aspects of security, and also a modification of the emphasis within the human dimension to shift to "ensuring the freedom of movement and people-to-people contacts, improving the conditions for tourism, expanding ties in the area of education and science and exchanging

and disseminating cultural values between all the participating States”.³³ This document also proposed that the role of field activities be modified by moving away from “the monitoring of the political situation” to emphasizing “specific project activities”. If one takes a closer look at this, one may draw the following conclusions: The Russian Federation and its partners want to see the OSCE increase its activity in fields other than the humanitarian. In the human dimension, they want to see a change of emphasis. It is their objective to have less political monitoring, including most probably election observation, and more project-related activity. Project-related activities should be financed most probably by those participating States that have the means for it. Even more clearly, the former Soviet republics want to gain access to the resources of the West – Russia apparently to a lesser extent than other participating States from that region. At the same time, they wish to face less scrutiny in their political affairs, including the – not necessarily democratic – direction of their political development. Furthermore, the same countries have initiated the integration of extra-budgetary resources into the OSCE budget. This would mean the application of the consensus rule for the use of resources. Taking it one step further, it would mean that the economic dominance of the West could no longer be used to serve Western political priorities.

It may be somewhat superficial to conclude, however, that the Organization has neglected the politico-military dimension. It has certainly paid less attention to it than during the 1970s and the 1980s, when politico-military affairs were heavily emphasized within the CSCE. However, we have witnessed continuing efforts to resolve “frozen” conflicts, such as those in Georgia, Moldova, and over Nagorno-Karabakh, as well as counter-terrorism initiatives. The OSCE’s police reform and training programme in Kyrgyzstan, which is being carried out in parallel with EU efforts, is another initiative in the field of politico-military security. Russia and other countries in the former Soviet area know only too well that the politico-military dimension is not in terminal decline, at least not relative to the decline of the OSCE as a whole.

Those states that have not completed their democratic transition or, in some cases, have not even embarked upon it are understandably fearful of the strength of the forces that intend to change the political status quo and preferably to do so within a short period of time. They are attempting to bring this change to a halt or at least slow it down. The argument that the three dimensions of the OSCE should be rebalanced certainly sounds better than a simple rejection of the views held by those forces, including participating States that favour democratization and democracy spreading to the rest of the OSCE area. It is for these reasons that the conclusion could be drawn that the Russian Federation and many other successor states of the former Soviet

33 Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, Appeal of the CIS Member States to the OSCE Partners, Astana, 15 September 2004 (unofficial translation from the Russian), at: http://www.in.mid.ru/brp_4.nsf/0/70f610ccd5b876ccc3256f100043db72?OpenDocument. Azerbaijan, Georgia, Moldova, and Turkmenistan did not sign the document.

Union have a primarily *tactical interest* in the development of the politico-military dimension.

The *European Union (and several countries that align their policies with it)* has become the third decisive player within the OSCE. It is a diverse entity in many ways, although united in its conviction that long-term stability can be best based upon democratic conditions. The similarity of values between the US and the EU means that the positions of the two have often been closely associated. During the presidency of George W. Bush, the democratization agenda has been accompanied by efforts to implement a radical change in the status quo, both globally and regionally. The EU is thus faced with the difficulty of keeping its distance from this policy while not distancing itself from its member states' common values. This also presents a dilemma for the EU within the OSCE. The EU has no particular interest in the OSCE's arms control agenda, except perhaps for the contribution of arms control measures to the resolution of frozen conflicts in the Caucasus and in Moldova. There, regional or bilateral arms control is conditional upon conflict settlement. With the launch and extension of its "new neighbourhood" policy, the EU will be playing a more active role in regions that are home to frozen conflicts. Its direct interest in relying upon the OSCE may well decline, however. The EU's rapidly developing and significant leverage in the countries affected by conflict may be enhanced if it acts directly on its own behalf, rather than through the OSCE. The OSCE has one major advantage that the EU may choose to utilize. Its missions establish a field presence, and their activity may extend to areas outside the EU's reach. However, some of these field activities touch upon the politico-military dimension, and the EU, which already has a presence within post-Soviet space, may not be particularly interested in relying upon the politico-military dimension of the OSCE. Nonetheless, in that part of the former Soviet Union where the EU's presence is less well established, as a result, for instance, of the fact that the "new neighbourhood" policy does not extend to Central Asia, it may indeed be interested in the activity of OSCE missions. But still, it must be remembered that missions will continue to be multi-dimensional and thus may not be sufficient to provide the politico-military dimension with a new lease of life. In sum, the position of the EU in the politico-military dimension could be best characterized as one of marginal interest tending towards *a lack of interest*. It is also worth noting that, following the address of the EU Presidency at the High Level OSCE Consultations, several EU member states also made their own national statements, demonstrating that the common position does not always wholly assimilate the positions of the individual EU member states.

The chances of the current reform of the OSCE achieving a major breakthrough and placing the Organization at the centre of European politics are not good. It may nonetheless contribute to the ongoing adaptation of its activities. The contribution of the politico-military dimension has become limited – partly for objective reasons, partly due to subjective matters of interpretation. The most important objective reason is that the prime concerns of European security are no longer confined to the realm of the politico-military dimension. The subjective one is that none of the major players attributes particular significance to this dimension, in spite of its adaptation to changing realities.

The CSBMs agreed upon in the 1980s and the 1990s and the CFE process are not being neglected due to malign intentions, they are in decline because they are not addressing the OSCE participating States' primary security concerns. This is recognized by the report of the Panel of Eminent Persons, which points out that those measures "should be brought up to date".³⁴ The CSCE/OSCE's effective reaction to certain inter-ethnic and separatist conflicts in the post-Cold War era contributed to the vitality of the politico-military dimension.

Although the politico-military dimension of the OSCE has lost some of its appeal since the Cold War era, it has not become irrelevant. To conclude that it is now unimportant and is being ignored by many participating States would be unjustified. This is particularly true if field mission activities that relate to the political dimension, the prevention of potential conflicts, and addressing frozen conflicts are taken into account. If the OSCE were to address one or more transnational threats that belong in part to the politico-military dimension, the significance of its contribution could be enhanced.

While it may be tempting to conclude that the Organization's and highly complex diverse activities transcend the categories of its conventional three dimensions, it would certainly be going too far to conclude that "thinking in terms of 'dimensions' or 'baskets' is outdated and counter-productive".³⁵ It would be better to state that, due to the post-Cold War challenges to Euro-Atlantic security, the lines between the various dimensions are increasingly blurred. There are areas of activity where the dimensions can be identified and others where it is impossible. This applies particularly to field missions, which represent and will continue to represent the core of the OSCE's activity. As long as missions continue to remain integral to the OSCE and extend

34 *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, reproduced in this volume, pp. 359-379, here: p. 366.

35 Wolfgang Zellner, *The Future Development of OSCE Field Missions*, in: Victor-Yves Ghebali/Daniel Warner (eds.), *The Politico-Military Dimension of the OSCE: Arms Control and Conflict Management Issues*, Geneva 2005, p. 45.

their activities to the politico-military dimension, the OSCE, and the politico-military dimension with it, will continue to retain some of its relevance. The OSCE will muddle through irrespective of its half-hearted reforms.

The OSCE: A Platform for Co-operative Counter-Terrorism Activities in Central Asia?¹

Two weeks after the 9/11 attacks, the United Nations Security Council adopted Resolution 1373, which, for the first time, defined the basis for a comprehensive anti-terrorism regime requiring, among other things, the implementation and ratification by all states of the twelve UN conventions and protocols relating to terrorism. The Resolution also created the Counter-Terrorism Committee (CTC), which was tasked with exploring – together with international, regional, and sub-regional organizations – how Resolution 1373 might be implemented through the promotion of best practices and the delivery of assistance programmes.

The OSCE was among the first regional organizations to come up with a specific action plan to combat terrorism. This plan was to be augmented by a series of counter-terrorism policies and activities. These will be detailed and analysed in the first section of this article. As a regional arrangement under Chapter VIII of the UN Charter and with respect to its specific comparative advantages, the OSCE is extremely well suited to relieve the UN's burden in the field of counter-terrorism. In doing so, the OSCE works closely with the UN, but also with other international and regional organizations within the framework of its Platform for Co-operative Security. For the purposes of this article, the level of co-operation between the OSCE and regional and international organizations will be analysed in the Central Asian region, which has until recently been plagued by terrorist attacks.

OSCE Anti-Terrorism Activities after 9/11

The problem of international terrorism was not a new topic for the OSCE at the time of the 9/11 attacks. In fact, the 1975 Helsinki Final Act already included provisions against terrorism, calling on participating States to “refrain from direct or indirect assistance to terrorist activities, or to subversive or other activities directed towards the violent overthrow of the regime of another participating State”. After the end of the Cold War, successive Summit declarations reiterated the Helsinki commitment, recognizing terrorism as a genuine threat to state security, and called for enhanced co-operation. However, the most important developments took place in the aftermath of the 9/11 attacks.

1 The views expressed in this article are the personal opinions of the author.

The Bucharest Plan of Action for Combating Terrorism, drafted by the OSCE informal open-ended Working Group on Terrorism established on 28 September 2001 by the Romanian OSCE Chairman-in-Office (CiO), was adopted at the Ninth Ministerial Council in Bucharest on 4 December 2001. It can be seen as the framework for the actions of the OSCE participating States and the different OSCE bodies in their fight against terrorism.²

With the adoption of the Bucharest Plan of Action, the participating States pledged, if possible, to become parties to all twelve UN conventions and protocols relating to terrorism by 31 December 2002. In addition, they undertook to strengthen their national anti-terrorism legislation. Participating States were also requested to envisage how the OSCE could draw upon lessons learned from other international governmental organizations (IGOs) and relevant actors in the following areas: police and judicial co-operation, suppression of the financing of terrorism, border control and travel document security, and access to information by law enforcement authorities. On all these issues, the OSCE Secretariat was requested to provide the necessary assistance. The Office for Democratic Institutions and Human Rights (ODIHR) would also, at the request of participating States and where necessary, offer technical assistance and advice on legislative drafting necessary for the ratification of the twelve UN anti-terrorist conventions in close co-operation with the United Nations Office for Drugs and Crime (UNODC, formerly UNODCCP).³ Participating States also pledged to enhance implementation of existing confidence- and security-building Measures (CSBMs) that were developed within the framework of the Forum for Security Co-operation (FSC), in particular the Code of Conduct on Politico-Military Aspects of Security and the Document on Small Arms and Light Weapons (SALW). Regarding preventive actions against terrorism, participating States, along with the Permanent Council, ODIHR, the High Commissioner on National Minorities (HCNM), and the Representative on Freedom of the Media (FOM), should promote human rights, tolerance, and multiculturalism. Together with the OSCE Secretariat, and, at their request, with the assistance of the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA), participating States also undertook to address negative socio-economic factors that could undermine security and might facilitate the emergence of terrorism. The FOM was further asked to support the drafting of legislation to prevent the abuse of information technology for terrorist purposes. The Bucharest Plan of Action also requested the Parliamentary As-

2 Organization for Security and Co-operation in Europe, Ninth Meeting of the Ministerial Council, Bucharest, 3 and 4 December 2001, reproduced in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2002*, Baden-Baden 2003, pp. 391-417, here: The Bucharest Plan of Action for Combating Terrorism, pp. 395-402.

3 In October 2002, the United Nations Office for Drug Control and Crime Prevention (UNODCCP) was renamed the United Nations Office on Drugs and Crime (UNODC). In the rest of this article, the Office shall be referred to as the UNODC, irrespective of which name was in use at the time in question.

sembly to continue to promote dialogue among OSCE parliamentarians to strengthen their national anti-terrorist legislation. From the governmental side, the Permanent Council was tasked to arrange regular meetings between law enforcement officials of participating States and OSCE experts to look at ways to improve co-operation. Finally, the Bucharest Plan of Action defined a set of follow-up activities, including the definition by each OSCE body of a “road map” and the establishment of an anti-terrorism unit within the Secretariat.

Shortly after the Bucharest Ministerial Council, the Bishkek Programme of Action was adopted. For the first time, recognizing the “threats originating from Afghanistan”, recommendations specific to the Central Asian region were also made. Like the Bucharest Plan of Action, this programme does not elaborate on the underlying causes of terrorism, but addresses them indirectly by identifying possible actions to prevent and combat their manifestation in general and in Central Asia in particular. The identification of potential causes of terrorism, which was never achieved by the governmental side of the Organization, was undertaken by the OSCE Parliamentary Assembly. As its President stated on 12 April 2002: “If our governments focus on fighting the effects of terrorist activity, we can and should concentrate on understanding the causes of terrorism.”⁴ Although no thorough analysis has been conducted on a local and regional basis, the Parliamentary Assembly at least came up with a number of potential causes, including poverty, ignorance, oppression, lack of human and political rights, and the absence of social and political dialogue. Weak or failed states were also identified as possible safe havens for terrorists.⁵ However, it must be noted that the Parliamentary Assembly never took a more introspective look into the participating States’ past and present foreign policies, which from the point of view of terrorists, as exemplified by most statements issued by al-Qaida, are often used to legitimate their actions.⁶

In 2002, terrorism became the main priority of the Portuguese Chairmanship. Under its leadership, the former Danish Minister of Defence, Jan Trøjborg, was appointed as the CiO Personal Representative on Preventing and Combating Terrorism to co-ordinate the OSCE counter-terrorism policies and activities. By April 2002, each OSCE body had produced a roadmap.

In May 2002, after a late budget adoption, the OSCE established the Action against Terrorism Unit (ATU) under the Secretariat as the main OSCE anti-terrorism facilitator and focal point for co-ordination and liaison. Although it was meant to proceed with its work according to a three-stage ap-

4 Intervention by Mr. Adrian Severin, President of the OSCE Parliamentary Assembly of the OSCE, at The Saint Petersburg Interparliamentary Forum on Combating Terrorism, Opening Session, St. Petersburg, 27 March 2002, P.A.GAL/2/02, 12 April 2002.

5 Cf. *ibid.*

6 Cf. Mahmoud Ould Mohamedou Contre-Croisade. *Origines et Conséquences* du 11 Septembre, Paris 2004, pp. 129-135.

proach⁷ as defined by the CTC, the ATU decided to develop its activities in these three areas in parallel, noting that they were not in conflict with each other. Its activities can be divided into four categories: (1) The ATU is responsible for co-ordinating assistance to the participating States in ratifying and implementing the UN anti-terrorist regime with the help of ODIHR and UNODC, and provides regular updates of the ratification status of the twelve UN conventions and protocols by OSCE participating States. (2) It facilitates and co-ordinates the implementation of OSCE anti-terrorist commitments within its institutions, bodies, and field operations. In this respect, it liaises with potential donor states for terrorism-related project proposals, and together with the newly established Project Co-ordination Cell (PCC) within the Conflict Prevention Centre (CPC), it co-ordinates and develops projects and activities related to terrorism. It also chairs monthly Anti-Terrorism Task Force meetings where the ODIHR Co-ordinator on Anti-Terrorism Issues and representatives from the Secretariat, the Parliamentary Assembly, and other OSCE bodies and institutions can exchange information and co-ordinate forthcoming counter-terrorism activities. (3) The ATU co-operates with external partners under the aegis of the CTC, both within and outside the OSCE area. (4) Finally, it supports the CiO and the Secretariat, collecting and compiling information from various reports and providing them with talking points, background information, and advice on terrorism-related issues. In the short space of time since it was created and with limited resources, the ATU has developed a fairly impressive number of activities. Among other things, it has initiated a programme on travel document security, which is part of the assistance to states provided by the OSCE to enhance their border security by preventing the movement of terrorists using fraudulent travel documents. A database was created containing information on all bilateral and multilateral counter-terrorism and law enforcement assistance programmes in the OSCE region that are relevant to United Nations Security Council Resolution (UNSCR) 1373 to inform relevant actors active in the fight against terrorism and to help them to better co-ordinate their activities and avoid overlap. Furthermore, a public website was launched containing links to other organizations also active in the fight against terrorism.

In Lisbon, at the High Level Meeting on the Prevention and Combating of Terrorism held on 12 June 2002, four strategic areas – seen by the Portuguese Chairmanship as OSCE comparative advantages, both in terms of the regions it covers and in the substantive expertise it has developed – were highlighted for OSCE assistance to its participating States: policing, border security, anti-trafficking, and countering the financing of terrorism. At the end of the year, OSCE participating States at the Porto Ministerial Council

7 Stage A: Creating a legislative framework covering all aspects of UNSCR 1373; Stage B: Creating executive mechanisms for implementation including the strengthening of law enforcement institutions to fight terrorism, the implementation of the OSCE SALW document, and the enhancement of border and travel document security; Stage C: Developing international co-operation.

adopted the OSCE Charter on Preventing and Combating Terrorism and a decision on implementing the OSCE commitments and activities on combating terrorism.⁸ In the latter, the Ministerial Council recognized for the first time the threat that Weapons of Mass Destruction (WMD) could pose in the hand of terrorists and consequently urged all participating States to co-operate in ongoing negotiations taking place at the UN on an International Convention for the Suppression of Acts of Nuclear Terrorism, and at the International Atomic Energy Agency (IAEA) on a Protocol on the Physical Protection of Nuclear Material. These would reinforce the current regime and impede terrorists from resorting to nuclear and/or radiological devices. This topic has since been further discussed by the FSC and the ATU.

In December 2003, the Ministerial Council in Maastricht, which concluded the Netherlands Chairmanship of the OSCE, adopted a decision on the establishment of a counter-terrorism network. Two additional decisions which reinforced the OSCE regime against terrorism were also adopted, one on the establishment of export controls for man-portable air defence systems (MANPADS) and one on the reinforcement of travel document security in line with the security standards of the International Civil Aviation Organization (ICAO).

Analysis of OSCE Regional Counter-Terrorism Activities

From the publicly available OSCE project database, it appears that the OSCE has conducted a large number of projects since 2002 aimed at reinforcing the capacities of the participating States to prevent and combat terrorism. OSCE projects can be organized along the lines of the four strategic areas where the OSCE has stated it has a clear comparative advantage: policing, border security, anti-trafficking, and suppressing the financing of terrorism. Two additional areas of intervention can also be identified: ODIHR's legislative assistance given to participating States to comply with UNSCR 1373, and projects conducted by ODIHR and the FOM to promote religious tolerance and freedom of expression. However, only the legislative assistance given by ODIHR to help participating States to implement the UN anti-terrorist regime is a newly developed activity. All others are continuations of past OSCE activities added to the category of "actions against terrorism", because they may contribute to combating terrorism, but not specifically dedicated to this issue. Examples of the latter include the publishing of the OSCE Handbook of Best Practices on SALW, the Termez-Hayraton border guard training programme,

8 Organization for Security and Co-operation in Europe, Tenth Meeting of the Ministerial Council, Porto, 6 and 7 December 2002, reproduced in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2003*, Baden-Baden 2004, pp. 421-455; here: *OSCE Charter on Preventing and Combating Terrorism*, pp. 425-428, and *Decision No. 1, Implementing the OSCE Commitments and Activities on Combating Terrorism*, pp. 442-443.

and the OSCE Academy established in Bishkek. It is only since 2004 that activities specifically focused on terrorism have been planned and given the appropriate titles.

With respect to counter-terrorism related activities from 2000 until the end of 2003, which include border security, police, and law enforcement activities, Central Asia received particular attention from all donor countries in general, with 46 percent of all capacity-building programmes being implemented in that region, compared to only 29 percent for South-eastern Europe and 25 percent for the South Caucasus. This huge difference can partially be explained by the renewed attention on Central Asia after the 9/11 attacks. But other factors should also be taken into account. The risk of spill-over from the Afghan conflict into neighbouring countries and the threat posed by the Islamic Movement of Uzbekistan (IMU) and *Hizb ut-Tahrir* to the stability of most Central Asian states were and still are used by Central Asian governments to request additional foreign aid on a bilateral and multilateral basis to fight terrorism. In addition, not only the USA, but also Russia, China, and to a certain extent the European Union, have specific interests in the region. Among other things, they want to prevent the emergence of new intra- and inter-state conflicts, prevent Central Asia from becoming a new breeding ground for terrorist movements, and maintain the stability necessary so as to achieve one of their main strategic objectives for the coming years: the building of new pipelines to open up the Caspian Sea and diversify oil and gas supply routes. It has also been suggested that some governments, including the USA and Russia, disregarding human rights violations in most of these countries, agreed to help some Central Asian governments on a bilateral basis to reinforce their repressive apparatus within the framework of the “legitimate” global fight against terrorism in exchange for securing their military presence and their economic interests in Central Asia.

Looking now at both OSCE budgetary and extra-budgetary sponsored counter-terrorism assistance from 2002 until the end of 2003, we find that only eight per cent of the funds were devoted to Central Asia in comparison with 49 per cent spent in South-eastern Europe and 43 per cent in the Caucasus.⁹ This huge discrepancy between the spend by individual donor countries and the OSCE’s contribution can only partially be explained by the difference in the review periods, even if the OSCE had no specific anti-terrorist activities from 2000 until the end of 2001. Part of the explanation may lie in the fact that the interest of Western countries in Central Asia is relatively new by comparison to their interest in South-eastern Europe and the Caucasus. Located at the EU’s periphery, the instability of these two regions represent a much greater threat to its security than Central Asia, which was, until recent years, still seen by most actors as being Russia’s historical zone of influence. The stability of the South Caucasus is instrumental for the building of two

9 Cf. Overview of Capacity Building Programmes Related to Counter-Terrorism in the OSCE Region, SEC.GAL/220/02, 11 November 2003.

new pipelines sponsored by the EU and the USA to open up the Caspian Sea and diversify their oil and gas supplies in anticipation of increased oil flows from Central Asia. The Balkans and the Caucasus are considered key hubs for trafficking in drugs, arms, and human beings. South-eastern Europe is continuing to recover from the last Balkan war, and the three South Caucasian republics are still coping with unresolved conflicts. But these are not the only factors that may explain this huge difference. First of all, delivery of multilateral assistance requires more time than bilateral assistance. Secondly, the OSCE can only act at the request of its participating States. The states of South-eastern Europe, which are already looking ahead to EU membership, and the Caucasus, whose aim is economic integration with the EU, are usually more eager to implement OSCE commitments than are the Central Asian states. The Central Asian states, although important differences exist among them, are often more reluctant to comply with OSCE commitments. In fact, they have openly criticized the OSCE for putting too much emphasis on the human dimension compared to the politico-military and the economic and environmental dimensions, and for failing to observe fundamental Helsinki principles, such as non-intervention in internal affairs and respect for the sovereignty of nations.¹⁰

Since 9/11, the OSCE has been fully engaged in combating terrorism. It has achieved substantial results in an extremely short timeframe. For instance, it has been instrumental in promoting the ratification and the implementation of the UN anti-terrorist regime. On 11 January 2004, the ATU calculated that since the 9/11 attacks, participating States had proceeded with 123 new ratifications, indicating a rise of 18 per cent. Out of the 660 items to be ratified in the OSCE area, 550 have been ratified (83 per cent) and 27 signed (four per cent), leaving only 83 neither ratified nor signed (13 per cent).¹¹

As requested in the Bucharest Plan of Action, all OSCE bodies, institutions, and field operations have contributed – each in its particular sphere of competence – to the prevention and combating of terrorism. However, these have not been equally balanced, even though counter-terrorism activities were conducted in all three OSCE dimensions. Out of the four strategic areas identified by the Portuguese Chairmanship, border security and policing fall clearly into the politico-military dimension and have absorbed most of the budgetary and extra-budgetary funding. This clearly shows that in their fight against terrorism, the OSCE participating States have, since the 9/11 attacks, put the emphasis on improving their security, which, in turn, has been implemented by the adoption of new security measures and enhanced co-

10 See 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.in.mid.ru/brp_4.nsf/0/3be4758c05585a09c3256ecc00255a52?OpenDocument.

11 Cf. Updated Field Reference for Anti-Terrorism Efforts, SEC.GAL/22/04, 4 February 2004.

operation, sometimes without regard to basic civic liberties and human rights. However, it would be false to state that the OSCE is not also active in the economic and environmental and human dimensions, which, when it comes to addressing the underlying causes of terrorism, may provide better and more sustainable results. And in this respect, many traditional activities of the OSCE set the balance right. In conformity with the Bucharest Plan of Action for Combating Terrorism, these include (a) institution building and strengthening the rule of law and state authorities; (b) promoting human rights, tolerance, multiculturalism, the rights of national minorities, and freedom of the media; (c) addressing socio-economic problems; and (d) preventing violent conflict and promoting peaceful settlement of disputes.

Framework for the OSCE's Anti-terrorism Co-operation with International and Regional Organizations

At the Istanbul Summit in 1999, the OSCE participating States adopted the Charter for European Security and acknowledged that current security-related risks and challenges could not be met by a single state or organization. Based on this assumption, they adopted the Platform for Co-operative Security to "further strengthen and develop co-operation with competent organizations on the basis of equality and in a spirit of partnership"¹² and enhance co-operation with other IGOs in performing field operations, for example by carrying out common projects. Adopted two years later, the Bucharest Plan of Action again referred to this Platform for Co-operative Security and identified OSCE strengths and comparative advantages, essential for its proper use. According to this document, OSCE comparative advantages are "its comprehensive security concept linking the politico-military, human and economic dimensions; its broad membership; its experience in the field; and its expertise in early warning, conflict prevention, crisis management, post-conflict rehabilitation and building democratic institutions".¹³ Referring to the Platform for Co-operative Security once again, the Bucharest Plan of Action reaffirms the leading role of the UN in the fight against terrorism and states that the OSCE can take on a co-ordinating role for inter- and intra-regional initiatives, building upon its ability to create a close network for the international coalition against terrorism. Moreover, participating States and the Secretariat were asked to "strengthen co-operation and information exchanges, both formally and informally, with other relevant groups, organizations, and institutions involved in combating terrorism".¹⁴ They were also asked to

12 Organization for Security and Co-operation in Europe, Charter for European Security, Istanbul, November 1999, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2000*, Baden-Baden 2001, pp. 425-443, here: p. 429; for the Platform for Co-operative Security see: *ibid.*, pp. 441-443.

13 Bucharest Plan of Action for Combating Terrorism, cited above (Note 2), p. 395.

14 *Ibid.*, p. 400.

“broaden dialogue with partners outside the OSCE area [...] to exchange best practice and lessons learned in counter terrorism efforts for application within the OSCE area”.¹⁵

Issued on the 19 March 2002, the revised Secretariat Road Map on Terrorism assigned to the participating States, the Action against Terrorism Unit, the field offices, and the Senior Police Advisor responsibility for improving regional and international co-operation between the OSCE and other international and regional IGOs. In this context, the UN is considered the main partner for co-operation. The Secretariat Roadmap also includes guidelines for further co-operation with IGOs inside the OSCE area, such as the EU, the Council of Europe, NATO, the Stability Pact for South East Europe, the Central Asian Cooperation Organization (CACO), Black Sea Economic Cooperation (BSEC), the Commonwealth of Independent States (CIS), the Collective Security Treaty Organization (CSTO), and the GUAM group of states (Georgia, Ukraine, Azerbaijan, and Moldova¹⁶). Outside the OSCE area, the main partners for co-operation are the Mediterranean Contact Group, Asian Partners for Co-operation, the Organization of the Islamic Conference (OIC), the Organization for African Unity/African Union (OAU/AU), the Arab League, the Conference on Interaction and Confidence-Building Measures in Asia (CICA), and, finally, the Shanghai Co-operation Organization (SCO).¹⁷

Starting in 2000, the OSCE organized – often together with the UNODC – a series of meetings focused on terrorism issues. These were regularly attended by the OSCE’s traditional partner organizations, the UN, NATO, the EU, and the Council of Europe. As of 2002, the OSCE also invited other regional and sub-regional organizations on a more regular basis in line with the Secretariat Road Map on Terrorism, which aims at making the Platform for Co-operative Security operational. These meetings and conferences gave the OSCE and the other participating organizations the opportunity to exchange information on their respective current and planned counter-terrorism activities, as well as to discuss and identify areas and modalities of future co-operation and co-ordination, both at headquarters level and in the field. From February until December 2003, technical seminars on the legislative implementation of UNSCR 1373 were organized by the ODIHR Coordinator on Anti-Terrorism Issues in full co-ordination with the ATU. In January 2004, the ATU and ICAO co-hosted a workshop on the threat posed by MANPADS, which was attended by civil aviation security and counter-terrorism experts from NATO, the CSTO, the European Commission, and OSCE participating States. Discussions were also initiated with the IAEA on the threat posed by the illicit trafficking of radiological materials.

¹⁵ Ibid., p. 401.

¹⁶ Formerly the GUUAM group of states, the name was changed following Uzbekistan’s suspension of its membership in 2002; cf. Taras Kuzio, GUUAM Reverts to GUAM as Uzbekistan Suspends Its Membership Prior to Yalta Summit, in: *Eurasia Insight*, 18 July 2002, at: <http://www.eurasianet.org/departments/insight/articles/eav071802.shtml>.

¹⁷ Cf. OSCE Secretariat’s Road Map on Terrorism, SEC.GAL/35/02/Rev.1, 19 March 2002.

The remainder of this contribution focuses on analysing the extent to which declaratory statements urging enhanced co-operation between international and regional organizations to fight terrorism after the 9/11 attacks were realized in the Central Asian context, which is characterized by rather limited security co-operation. There are several factors that make it an interesting case to analyse: Afghanistan borders three out of the five Central Asian states; Uzbekistan has faced recurrent terrorist attacks from the IMU, which crossed Kyrgyzstan and used Afghanistan and Tajikistan as sanctuary; all states in the region fear that *Hizb ut-Tahrir*, which they have declared a terrorist group along with the IMU, may resort to terrorist attacks. All the IGOs analysed are active in Central Asia or have the Central Asian states among their members, and all have decided to take a strong stance against terrorism. However, for practical reasons, only the bilateral co-operation schemes between the OSCE and the UN, NATO, the EU, the CIS, the CACO, and the SCO will be analysed.

Co-operation between the OSCE and the UN

As stated before, the UN has clearly earned its title of “traditional partner of the OSCE”. In both historical and formal terms, their co-operation is based on the unilateral declaration made by the Heads of State or Government of the OSCE participating States at the 1992 Helsinki Summit, which stated that the OSCE (at that time CSCE) is a regional arrangement in the sense of Chapter VIII of the UN Charter, and on a Framework for Co-operation and Co-ordination between the UN Secretariat and the CSCE agreed upon in May 1993. Since then, the OSCE Secretary General has submitted annual reports to the UN General Assembly, while the UN Secretary-General has often addressed OSCE summits. Both organizations also attend annual high-level tripartite meetings with the Council of Europe. Working-level contacts between the OSCE and the UN were established by the end of 2001, and agreements were reached to share relevant internal reports, exchange staff, share lessons learned, and allow each organization’s personnel to attend training courses run by the other. Also at the working level, the ATU closely co-ordinates its actions with the CTC, and the OSCE often co-operates with UNODC in several geographic regions and on various issues, including terrorism. This co-operation has been reinforced through regular co-operation on the ground, and co-ordination including a clear division of tasks between both organizations as seen, for example, in the management of the Tajikistan peace process and its aftermath.

In Central Asia, the history of co-operation between the OSCE Central Asia Liaison Office (CALO) in Uzbekistan and its successor, the OSCE

Centre in Tashkent, on the one hand, and various UN agencies, on the other, is a good example of the two organizations working together in the field. They exchanged information on an *ad hoc* basis and were often cross-represented in their respective meetings, seminars, workshops, and projects across the three dimensions. Within the framework of the fight against terrorism, co-operation has mainly occurred between the CALO/OSCE Centre in Tashkent and the UNODC in the politico-military dimension. In 2000, the CALO contributed to the preparation of the “International Conference on Enhancing Security and Stability in Central Asia: An Integrated Approach to Counter Drugs, Organized Crime and Terrorism”, co-organized by the Austrian OSCE Chairmanship and UNODC. In 2002, the UNODC and the OSCE agreed to broaden the UN-led project “Termez-Hayraton Cross Border Training Programme” that aimed at improving border guards’ and custom officials’ capacities to prevent the flow of illegal drugs originating in Afghanistan. The two organizations agreed on a clear division of tasks, which was repeated in a follow-up project in 2003. The OSCE covered trafficking in SALW, while the UNODC focused on drug trafficking. The OSCE’s two-month-long trafficking in SALW project marked the first time that Afghan custom and border guards participated in joint training with their Uzbek counterparts. In June 2002, the OSCE Centre in Tashkent co-sponsored another UNODC initiative, the “Regional Conference on Drug Abuse in Central Asia: Situation Assessment and Responses”. In the economic dimension, the UNODC and the OSCE Centre in Tashkent, in partnership with the Central Bank of Uzbekistan, organized the “National Workshop on Combating Money Laundering and Suppressing the Financing of Terrorism” in Tashkent in October of the same year.

As the Hayraton-Termez project exemplified, both organizations took their comparative advantages into consideration when they decided to co-operate, although no specific agreement was adopted between the UN agencies present in Central Asia and the OSCE Centres in Central Asia¹⁸ within the framework of joint counter-terrorism activities. And apart from joint projects, which are the sign of already deep-rooted co-operation, meetings are also regularly held where personnel from both organizations are cross-represented. In this respect, the annual regional Heads of Mission meetings provide a good opportunity for the international and regional organizations that are invited to exchange information on their respective projects and actions, so as to avoid overlap and redundancy, but also to explore new opportunities for co-operation.

18 OSCE Centres are located in all five Central Asian republics: in Almaty (Kazakhstan), Ashgabad (Turkmenistan), Bishkek (Kyrgyzstan), Tashkent (Uzbekistan), and Dushanbe (Tajikistan).

With NATO, co-operation on anti-terrorism issues mainly occurs at headquarters level through regular cross invitation to conferences and events as well as information exchange, such as on the implementation of CSBMs between the OSCE Secretariat and the NATO Verification and Implementation Coordination Section (VICS). Moreover, within the framework of the Euro-Atlantic Partnership Council (EAPC), a representative of the OSCE Chairman-in-Office regularly attends meetings of the Political-Military Steering Committee/Ad Hoc Group on Cooperation in Peacekeeping (PMSC/AHG) and informs NATO officials about relevant OSCE issues. NATO is represented in the OSCE by the NATO caucus, which meets every week in Vienna to discuss the topics raised by the 55 in the Permanent Council. Although the OSCE and NATO have not adopted a co-operation agreement to define their interactions and areas of co-operation, cross-representation means that each organization is fully aware of the other's activities and comparative advantages. In November 2003, former NATO Secretary General Lord Robertson, addressing the OSCE Permanent Council, stated that: "The threat of terrorism constitutes a priority area for our institutions."¹⁹ And, further on, that "NATO's many activities pertaining to defence reform complement the OSCE's conflict prevention and post-conflict rehabilitation work [...] We should also optimise our cooperation in dealing with such concrete issues as border security, organised crime, and small arms and light weapons."²⁰ In addition, the recent nomination of former OSCE CiO Jaap de Hoop Scheffer as the new NATO Secretary General may further co-operation between the two organizations. In the field, and in Central Asia in particular, these organizations have never conducted any joint operations or projects, although all the Central Asian countries with the exception of Turkmenistan are members of both the OSCE and the EAPC/Partnership for Peace (PfP) and have committed themselves to fight terrorism. Contacts between NATO representatives and OSCE Centres also take place on *ad hoc* basis.

NATO's recent decision to appoint a liaison officer for the region may enhance co-ordination between the two organizations at field level in the future. Their functional complementarity can be observed if we take a closer look at NATO's activities in Central Asia within the framework of the PfP programme. These were limited to the military dimension, and were specialized activities targeted at the military forces to raise their compliance with NATO standards. Since 1997, these have included military exercises and related training activities, democratic control of forces and defence structures, civil emergency planning, defence policy and strategy, consultations on navi-

19 Speech by former NATO Secretary General Lord Robertson at the OSCE Permanent Council on 6 November 2003; at: <http://www.nato.int/docu/speech/2003/s031106a.htm>.

20 Ibid.

gation and identification systems, military education, training, and doctrine.²¹ On the other hand, the OSCE, which is also active in the military dimension, has mainly developed expertise in the area of early warning and conflict prevention, and its activities do not specifically target military forces as such. In its fight against terrorism, the OSCE mainly focuses on its comparative advantages, which are policing, border security, anti-trafficking, and countering the financing of terrorism. The security environment may also explain why NATO and the OSCE do not co-operate to a greater extent in Central Asia. First, Russia is a full member of the OSCE but not of NATO, even though it does enjoy a privileged relationship with its structures through the NATO-Russia Council. Secondly, Russia is worried about NATO's expansion and growing influence in its "near abroad", in particular in Central Asia and the Caucasus. Third, Central Asian states have a say on any project implemented on their soil, be it within the framework of the OSCE or NATO's PfP, and may, as a sign of good will towards Russia (and/or as a result of Russian pressure), forbid the two organizations to conduct joint projects. It is therefore possible that the difference in Russia's membership status in the two organizations and the visible instrumentalization of NATO's PfP by the US to increase its influence in the region, which does not please Russia, may be detrimental to closer co-operation between the two organizations in Central Asia. For these reasons, it can be assumed that they will not implement joint counter-terrorism activities in the region in the near future. Most likely though, they will continue to share relevant information and meet in order to avoid overlap and redundancy and may develop complementary activities in parallel in the areas of border management and anti-trafficking.

Co-operation between the OSCE and the EU

The OSCE also co-operates closely with the EU, however this co-operation mainly occurs in the economic and environmental and human dimensions. The EU is represented in the OSCE by the participating State that holds the Presidency of the EU Council of Ministers and by a representative of the European Commission. This level of direct interpenetration gives the EU the possibility of raising any issue in the various negotiating and decision-making bodies of the OSCE. Moreover, the President of the European Commission and the Commissioner responsible for external relations participate in Summits and Ministerial Councils of the OSCE. Regular meetings take also place between the organizations' respective troikas. The EU's member states finance some two-thirds of the OSCE budget, and the EU may provide additional support for specific OSCE projects or activities. In a number of official documents, both organizations have voiced their interest in fully co-operating on various projects. At his last appearance before the OSCE Permanent

21 See Partnership Work Programme, NATO Partnership for Peace official texts, at: <http://www.nato.int/issues/pfp/pfp.htm#pwp>

Council in 2002, the EU High Representative for the Common Foreign and Security Policy (CFSP), Javier Solana, described the two organizations as “natural-born partners”, which shared a common future and a common past.²² Within the framework of the fight against terrorism, the EU member states participated, in the first place, in the drafting of the OSCE policies to combat terrorism. Moreover, the EU attended numerous OSCE meetings where it shared its experiences and explained its main contributions to the fight against terrorism and the progress made in implementing the Bucharest Plan of Action against Terrorism. In Central Asia, the European Commission is present in the field through the offices of the Central Asian Regional Environment Centres (CARECs), which were opened in all five countries within the framework of the TACIS programme. The EU financed about half of ODIHR’s activities in the human dimension in Central Asia. In 1999, an agreement was signed between the European Commission and the ODIHR on a joint programme for advancing human rights and democratization in Central Asia.²³ In the economic and environmental dimension, the OSCE Centres and TACIS were cross-represented at various meetings and conferences. Within the scope of counter-terrorism-related activities, representatives of the TACIS office attended some of the preparatory meetings of the joint UN-OSCE Termez-Hayraton Cross-border Training Programme. And discussions are currently underway regarding the possibility of having OSCE border management and police projects as well as workshops on travel document security in Central Asia funded by the European Commission within the framework of its multi-year Border Management Programme for Central Asia (BOMCA).

Co-operation between the two organizations exists both at headquarters level and in the field. However, competition between them seems to be on the rise. They have planned similar activities in Central Asia in areas such as border management and combating money laundering – both of which belong to the strategic areas that the OSCE has highlighted as its comparative advantage in the fight against terrorism. Furthermore, the European Commission is continually expanding its agenda to include activities that were traditionally implemented by the OSCE, which it sidelines in the human dimension. Clear evidence of this can be found in the Commission’s 2002-2006 strategy paper for Central Asia, where it limits OSCE objectives in Central Asia to those which “revolve around the implementation of OSCE commitments, mainly in the field of the rule of law, democratic institutions and civil society, judicial reform and conflict prevention, including in economic/environmental issues”²⁴ and states several pages later that the core objective of the EU’s assistance strategy is “to promote the stability and secur-

22 Cf. Javier Solana describes OSCE as “natural-born partner” of the European Union, OSCE Press Release No. 503/02, SEC.INF/554/02, 25 September 2002.

23 Cf. Strategy Paper 2002-2006 & Indicative Programme 2002-2004 for Central Asia, European Commission, 30 October 2002, p. 19.

24 Ibid., p. 15.

ity of the countries of Central Asia”.²⁵ However, the EU’s legitimacy in Central Asia is not the same as the OSCE’s legitimacy, since the EU mainly develops its activities on a bilateral basis, while the OSCE works multilaterally and counts all Central Asian states and Russia among its members. If the EU continues to develop its bilateral activities to the detriment of the OSCE, the latter may see the reach of its crisis prevention and management capabilities curtailed. Moreover, “it would jeopardize the inclusion of Russia in the only existing pan-European co-operation framework”.²⁶ This competition, which occurs behind closed doors in both organizations, can also be detrimental to the fight against terrorism if it results in overlap and duplication of activities, wasting valuable human and financial resources that could have been used to organize other counter-terrorism activities and enhance the prevention and deterrence capacities of a receiving state. Furthermore, the receiving state may cast doubts on the credibility of both organizations, which can impact their images and impair bilateral relations among organizations and with the receiving state.

Co-operation between the OSCE and the CIS, the CACO, and the SCO

Co-operation between the OSCE and the CIS, the CACO, and the SCO, both in general and within the framework of combating terrorism in particular, has thus far been limited merely to the participation of the other three organizations in meetings, conferences, and workshops organized by the OSCE and/or the UN. At this stage, no co-operation agreements exist between the OSCE and the other three. In addition to meetings at the political level, formal high level contacts between the OSCE Secretary General and high ranking officials of the CIS and the SCO have also taken place. While the OSCE has established points of contacts within all three organizations, it is not certain that the CIS, the CACO, and the SCO have done the same. OSCE representatives have rarely been invited to attend their meetings and conferences, and information has only been exchanged on an *ad hoc* basis, mainly when representatives of the various organizations have met at conferences and meetings.²⁷

Many factors can explain the low level of co-operation between the OSCE and the CIS, the CACO, and the SCO. First, these organizations were created in the aftermath of the break-up of the Soviet Union. The CIS was founded in 1991, the CACO in 1994 (founded as the Central Asian Economic Union, CAEU; expanded and renamed the Central Asian Economic Community, CAEC, in 1998; and renamed the Central Asian Cooperation Organization, CACO, in 2002), and the SCO (then known as the Shanghai Five) as

25 Ibid., p. 17.

26 Randolph Oberschmidt, Wolfgang Zellner, *OSCE at the Crossroads*, CORE Working Paper 2, Hamburg 2001, p. 8.

27 Interview with Dr Marie-Carin von Gumppenberg, Political Officer at the OSCE Centre in Tashkent, and Fabrizio Scarpa, OSCE Senior External Co-operation Officer at the OSCE Secretariat, Vienna, July 2004.

late as 1996. Therefore, we cannot expect from them the same level of co-operation as that existing between the OSCE and its traditional partners for co-operation, who have almost 30 years of common history and share the same values and principles. Second, both the CACO and the SCO are still at the beginning of their institutionalization phase. The CACO still lacks permanent structures and the SCO only recently inaugurated its secretariat in Beijing. Hence, the OSCE's ability to establish permanent points of contact has so far been limited. Co-operation with the CIS was precluded for a long time by the fact that some of its members did not agree to having their interests represented by the organization to which they belonged. Third, since the CACO has no field presence and both the CIS and the SCO have only recently opened their anti-terrorism centres – the former based in Moscow with a regional branch in Bishkek, the latter in Tashkent – the OSCE Centres in Central Asia have until recently had neither the possibility of inviting local representatives of these organizations to participate in its events, nor an opportunity to co-organize joint activities. In this respect, it is not so much the instrumentalization of these IGOs by Russia or China that precluded co-operation between them and the OSCE, but more their internal defects, which are due to the inability of their members to overcome their remaining lines of division, further integrate, and achieve sustainable results that would benefit all.

The level of co-operation between the OSCE and the CIS, the CACO, and the SCO can therefore be described as ineffective and is characterized by a low level of reciprocity on the part of the other three organizations. However, even without formal co-ordination and collaboration mechanisms in place with the OSCE, the risk of overlap and duplication of activities remains limited. The counter-terrorism activities of CIS countries focus mainly on strengthening their militaries and conducting counter-terrorism exercises within the framework of the CSTO with the support of the Moscow-based CIS Anti-Terrorist Centre (ATC). Apart from providing planning capacities for the CSTO military exercises, the ATC also acts as a focal point for the CIS states' law-enforcement agencies, providing training, information, and planning capacities. Therefore, since the OSCE Strategic Police Matters Unit (SPMU) is also active in police reform activities, future co-operation between the OSCE and the ATC in Moscow based on both organizations' comparative advantages could be envisaged. Given the CACO's record of achievement in the politico-military and economic and environmental dimensions, there is effectively no risk of overlap and duplication of effort with the OSCE in general, and within the framework of combating terrorism in particular. Finally, the SCO has also conducted counter-terrorism military exercises and has only recently opened its Regional Anti-Terrorist Structure (RATS). However, in this case there may be a risk of overlap and duplication between the OSCE and RATS counter terrorist activities in the future since RATS' responsibilities include fighting arms trafficking and extremism. This could potentially

overlap with one of the OSCE's main comparative advantages, its expertise in fighting SALW trafficking, and ODIHR's activities to fight extremism. However, this risk may also provide a good opportunity for further co-operation between the two organizations based on their respective comparative advantages in pursuing a common objective: the prevention and repression of terrorism without infringing human rights and civil liberties.

As a matter of fact, co-operation between the OSCE and the SCO may have increased slightly since the first high-level contacts were established between the two organizations with the participation of the OSCE Secretary General in the inauguration of the SCO secretariat in Beijing, and later with the participation of a representative of the ATU in the inauguration of the SCO RATS in Tashkent. At field level, co-operation in the area of counter-terrorism might also increase between RATS and the OSCE Centre in Tashkent, which may wish to invite its representatives to participate in future OSCE counter-terrorism activities. With respect to the CIS, we may expect similar developments between the OSCE Centre in Bishkek and the regional office of the CIS ATC. However, such developments will only be possible if CIS and SCO member states express the desire to increase their co-operation with the OSCE within the framework of these organizations. In this respect, Russia may play a key role, since it is a member of both organizations and has recently succeeded in reasserting its presence in the region, for instance through its membership of the CIS, the CSTO, the SCO, and recently, the CACO. However, one must keep in mind that Russia and eight other CIS member states recently co-signed the above-mentioned statement on the "state of affairs" in the OSCE, which was particularly critical of OSCE achievements.

Conclusion

Since all participating States have pledged to prevent and fight terrorism, and share in this respect a common interest, the OSCE, at the level of its bodies and entities, as well as its participating States should, with a view to better preventing and fighting terrorism, take a closer look at its underlying causes. In this respect, the participating States could, for example, appoint an independent panel of experts originating from all OSCE sub-regions. This panel could analyse possible causes and reasons for individuals and groups to resort to terrorism in the OSCE area, taking into account specific regional aspects, but also state policies which may cause resentment in some individuals and move them to adhere to terrorist groups. The OSCE could also become a forum where participating States could express their concerns about the policies of their counterparts, making use of the precautionary principle, as certain policies could backlash and lead to the death of innocent civilians in terrorist attacks.

At the level of co-operation of the OSCE with other regional and international organizations in Central Asia, the OSCE could reinforce its co-operation with the CIS, the CSTO, and the SCO both at headquarters level and in the field, doing more than merely issuing invitations to conferences and meetings. Leveraging the respective advantages of these various organizations, such enhanced co-operation could provide an effective, though partial answer to the veiled criticisms expressed by the CIS states, and Russia in particular, in the “Statement by CIS Member Countries on the State of Affairs in the OSCE” that the OSCE is being used by the West to promote democratic values to the East of Vienna.

III.

Organizational Aspects

OSCE Institutions and Structures

The Bulgarian Chairmanship between Crises

The Chairman's Programme

When Bulgaria assumed the Chairmanship of the OSCE from the Netherlands after the December 2003 Maastricht Ministerial Council, the participating States had just failed to reach agreement on a Joint Declaration for the second time. In contrast to its Dutch predecessor, the Bulgarian Chairmanship commenced entertaining no illusions about the possibility of unity being achieved on the most contentious questions during the year.¹ It was to be proved right. The decision to modestly concentrate on carrying out the responsibilities assumed and, with respect to other – patent and latent – challenges, to wait for a major opportunity to arise to find solutions that were acceptable to all parties appeared an intelligent one.

Even the Chairman-in-Office himself, the Bulgarian Foreign Minister Solomon Passy, explained that “the agenda for the OSCE in 2004 was largely set by the decisions taken at the eleventh Ministerial Council meeting at Maastricht in December 2003, particularly the OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century and the OSCE Strategy Document for the Economic and Environmental Dimension. The Bulgarian Chairmanship therefore decided that implementation should be the main theme for the year.”²

Nonetheless, like his forerunners, he sought to emphasize specific issues during his term of office: First, to raise the profile of education as a security-related task within the OSCE's areas of responsibility; second, to strengthen the OSCE's involvement “East of Vienna”, i.e. in the South Caucasus and Central Asia; and third, to increase the Organization's effectiveness outside its territorial limits in the form of “outreach” activities.

It was also foreseeable that the Bulgarian Chairmanship would be forced into intensive activity by breaking crises in conflict-riven regions, particularly in Moldova, where the Dutch Chairmanship had already made a highly dedicated effort. Finally, a number of staffing decisions needed to be made, including the appointment of a new Representative on Freedom of the Media – in which the Dutch Chairmanship had been unsuccessful, despite all its efforts.

1 According to remarks made by staff of the Chairman-in-Office.

2 Organization for Security and Co-operation in Europe, Twelfth Meeting of the Ministerial Council, 6 and 7 December 2004, Sofia 2004, MC.DOC/1/04, 7 December 2004, Activity Report of the Chairman-in-Office for 2004, pp. 83-105, here: p. 83; key OSCE documents are available on the OSCE website (<http://www.osce.org>). See also Solomon Passy, Preface, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 11-13.

In pursuing his own modest programme, the Chairman-in-Office's first step was to request the OSCE Conflict Prevention Centre to make an inventory of all OSCE activities related to education or training. Thanks to the broad definition used, this generated a long list, ranging from capacity-building in educational institutes to vocational training, and including activities designed to raise awareness of OSCE values and commitments, thus confirming the Chairman's understanding of a "considerable role and investment on the part of the OSCE in education as it relates to conflict prevention".³

The Bulgarian Chairmanship combined its interests in an OSCE education policy and a strengthened presence in Central Asia when it organized a one-day Ministerial Conference in Tashkent (Uzbekistan) on "Education as an Investment in the Future", hosted by the Uzbek government and attended by the Education Ministers of the Central Asian states and Afghanistan. One of the conference's recommendations was to develop regional co-operation on the example of the OSCE Academy in Bishkek. Passy justified the OSCE's particular commitment to Central Asia on the grounds that "high educational standards in this region can help to foster stability and security in the area and can give further impetus to the reform process in general".⁴

The Bulgarian Chairmanship sought to emphasize the educational aspects of a wide variety of the Organization's activities: These included not only events long established in the OSCE calendar, such as the Prague Economic Forum, and the activities of the High Commissioner on National Minorities and the Representative on Freedom of the Media, but also the OSCE Conference on Anti-Semitism, held in Berlin on 28 and 29 March 2004, and the Conference on Tolerance and the Fight against Racism, Xenophobia, and Discrimination, which took place in Brussels on 13 and 14 September 2004. The last two, which received considerable media attention thanks to the participation of a number of well known personalities, had however been initiated by the Maastricht Ministerial Council in December 2003.⁵ The decision to hold a Supplementary Human Dimension Meeting on Human Rights Education and Training – organized by ODIHR – was also made during the Dutch Chairmanship and hence did not arise from any specific desire to stress education policy.

A start was made to realizing Solomon Passy's other concern – to promote an OSCE that was effective outside its geographical territory – by sending an election support team to the Afghan presidential elections of 9 October

3 Activity Report, cited above (Note 2), p. 87.

4 Ibid., p. 86.

5 Cf. Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, Decision No. 4/03, Tolerance and Non-Discrimination, MC.DEC/4/03, pp. 78-80, here: pp. 78-79.

2004.⁶ The intensification of relations with the Mediterranean Partners for Co-operation and the accession of Mongolia as the newest partner country can also be included under the heading of “outreach activities”. Also worth mentioning in this context is the organization, in the last days of the Bulgarian Chairmanship, of the visit of a group of experts from the OSCE Secretariat and ODIHR to assess educational needs in the Palestinian territories.

Important appointments were made during the Bulgarian Chairmanship, and Chairman-in-Office Passy made good use of his right to appoint special representatives. After a long drawn-out process, and following the end of a period during which objections could be raised, Miklós Haraszti was appointed OSCE Representative on Freedom of the Media. The Chairman-in-Office named Helga Konrad as the OSCE’s first Special Representative on Combating Trafficking in Human Beings for a period of two years. This decision was also rooted in a resolution of the Maastricht Ministerial Council.⁷

The Chairman-in-Office appointed three further personal representatives on 22 December 2004: Anastasia Crickley as Personal Representative on Combating Racism, Xenophobia, and Discrimination; Gert Weisskirchen as Personal Representative on Combating Anti-Semitism; and Ambassador Ömür Orhun as Personal Representative on Combating Intolerance and Discrimination against Muslims. Anastasia Crickley will also deal with intolerance and discrimination against Christians and members of other religions.

By renewing the tenure of the former Finnish President, Martti Ahtisaari, as his Personal Envoy for Central Asia, the Chairman demonstrated continuity in his commitment to the five Central Asian states. In 2004, Ahtisaari paid two visits to Kyrgyzstan and Turkmenistan and one each to Kazakhstan, Uzbekistan, and Tajikistan. Key topics at the heart of his discussions were elections, media freedom, and other issues related to political, economic, and environmental developments in these countries. It is also notable that the Vice-President of the Bulgarian National Assembly, Yunal Lutfi, visited Turkmenistan in early December 2004 at the request of the Chairman-in-Office to discuss questions relating to the forthcoming elections, the fight against terrorism, the education system, national minorities, and the access of the International Committee of the Red Cross (ICRC) to prison inmates.

As the crisis in Moldova escalated, the Chairman-in-Office appointed the former Bulgarian President Petar Stoyanov his Personal Representative for Moldova.

The Chairman-in-Office restricted his involvement in the crisis that followed the Ukrainian presidential election to making several statements. The second round of voting was held on 21 November. Three days later, the

6 Cf. Robert L. Barry, The OSCE breaks new ground in a partner country, in: *OSCE Magazine*, December 2004, pp. 7-12.

7 Cf. OSCE, Eleventh Meeting of the Ministerial Council, cited above (Note 5), Decision No. 2/03, Combating Trafficking in Human Beings, MC.DEC/2/03, pp. 35-60, here: p. 35.

Chairman-in-Office called on the Ukrainian authorities to look into the irregularities that had been detected. On 4 December, he acclaimed the decision of the Ukrainian Constitutional Court to declare the second round invalid. He also offered the OSCE's unqualified support for rerun elections. In doing so, he referred to the fact that the Court's decision agreed with the findings of the international observers, including the ODIHR observers, and that a rerun would offer the possibility of a peaceful resolution to the political crisis. He called on the Ukrainian authorities to ensure a fair election campaign and particularly emphasized the necessity of unbiased reporting by the state-controlled media. He did not travel to Ukraine, and named the Secretary General of the OSCE, Ján Kubiš, his Envoy in the discussions with which the OSCE, alongside other mediating organizations, aimed to put an end to the crisis.

Nonetheless, Solomon Passy cannot be accused of unwillingness to visit crisis regions within the OSCE or to attend events of significance for the Organization. For instance, he held talks with the regimes of Belarus and Turkmenistan, which have disregarded OSCE norms; visited the conflict regions of Kosovo and Moldova; attended the Security Council meeting on co-operation between the UN and regional organizations in stabilization processes in New York; and was present at the Annual Session of the OSCE Parliamentary Assembly in Edinburgh. In each case, he supported the OSCE cause through his presence, lending the OSCE his personal authority.

These visits by the Chairman-in-Office, however, did not do as much to further the OSCE's interests as the Organization would have wished.

Following a visit by a representative of the Chair to Minsk to sound out the possibility of talks to resolve the problems between the OSCE and Belarus, Solomon Passy himself travelled there in June to discuss an intensification of the co-operation between the local regime and the OSCE. He also raised the OSCE's concerns over the deteriorating situation regarding civil society, NGOs, the mass media, and political parties in Belarus. With respect to the parliamentary elections planned for 17 October, the Chairman-in-Office underlined the need for them to be "free and fair". He also supported the OSCE Office in Minsk "in pursuing the activities set out in its mandate, in co-operation with the Belarusian authorities and civil society, in order to promote the country's performance vis-à-vis the Organization's principles and standards".⁸ It appears that the visit succeeded in stabilizing relations between the OSCE and Belarus on the best level then possible.

The Chairmanship acted less than skilfully in pursuing the OSCE's interests with respect to another problematic regime. When the time was approaching for the regular renewal of the tenure of the Head of the OSCE Centre in Turkmenistan, the Chairmanship first asked the Turkmen government for its approval, although this is not standard diplomatic procedure in the case of tenure renewals. When the Turkmen government failed to answer,

8 Activity Report, cited above (Note 2), p. 98.

this *faux pas* meant that the Head of Centre had to be recalled. In April 2004, during a visit to the Central Asian states, Solomon Passy visited Turkmenistan with the declared intention of promoting stronger co-operation between the country and the OSCE, the resolution of media-related issues, and joint action in the fight against terrorism and drug trafficking. However, Passy, who travelled with a large Bulgarian delegation, including representatives of private companies, was accused of acting more as Foreign Minister, i.e. as a representative of his own country's interests, than as a spokesman for the international community.⁹

The OSCE was also completely taken by surprise by the violence that broke out in Kosovo in March 2004 and almost reached pogrom-like levels. That hardly flatters an organization dedicated to monitoring and preventing conflicts. However, despite the large number of OSCE personnel deployed, the Organization plays a subordinate role to the UN and KFOR in this conflict. Together with his predecessor, Jaap de Hoop Scheffer, who had since become Secretary General of NATO, the Chairman-in-Office visited the region in April 2004 during a tour that also took him to Belgrade and Bosnia and Herzegovina. In October, he visited Kosovo once again shortly before the elections.

The Bulgarian Chairmanship was particularly active in efforts to find a solution to the Moldova-Transnistria conflict, although this collapsed shortly before an agreement between the two parties could be reached. The various mediators were invited to Sofia for initial consultations in January; further talks were held in February in Belgrade. These led to a five-sided round of discussions in April in Tiraspol and Chişinău – the first such in six months. A follow-up meeting took place in May. In June, the Chairman-in-Office visited Moldova and met with all sides. He supported the mediators' proposals for a political solution and expressed his criticism at the lack of progress in the issue of the withdrawal of the Russian forces.

He also found himself confronted by a crisis concerning the use of the Latin alphabet in Moldovan schools in Transnistria. In July, the Bulgarian Deputy Foreign Minister, Petko Draganov, travelled to Moldova to support the OSCE Mission there in defusing the escalating tension between the two sides over this issue. In September, as the crisis deepened, the Chairman-in-Office dispatched his Personal Representative for Moldova, Petar Stoyanov, to Chişinău and Tiraspol. Despite the efforts of the mediators and several positive developments, no progress was made towards a comprehensive political settlement in the first six months of the year. By inviting the mediators to a meeting in Sofia on 11 and 12 October, the Chairmanship attempted to breathe new life into the deadlocked negotiations. This led to new discussions in Varna between the mediators and representatives of the Republic of Moldova and Transnistria on 8 and 9 November. At the end of 2004, observers were resigned to the fact that "additional efforts are still needed to

9 According to witnesses in Ashgabad.

find a formula for a comprehensive settlement on the basis of a strengthening of the sovereignty and territorial integrity of the Republic of Moldova while ensuring a special status for Transdniestria".¹⁰

In several areas, multiple rounds of discussions were not sufficient to achieve the desired result. This was true, for instance, of the attempt to develop a regime for the joint control and monitoring of borders. Nonetheless, the OSCE's South-Eastern Europe Cross-border Co-operation Programme (OSCCP) was continued by means of seminars on "civilian aspects of training and advice to border police, assistance to and facilitation of institution building and promotion of regional co-operation". The programme aims to streamline co-operation between the various border police forces and establish the groundwork for following up specific topics during 2005. In September 2004, the Bulgarian Chairmanship organized a joint conference with technical experts from the OSCE and the United Nations Office on Drugs and Crime (UNODC) on questions of border management and border security. Its aims were to encourage these international organizations to share their experience in order to promote more effective border management and better border security and to develop a more strategic and co-ordinated approach for the provision of international assistance. Also on the topic of border management in 2004, the Chairmanship, the Secretariat, and the OSCE Mission to Moldova developed contingency plans for an OSCE border and customs monitoring operation on the frontier between Moldova and Ukraine. By the end of 2004, however, the Organization had neither succeeded in getting this mission off the ground nor in producing a draft of a general border monitoring regime that was acceptable to all participating States.

The Chairmanship must have been alarmed at the critical comments directed by the Russian Federation and other CIS countries at the current state of the OSCE, which were no longer merely symptoms of a regional crisis within the OSCE area, but targeted the Organization as a whole. They distilled the accumulated complaints that had been raised from time to time in recent years. On 3 July 2004, the Presidents of nine CIS countries delivered a declaration on the necessity of OSCE reform.¹¹ This was followed by an appeal by eight CIS Foreign Ministers in Astana on 15 September.¹² This is evidence of a new East-West divide that could threaten the very substance of the OSCE. The situation had become so delicate that the Chairman-in-Office decided to avoid making a public statement for fear that it provoke the com-

10 Activity Report, cited above (Note 2), p. 98.

11 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.in.mid.ru/brp_4.nsf/0/3be4758c05585a09c3256ecc00255a52?OpenDocument. Azerbaijan, Georgia, and Turkmenistan did not sign the document.

12 Ministry of Foreign Affairs of the Russian Federation, Information and Press Department, *Appeal of the CIS Member States to the OSCE Partners*, Astana, 15 September 2004 (unofficial translation from the Russian), at: http://www.in.mid.ru/brp_4.nsf/0/70f610ccd5b876ccc3256f100043db72?OpenDocument. Azerbaijan, Georgia, Moldova, and Turkmenistan did not sign the document.

plainants into a more dangerous breach with the Organization – one that could even prove impossible to heal. He did send two letters to his 54 fellow Foreign Ministers and to the Presidents of the CIS countries.¹³

The Chairmanship evidently thought it could defuse the situation by offering its own compromise suggestions. It promised to attempt to redress the balance between the three dimensions of the OSCE, and spoke in favour of spending funds freed up from the Balkans in Central Asia and the Caucasus and of strengthening the political role of the Chairman-in-Office, the Secretary General, and the Parliamentary Assembly. The Chairman-in-Office's proposals to relocate the Economic Forum to rotate among the five Central Asian states and to hold the Human Dimension Implementation Meetings in one of the South Caucasian countries caused consternation among at least some participating States.

Following difficult negotiations in various committees, the Bulgarian Chairmanship attempted to reach a decision on the controversial matter of the scale of contributions in the form of an acceptable compromise – one more closely based on the ability to pay. In December, after several “chair's guesses”, the Chairman presented a proposal for the two scales of contribution that it described as final. It aimed to avoid significant increases and reductions by limiting the possible margin of variation. The necessary consensus was blocked by the Russian Federation.

The Chairmanship had to accept a further setback with the end of the Border Monitoring Operation in Georgia, the renewal of whose mandate was once again blocked by Russia.

The Sofia Ministerial Council

The Twelfth Meeting of the Ministerial Council took place on 6 and 7 December 2004. As always, the country holding the Chairmanship played the host, Bulgaria choosing to hold the event in the capital, Sofia. Besides the usual formalities, the first day was taken up with the reports of the Chairman-in-Office, the President of the Parliamentary Assembly, the Secretary General, and the delegations of the participating States. The second day began with the passing of three declarations: One on preventing and combating terrorism, one on the sixtieth anniversary of the end of the Second World War, and one on the Nagorno-Karabakh conflict. Nineteen decisions were also passed, most of which had been prepared by the Permanent Council or the Forum for Security Co-operation. Six of them dealt with institutional matters, eight concerned the first dimension, two the second, and three the third. The foundations for these decisions had, in part, been laid at the Eleventh Minis-

13 Identically worded letters to the Foreign Ministers of the OSCE participating States of 22 July 2004; letter of 24 September 2004 to the twelve Presidents of the CIS countries on the occasion of their summit meeting on 15 September 2004 in Astana.

terial Council Meeting in Maastricht 2003, for while only eleven decisions were passed there, two important documents were also concluded: the Strategy to Address Threats to Security and Stability in the Twenty-First Century and the Strategy Document for the Economic and Environmental Dimension.

Once again, more of note occurred away from the routines of the OSCE's regular decision-making machinery. This included an agreement between the USA and the Russian Federation on the terrorism declaration, sealed behind the backs – or under the noses – of the other delegations, which had previously failed to agree on the wording of a joint proposal. Given the document's authors, it is no surprise that neither Chechnya nor Guantanamo was mentioned. Hence, in its most sensitive section, the Sofia Ministerial Statement on Preventing and Combating Terrorism made the following cryptic statement: "[...] considering that acts of terrorism seriously impair the enjoyment of human rights, we reaffirm our commitment to protect the enjoyment of human rights and fundamental freedoms, especially the right to life, of everyone within our jurisdiction against terrorist acts [...] We acknowledge that effective prevention of and fight against terrorism require the involvement of civil society in our countries."¹⁴

While these machinations at least led to the adoption of a basic text, however convoluted, other matters, such as declarations on the situations in Moldova, Georgia, and Ukraine, or a decision on the new budget, were not even considered by the OSCE's decision-making machinery. This also manifested itself in the proliferation of objections, caveats, restrictions, exhortations, and expressions of regret and complaint raised in seven interpretative statements. Particularly noteworthy was the declaration of the delegation of the Russian Federation, which opposed the usual practice of releasing a Joint Declaration of the Ministerial Council, thereby causing the failure of the Chairman's draft. Following the examples of his Austrian and Dutch predecessors, the Chairman then delivered this as the "Chairperson's Statement", thereby acknowledging that no consensus had been reached.

The six resolutions on institutional questions included the routine decision to renew the mandate of the High Commissioner on National Minorities,¹⁵ the OSCE Chairmanship in 2007,¹⁶ and on the time and place of the next Ministerial Council.¹⁷ The decision on the role of the OSCE Secretary General,¹⁸ the decision on the relationship between the OSCE and its Partners

14 OSCE, Twelfth Meeting of the Ministerial Council, cited above (Note 2), Sofia Ministerial Statement on Preventing and Combating Terrorism, pp. 1-2.

15 Ibid., Decision No. 1/04, Extension of the Mandate of the OSCE High Commissioner on National Minorities, MC.DEC/1/04 of 25 June 2004, p. 15.

16 Ibid., Decision No. 18/04, Decision on the OSCE Chairmanship in the Year 2007, MC.DEC/18/04 of 7 December 2004, p. 59.

17 Ibid., Decision No. 19/04, Decision on the Time and Place of the Next Meeting of the OSCE Ministerial Council, MC.DEC/19/04 of 7 December 2004, p. 60.

18 Ibid., Decision No. 15/04, Decision on the Role of the OSCE Secretary General, MC.DEC/15/04 of 7 December 2004, p. 54.

for Co-operation,¹⁹ and, particularly, the decision on the establishment of a Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, which was charged with producing its report, including recommendations, by the end of June 2005,²⁰ were more significant. The Ministerial Council explained the last of these decisions in terms of “a need to improve the Organization’s functioning as well as its capabilities for collective action”, and asked the Panel to “review the effectiveness of the Organization, its bodies and structures and provide an assessment in view of the challenges ahead” and to “make recommendations on measures in order to meet these challenges effectively”.²¹ At the same time, the Ministerial Council expected that the creation of the Panel would “give new impetus to political dialogue and provide strategic vision for the Organization in the twenty-first century”.²² The wording of this decision reveals that the participating States had taken heed of the crisis in the OSCE, the existence of which they had long denied.

The eight decisions relating to the first (politico-military) dimension were mostly prepared by the Forum for Security Co-operation and were ultimately related to the OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century adopted at the Maastricht Ministerial Council. There, the participating States had already agreed to elaborate a border security and border management concept. Given the complexity of the topic, however, some participating States were of the view that the time was not yet ripe in 2004 for the OSCE to pass a resolution on fundamental questions of border policy. At the Ministerial Council Meeting in Sofia, therefore, the participating States merely agreed on political goals, basic principles, and items to be considered when the final concept is drafted in 2005. Many other decisions shared this character of being part of a longer process.

Decisions in the first dimension include the above-mentioned decision on the elaboration of an OSCE border security and management concept,²³ the decisions on further implementing the OSCE Document on Stockpiles of Conventional Ammunition,²⁴ on standard elements of end-user certificates and verification procedures for SALW exports,²⁵ on OSCE principles on the control of brokering in small arms and light weapons,²⁶ OSCE principles for

19 Ibid., Decision No. 17/04, Decision on the OSCE and Its Partners for Co-operation, MC.DEC/17/04 of 7 December 2004, p. 58.

20 Ibid., Decision No. 17/04, Decision on the Establishment of a Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, MC.DEC/16/04 of 7 December 2004, p. 56-57.

21 Ibid., p. 56.

22 Ibid.

23 Ibid., Decision No. 2/04, Decision on the Elaboration of an OSCE Border Security and Management Concept, MC.DEC/2/04 of 7 December 2004, pp. 16-18.

24 Ibid., Decision No. 5/04, Decision on Further Implementing the OSCE Document on Stockpiles of Conventional Ammunition, MC.DEC/5/04 of 7 December 2004, p. 21.

25 Ibid., Decision No. 6/04, OSCE Standard Elements of End-user Certificates and Verification Procedures for SALW Exports, MC.DEC/6/04 of 7 December 2004, p. 22.

26 Ibid., Decision No. 7/04, OSCE Principles on the Control of Brokering in Small Arms and Light Weapons, MC.DEC/7/04 of 7 December 2004, p. 23.

export controls of man-portable air defence systems (MANPADS),²⁷ enhancing container security,²⁸ combating the use of the internet for terrorist purposes,²⁹ and on reporting lost and stolen passports to Interpol's automated search facility/stolen travel document database.³⁰

The first of the two decisions concerning the second (economic-environmental) dimension affected virtually the whole dimension, as it applied to the OSCE's most important and visible task in these fields, namely the holding of the Economic Forum.³¹ This comprehensive decision, complete with annex, did not hold back in terms of critical undertones and can be read as both a rebuke aimed at the form the event had taken so far and a final appeal to save it. Its declared intention was to create conditions to improve the efficiency and effectiveness of the Economic Forum – as the decision's title euphemistically stated. In fact, it was necessary to create these from scratch. It was the Ministerial Council's wish that the Economic Forum would promote the implementation of the Strategy Document more effectively. The topic of each Economic Forum meeting should focus on questions to which the OSCE can bring its particular added value. The decision also expressed the desire that the Economic Forum "should strengthen its role in providing a framework for political dialogue among the participating States on key issues regarding the economic and environmental dimension of the OSCE and should become more policy oriented and focus on practical proposals, building upon the work done during the preparatory process" and "should provide a framework for a more effective participation of officials and experts from the participating States, relevant international, regional and subregional organizations, financial institutions, representatives of academic and business circles, as well as NGOs". The decision also stated that the Forum should be more closely integrated with the preparatory seminars and that particular emphasis should be placed on putting the ideas discussed in the Forum into practice.

The second decision on economic affairs and security concerned the fight against corruption.³²

The content of the three decisions relating to the third (human) dimension had already been through a long consultation process before the Ministerial Council. This was particularly true of the decision on the OSCE Action

27 Ibid., Decision No. 8/04, OSCE Principles for Export Controls of Man-portable Air Defence Systems, MC.DEC/8/04 of 7 December 2004, p. 24.

28 Ibid., Decision No. 9/04, Enhancing Container Security, MC.DEC/9/04 of 7 December 2004, p. 25.

29 Ibid., Decision No. 3/04, Combating the Use of the Internet for Terrorist Purposes, MC.DEC/3/04 of 7 December 2004, p. 19.

30 Ibid., Decision No. 4/04, Combating Reporting Lost/Stolen Passports to Interpol's Automated Search Facility/Stolen Travel Document Database (ASF-STD), MC.DEC/4/04 of 7 December 2004, p. 20.

31 Ibid., Decision No. 10/04, Improving the Efficiency and Effectiveness of the Economic Forum, MC.DEC/10/04 of 7 December 2004, pp. 26-27.

32 Ibid., Decision No. 11/04, Combating Corruption, MC.DEC/11/04 of 7 December 2004, p. 28.

Plan for the Promotion of Gender Equality.³³ It is based on Permanent Council Decision No. 353 of 1 June 2000 and aims to set the OSCE's priorities for the promotion of gender equality – both within the Organization itself and in the participating States – and to establish mechanisms to ensure ongoing monitoring of such efforts.

The two other decisions deal with tolerance and non-discrimination³⁴ and the needs of child victims of trafficking for protection and assistance.³⁵

During the Ministerial Meeting, Ukraine stood on the brink of a constitutional crisis, and the topic inevitably came up several times at Sofia. The Chairman-in-Office stressed the OSCE's key role in election monitoring as early as his opening address. Several participating States expressed their willingness to support international election observation efforts in a rerun of the election. But no joint declaration on Ukraine was passed, although the Ukrainian delegation itself supported the formulation of such a declaration.

The greatest disappointment, however, in view of the effort expended during 2004, must have been the failure to finalize a joint declaration on either Moldova, although a draft was prepared ("Declaration on the Stability and Security of the Republic of Moldova"), or Georgia. This led the EU members among the participating States resignedly to admit "the lack of progress made this year in the search for solutions with regard to both regional conflicts".³⁶

The key contradictions in Sofia, as reflected in the declarations, are the same that had prevented agreement being reached at Maastricht in 2003: The exhortation issued to the Russian Federation to "honour without delay the commitments made in Istanbul in 1999" to withdraw its troops and military equipment from Moldova and "reach an early agreement [with Georgia] on the duration and modalities of the functioning of the Russian military bases".³⁷ This statement by the EU countries was accompanied by one from the NATO states, delivered by the Greek delegation: "Fulfilment of these remaining Istanbul commitments, undertaken in 1999, on the Republic of Georgia and the Republic of Moldova will create the conditions for NATO Allies and other States Parties to move forward on ratification of the Adapted CFE Treaty."³⁸ In Sofia, once again, this point of view was directly opposed to the position of the Russian Federation, which considered "a supposed linkage between the so-called Istanbul commitments and ratification of the Agreement on Adaptation of the Treaty on Conventional Armed Forces in

33 Ibid., Decision No. 14/04, 2004 OSCE Action Plan for the Promotion of Gender Equality, MC.DEC/14/04 of 7 December 2004, pp. 38-53.

34 Ibid., Decision No. 12/04, Tolerance and Non-discrimination, MC.DEC/12/04 of 7 December 2004, p. 29.

35 Ibid., Decision No. 13/04, The Special Needs for Child Victims of Trafficking for Protection and Assistance, MC.DEC/13/04 of 7 December 2004, pp. 36-37.

36 Ibid., Statement by the European Union, pp. 69-70.

37 Ibid., p. 69.

38 Ibid., Statement by the Delegation of Greece, p. 71.

Europe (CFE)”³⁹ to be illegitimate. Russia argued that the agreements that had been made between Russia and Georgia and Russia and Moldova in November 1999 were bilateral in nature and did not create any obligations with respect to third countries. Russia further argued that it was complying with those agreements and hence that responsibility for the fate of the CFE Treaty was in the hands of those signatory states that were not fulfilling their obligation to ratify it.

As in the case of other regional problems, such as the conflict between Armenia and Azerbaijan over Nagorno-Karabakh, which remained in the background in Sofia, the failure to reach agreement is based not only on irreconcilable strategic differences between the NATO states and the Russian Federation, but also by local powers opposed to solutions where they see themselves as the losers in any deviation from the status quo.

Thus, the delegations of Moldova and Georgia used the Ministerial Council as a forum to highlight their specific problems and their current expectations of the OSCE. For Moldova, this continues to mean the search for a solution to the Transdniestria conflict, one that would “defin[e] the status of the eastern regions as an integral part of the sovereign and territorially integral State – the Republic of Moldova”⁴⁰ as well as, in the short term, the signing of the “Declaration on the Stability and Security of the Republic of Moldova”, the text of which, negotiated with great difficulty, aimed to establish an internationally recognized border regime and to facilitate the resolution of the conflict. Georgia’s concerns were, in the short term, the continuation of the OSCE’s Border Monitoring Operation and, in the longer term, a stable resolution of the South Ossetian and Abkhaz questions.

The Ministerial Council had always been concerned with such regional differences, sometimes overshadowed by them, and has inevitably suffered as a result. In Sofia, these disputes were joined by new differences of opinion, almost amounting to a full-blown quarrel between the participating States. The unresolved question of the scale of contribution appeared relatively harmless at first, but even this was capable of becoming earnest if deliberately linked to or perceived as relating to the questioning of OSCE structures or of any other aspect of the Organization’s principles.

By far the most serious matter, however, concerned the grave complaints forcefully made by the Russian delegation and which affected the OSCE at its core.⁴¹ In commenting on the Chairperson’s Statement, the Russian delegation began by bluntly declaring that some of the views expressed by the Chairman did not reflect the agreed consensus. Thus, Russia did not feel itself bound by the conclusions and recommendations of the Chairman and did not consider it possible to take account of them in the work and structures of the OSCE. Noting that it had not been possible to agree on im-

39 Ibid., Statement by the Delegation of the Russian Federation, pp. 75-76, here: p. 76.

40 Ibid., Statement by the Delegation of Moldova, pp. 72-73, here: p. 72.

41 Cf. Statement by the Delegation of the Russian Federation, cited above (Note 39).

proving election practices, Russia nonetheless hoped that the OSCE would be able to conduct a comprehensive analysis of electoral legislation in participating States in the coming year and draw up unified standards, common criteria, and a methodology for objective electoral observation and the unbiased evaluation of election results. Russia also made the threatening-sounding statement that the results of this process would form the basis for its assessment of the effectiveness of ODIHR and the OSCE as a whole. The Russian delegation again registered its disappointment at the imbalance between the OSCE's three dimensions, finding justification in the fact that "approval by the Ministerial Council of such objectively timely initiatives as the holding of a seminar on military doctrines and a conference on energy issues" was thwarted.⁴² Russia regretted that the initiatives proposed by the countries of the Commonwealth of Independent States for improving the state of affairs within the Organization, as set out in the Moscow Declaration of 3 July 2004 and the Appeal to the OSCE Partners adopted in Astana on 15 September 2004, did not find sufficient resonance. Finally, the Russian delegation made a thinly veiled threat, declaring that "in the light of the thematic and geographical distortions persisting in the work of the Organization and the widespread application of 'double standards', the usefulness of the OSCE and its ability to respond appropriately to modern-day challenges and to meet the real interests and needs of the participating States are yet more seriously called into question".⁴³ In the view of the Russian Federation, comprehensive reform of the OSCE, its activities, structures, specialist institutions, field operations, and financing system should take priority in 2005.

Undoubtedly, it was this sort of apocalyptic tone that gave the final impetus to the decision to establish the Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE.

Given the situation in which the Organization found itself at the end of 2004, it is no wonder that the Ministerial Council once again failed to reach agreement to hold the long-overdue next OSCE Summit Meeting of Heads of State or government – despite the fact that 2005 marks the Organization's 30th anniversary.

Retrospective and Summary

If even Bulgaria admits that the issues it wished to emphasize during its Chairmanship were lost against the colourful background of varied activity, this is not an act of false modesty but a sober and honest reporting of the facts.⁴⁴ Education is an integral part of many activities and cannot easily be pursued independently, visibly, and convincingly by an organization whose

42 Ibid., p. 75.

43 Ibid.

44 For details, see the Activity Report, cited above (Note 2).

primary focus is security policy. The Bulgarian Chairmanship's educational initiatives were met with scepticism by the representatives of many participating States⁴⁵ – despite the work of the field missions, particularly with respect to the creation of curricula in Bosnia and Herzegovina, the OSCE Academy in Bishkek, schools using the Latin alphabet in Moldova, the “Youth and Education” programme of the OSCE Mission in Kosovo (OMIK), and other education-related field activities.

Likewise, looking back on 2004, the foregrounding of (even the reorientation on) Central Asia and the Caucasus also appears to have been largely declaratory and to have had only marginal practical value – hardly surprising given the challenges that exist or are emerging in other regions. The declared intention of changing the focus of the Organization's activities has not been achieved – or not yet. Predictably, related proposals and initiatives made by the Chairman received the approbation of those who were set to benefit from them, such as the Georgian government and its support for the proposal to hold the 2005 Human Dimension Implementation Meeting in Tbilisi.

The Bulgarian Chairmanship's third priority was the expansion of the OSCE's activities outside the borders of the participating States. The most noteworthy activity of this kind – the Organization's activities in Afghanistan in 2004 – appear to have been more of a stopgap measure undertaken on the urging of others rather than an indication of the way ahead. Given the substantive problems the Organization is faced with, the support provided to Afghanistan appears as unrealistic and presumptuous, despite the fact that the Chairman-in-Office adjudged it a successful first-step in building up the OSCE's outreach activity.

In evaluating its own achievements, the Bulgarian Chairmanship recognized, on the one hand, that its activities were mostly concerned with carrying out the tasks assigned to it at the 2003 Maastricht Ministerial Council. At the same time, it referred to the internal problems of the OSCE, which overshadowed so much and whose solution is now a matter for future chairmanships.

In terms of PR and external relations, there were significant differences between the approach of the Bulgarian Chairmanship and that of its Dutch predecessor. There was no programme of cultural events in 2004 and no systematic communication with NGOs. The latter were disappointed by the Chairman-in-Office's very first public appearance: On 2 December 2003, visiting, together with his Dutch colleague, an expectant gathering of NGOs in Maastricht, the Bulgarian Foreign Minister – in contrast to his eloquent predecessor – remained silent, to the disappointment of those who had assembled. This lack of understanding of the interests of the NGOs was a con-

45 According to a number of Vienna-based diplomats; a favourable view was given by Rolf Ekéus, The education solution: Fostering harmony in diversity, in: *OSCE Magazine*, December 2004, pp. 20-24.

stant throughout the year: In contrast to the Dutch Chairmanship in 2003, there were no significant contacts with NGOs during 2004.⁴⁶

The Bulgarian Chairmanship inherited an OSCE plagued by crisis and passed it on unchanged. When the Chairmanship was handed over to Slovenia in November 2004, the participating States had again demonstrated that they were unable to agree upon a Joint Declaration. It was the second time in a row that this had happened, and the third time in the Organization's history. Once again, it was the intransigence of the Russian Federation that scuppered any hope of the necessary agreement being reached. Finally, therefore, a heavy mood of defeatism and self-doubt marked the proceedings.

Unlike his optimistic, euphemism-loving Dutch predecessor, the Bulgarian Chairmanship never believed that the OSCE could be healed. And during his year in office, the crisis only deepened. While there was no shortage of activity, and, with the creation of the Panel of Eminent Persons, the year did end with a prospect of therapy for the Organization, the work of the OSCE nonetheless appears to have declined in quantitative terms in 2004 year on year.⁴⁷ In terms of quality, some of the people directly involved in the Organization look back on 2004 as a year of stagnation, procrastination, and quiescence, while others hold that the Chairmanship made the most of a difficult situation between crises.⁴⁸

46 Cf. OSCE, *Annual Report on OSCE Activities 2003*, p. 15, and OSCE, *Annual Report on OSCE Activities 2004*, pp. 7-26.

47 Measured by the size of the two Annual Reports (184 and 149 pages, respectively). Though it must be noted that the 2003 Annual Report made such an overblown impression that the format was changed for 2004.

48 This reflects the opinions of Vienna-based diplomats.

Consolidation and New Challenges: The ODIHR in the OSCE's 30th Anniversary Year

Fundamentals and OSCE Reform

In 2001, the OSCE Yearbook published an article on the occasion of the tenth anniversary of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR).¹ In this anniversary year, in which we celebrate not just the 30th anniversary of the Helsinki Final Act but also the 15th anniversary of the Paris Charter for a New Europe and the Copenhagen Document on the Human Dimension, it seems about time for an update on the development of the ODIHR.² The assessment given four years ago presented the ODIHR at a crossroads and pointed out the challenges the Office faced after a decade of rapid growth and rising demand for its services. In 2005, I can safely say that the ODIHR has successfully managed the challenge of consolidating, systematizing, and professionalizing its work without losing its ability to react quickly to human dimension crises as they emerge.

At the same time, the OSCE sees itself confronted with a political challenge: the quest for a reform. As a result of the Ministerial Meeting in Sofia in December 2004, a Panel of Eminent Persons was established in early 2005 to review the work of the OSCE and advise on its future. It has come forward with concrete suggestions in its report³ currently being discussed by the participating States.

These developments present something of a paradox: The "success story" of the OSCE in contributing decisively to the most fundamental peaceful change of Europe after the end of the Cold War – has it become a victim of its own success in the face of new challenges in what is often described as "the post-9/11 world"? Is the ongoing transformation of post-Communist societies now perceived to be of lesser significance for the specific strengths of the multilateral OSCE framework of co-operation? Does the identification of new regional, indeed global, challenges – the fights against terrorism, against trafficking in human beings, against anti-Semitism and discrimination, to mention just a few – carry with it the risk of "diluting" the core strength of

1 Randolf 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. 387-400.

2 I want to thank my Special Adviser, Dr Marcus Brand, for assisting with the preparation of this article.

3 *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, reproduced in this volume, pp. 359-379.

the OSCE, i.e. the values and commitments shared by the 55 participating States, and the support for their effective implementation?

In addition, the “revolutions” that follow deeply flawed electoral processes in Georgia, the Ukraine, and Kyrgyzstan have intensified the fundamental need to maintain the credibility of participating States’ determination to fulfil their commitments and to work with the institutions they created for this purpose. The anniversary year and the reform debate provide an excellent occasion to reconfirm the three-dimensional security concept of the Organization and the continued importance of the commitments and their effective implementation.

At the same time, confidence in the ODIHR was reflected in numerous new tasks entrusted to it in Action Plans and other decisions made by the Permanent and Ministerial Councils.

We at the ODIHR have certainly prepared for the reform debate, both by developing our substantive activities and by strengthening our management structure and our co-operation with partners. Before describing recent developments relating to the structure, the programmes, and the external activities of the ODIHR, several fundamental cornerstones must be kept in mind. Only in the context of an international organization originating in the depths of the Cold War, based on political commitments, and devoted to a comprehensive security concept does it become clear why the ODIHR has its specific mandate and functions and how this mandate is implemented.

Since its origin in 1975 as the Conference on Security and Co-operation in Europe (CSCE), the OSCE has taken a comprehensive view of security. The human dimension of security – the protection and promotion of human rights and fundamental freedoms and the promotion of strong democratic institutions and the rule of law – is considered to be as important for the maintenance of peace and stability as are the politico-military and economic dimensions. All OSCE participating States are equally committed to upholding democratic principles and to observing the full range of human rights.

They have confirmed their commitment to these principles on numerous occasions:

- “Full respect for human rights and fundamental freedoms and the development of societies based on pluralistic democracy and the rule of law are prerequisites for progress in setting up the lasting order of peace, security, justice and co-operation [...]” (Copenhagen Document, 1990)
- “Human rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law. Their protection and promotion is the first responsibility of government.” (Charter of Paris for a New Europe, 1990)
- “Democratic government is based on the will of the people, expressed regularly through free and fair elections. Democracy has as its founda-

tion respect for the human person and the rule of law.” (Charter of Paris for a New Europe, 1990)

- “Respect for human rights and fundamental freedoms, democracy and the rule of law is at the core of the OSCE’s comprehensive concept of security.” (Istanbul Document – Charter for European Security, 1999)

The participating States have also “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” (Moscow Document, 1991).

The ODIHR is the main OSCE institution for the human dimension, meaning that it has the primary task of seeing that commitments such as those mentioned here are more than mere words. It does this both by monitoring their implementation by the participating States and by conducting its own programmes that are aimed at helping states develop and uphold a democratic culture that will respect and promote the ideals expressed in those commitments. The Istanbul Summit in 1999 recognized the ODIHR, together with the other two institutions, as one of the “essential instruments in ensuring respect for human rights, democracy and the rule of law”.⁴

The report of the Panel of Eminent Persons has reinforced the conclusion that the structure in which the ODIHR is situated is fundamental to the implementation of its mandate. Institutions can only be efficient and effective if they retain their relative autonomy under the general leadership and guidance of the Chairmanship and the Permanent Council. The very essence of an institution in this Organization is that it is free from polarization and not subject to political pressures, which means that it can focus on reliable, predictable, and long-term implementation of its mandate and tasks.

Established and Emerging Priorities

While the Office benefits increasingly from a strong horizontal capacity for synergies and co-operation among its departments, our activities are presented in the following according to the structural set-up of the Office.

With respect to the *Elections Department*, we have seen a steady expansion of activities. With an increased number of elections to be observed, a growing number of invitations to observe referenda and local elections, stronger interest by some participating States in systematic follow-up support, and increased outreach beyond the OSCE region, the existing set-up has

4 The commitments in the human dimension have been collected and published by the Office in an updated two-volume compendium: *OSCE Human Dimension Commitments: Thematic Compilation* and *OSCE Human Dimension Commitments: Chronological Compilation*, also available on the ODIHR website, at: <http://www.osce.org/odihr>.

come under strain. This has been communicated to participating States, who were asked to consider making more resources available to the Elections Department in order not to jeopardize the quality of the work produced.

The ODIHR has enhanced its efforts to diversify the composition of election observation missions – both in terms of the composition of each core team and through the special voluntary Fund for Diversification of Election Observation Missions. The ODIHR has also encouraged the use of observers with knowledge of languages widely used in the region where a particular observation takes place and has continued to call on all participating States – in particular those that have so far not been able to do so – to second observers to participate in election observation missions.

In addition to our election observation activities, we also continue to promote the implementation of OSCE election-related commitments through follow-up visits and activities, legislative reviews, and other work such as inclusive round tables or seminars to enhance our support to participating States. These activities are appreciated by a growing number of participating States, which increasingly invite us for specific follow-up visits to discuss the recommendations emanating from our observations.

The increasing involvement in project work in the election sector has been made more focused. Here, the introduction of Office-wide programming and project co-ordination has had a particularly useful impact.

The *Democratization Department*, by far the largest until 2003, has undergone some streamlining. Its main strength, the capability to identify and analyse gaps in the democratic structures and institutions in participating States and to find remedies, is not hampered by the day-to-day work of processing project proposals and overseeing their implementation. It has shifted its focus to the creation of specific strategies in the areas of rule of law development, promoting women's participation in public life, and supporting emerging democracies in their legislative reform efforts, as well as reform issues related to migration and freedom of movement. The capacity for activities in the field of *democratic governance* has been strengthened, thus allowing a more systematic approach to issues concerning public administration as well as civil society. This has essentially meant a new focus for the former NGO Unit, which now increasingly addresses questions on how civil society can best be included in political processes and have its voice heard when it comes to decisions affecting societies as a whole. This approach has been discussed and elaborated in the context of the 2004 Human Dimension Seminar on Democratic Institutions and Democratic Governance. Furthermore, the capacity for *legislative support* by the Office in a number of areas also needed strengthening through a more coherent and focused approach, making full use of the tool provided by www.legislationline.org. With respect to a further strengthening of support for the effective implementation of the *rule of law* in participating States, specific activities are offered in areas such

as criminal justice and penal reform, torture prevention, capital punishment, and training for lawyers.

The requirement for consistency and budgetary clarity led to the abandonment of a separate regional unit with responsibility for *South-eastern Europe*, which had contributed to improving co-ordination among OSCE missions in the region and was the focal point for other project activities in the Balkans. The ODIHR's work in the region is now organized by topic (through "thematic programmes"), which are responsible for both monitoring and assistance across the entire OSCE region in their respective fields.

A central component of the consolidation undertaken since 2003 has been the development of a stronger expertise on human rights issues and the creation of a *Human Rights* Department at the ODIHR, replacing the former Monitoring Unit. Human Rights should not only appear in the ODIHR's name but should be identifiable as an integral part of the Office's structure. Moreover, it must be clear to the outside world that the ODIHR is doing more than just monitoring, but is also taking a proactive role in the field of human rights protection and promotion. The monitoring component of the department has been enhanced by several new elements, including a stronger capacity for human rights training and education – internal as well as external – and support for local human rights NGOs. It is also the focal point for liaising with the ODIHR's international human rights partners, including the major international human rights NGOs.

Furthermore, the Human Rights Department is responsible for the ODIHR's anti-trafficking programme, which has been at the forefront of international efforts to prevent *trafficking in human beings* and ensure a co-ordinated response that puts the rights of victims first. Its main focus is on improving the capacity of states to identify, protect, and assist victims of trafficking, while co-operating fully with the broader mandate of the Special Representative nominated in 2004 for this issue. With respect to *human rights and the fight against terrorism*, the Human Rights Department has adopted three distinct but complementary programmes: prevention of terrorism, which addresses factors that may engender terrorism or extremism; assistance in implementation of international legal obligations and OSCE commitments relating to terrorism in compliance with the rule of law and international human rights standards; and human rights monitoring and analysis in the context of combating terrorism. In addition, the Human Rights Department also carries out work in a number of other areas, including *freedom of assembly and association*, *trial monitoring*, and issues related to the *death penalty*.

As a fourth major programme, the ODIHR's *tolerance and non-discrimination* programme was established in the course of 2004. It provides

support to participating States in implementing their OSCE commitments⁵ and in strengthening their efforts to respond to and combat hate crimes and violent manifestations of intolerance. The programme also aims to strengthen civil societies capacity to respond to hate-motivated crimes and incidents. In this field, the ODIHR's activities are focused on the following areas: legislative assistance; law-enforcement training; monitoring, reporting and following up on responses to hate-motivated crimes and incidents; and educational activities to promote tolerance, respect, and mutual understanding.

In order to promote freedom of thought, conscience, religion, or belief and to support the implementation of OSCE commitments in this area, the ODIHR's Panel of Experts on Freedom of Religion or Belief has been restructured and now consists of some 60 experts from across the OSCE regions. Its activities include reviewing draft legislation; promoting interfaith dialogue and conflict prevention; providing comments and analysis of key court cases and developments relating to possible violations of the right to freedom of religion or belief as a basis for raising issues of concern with the relevant authorities; and undertaking initiatives related to religious and tolerance education.

The *Contact Point for Roma and Sinti Issues* – a topic in which the ODIHR is at the forefront of the OSCE's entire network of institutions – continues to work with all the Office's other programmes and represents the fifth thematic programme of the restructured ODIHR.

One lesson this Office has learnt from years of experience with democratic capacity-building is that structures are only there to serve substantive goals, not the other way around. A structural solution never constitutes a final step. To keep up with changing times and new challenges, institutions must continually work on themselves and adapt to whatever best serves the purpose. Structures should never become an end goal nor hide dynamic potential in a chimera of stability. This belief has guided the ODIHR in its structural adaptation and in its continuing search for how best to fulfil its mandate and achieve its goals.

Developing Specific Assistance Activities: The Evolution from 1998 to 2003

While the ODIHR, in its early years, focused primarily on formal human dimension meetings and on monitoring the implementation of human dimension commitment by, for instance, observing of elections, recently, participating States have increasingly sought assistance in meeting their commitments. In response, the ODIHR has developed a series of concrete human dimension-related assistance projects, which it carries out in recipient States, and which are funded primarily through voluntary extra-budgetary contribu-

5 These commitments have been significantly strengthened by the declarations of major OSCE conferences on combating anti-Semitism and other forms of discrimination held since 2003.

tions by donors.⁶ Between 1999 and 2002, this package of activities expanded to an average of 130 individual projects per year with a total annual average value of over four million euros. This trend was already well described in the *OSCE Yearbook 2001*, as were the risks associated with a quick expansion into this area.⁷

These assistance projects constitute a prime vehicle for providing ODIHR expertise in the field, thereby serving both the participating State concerned and relevant other OSCE bodies. They also constitute a useful channel for learning from practices in the field, and gathering additional expertise and feedback from the ground. These lessons are fed back into the ODIHR's overall mandated activities as well as in the planning process for future activities, in the same country or elsewhere. The implementation of projects in the field has thus become one of the ODIHR's primary tools for bringing life to abstract human dimension principles, allowing it to fulfil its overall mandate and responsibility towards the Organization.

Technical Assistance: The New Approach to Programming

Several years of hands-on experience with project implementation have given the ODIHR considerable knowledge of the operational side of field activities, as well as invaluable practical feedback for its more standards-related work on human dimension commitments emerging from the Warsaw and Vienna meetings.

At the same time, the need for more consistent, longer-term engagement and the need to ensure continuity and consistency in its assistance work have led the ODIHR to consolidate its project-related work into more comprehensive programmes. This development was also due to recommendations received from participating States, donors, and recipient countries alike, as well as from its partners in other OSCE bodies such as field missions. This approach also serves to better reflect the interrelation between Warsaw-centred monitoring, analysis and recommendations, and activities in the field.

In the years 2004 and 2005, the ODIHR therefore focused on targeted institution-building and capacity-building programmes, while still retaining the option of shorter-term projects as a rapid response to emerging needs. The programmatic shift is expected to provide greater continuity in assistance, the chance to build upon existing work in a broader framework, and linkage between related development challenges.

Since 1998, the ODIHR has been systematically providing technical assistance to a number of OSCE participating States: either upon request through memoranda of understanding (concluded with Armenia, Azerbaijan,

6 ODIHR activities are funded through both a core budget, which is approved annually by all OSCE participating States, and voluntary "extra-budgetary" contributions from participating States. The core budget for 2004 was 11.5 million euros, which represents about six per cent of the overall budget of the OSCE.

7 See Oberschmidt, cited above (Note 1), especially p. 390.

Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan) or upon mutual agreement through a consultation process with host country delegations, capitals, and OSCE field presences. Lastly, special OSCE mechanisms and mandates, such as Action Plans and specific recommendations emerging from human dimension meetings, provided a further basis for ODIHR activities in the field.

The project work undertaken by the ODIHR in its various areas of expertise reflects the need for interactive, relevant, and concrete assistance to participating States. The diversity of challenges faced by participating States also affects the nature, duration, and modalities of ODIHR projects. The ODIHR, with the support of the OSCE's States, has been able to respond to these needs with great flexibility, and has tried to tailor assistance projects as much as possible to the concrete field context. Some of these projects are of a regional or trans-border character, many address post-conflict needs, several are generic and general, whereas some are connected to one specific situation. Also, in terms of target groups, partners, and techniques, the ODIHR has developed a broad variety of approaches in order to maximize the impact of its field activities. In providing concrete assistance, the ODIHR can draw on its own in-house expertise as well as on the extensive resources of expertise provided from across the participating States.

The new ODIHR programming takes into account that the OSCE, as a security organization with a comprehensive approach and a strong focus on field presence, is well suited to provide certain types of focused technical assistance and project work. As an OSCE institution, the ODIHR does not operate in a vacuum. On the contrary, a considerable number of actors – national and international, governmental and non-governmental – pursue objectives that coincide with those of the OSCE: establishing and strengthening democratic institutions and promoting and protecting human rights.

The ODIHR's programme planning has been extended and broadened to enable a *multi-year outlook*. This is based upon the recognition that many projects have a more lasting effect when embedded in longer-term programmes and can be better evaluated, adjusted, and followed up as part of a more comprehensive, thematic approach. While steering clear of becoming a development agency, let alone a donor, the ODIHR has thereby been able to enhance the impact and sustainability of its field activities.

One of the most important factors of sustainability – in particular in an institution-building and governance reform context – is to ensure *local ownership*. While this is widely recognized in a development perspective, it has been less the case with respect to the earlier generations of democratization and post-conflict reconstruction efforts, including in an OSCE setting. In the past, ODIHR project activities have occasionally been criticized because “a high percentage of project funding is used to pay (Western) experts, travel expenses and administrative costs”.⁸ The extensive use of external experts

8 Ibid.

and non-governmental organizations has at times been assessed negatively. The ODIHR has reacted to this in three different ways: (1) qualitative improvement of project activities ensuring more local ownership through a programming approach rather than stand-alone projects; (2) increased use of East-East consultancy, which makes use of relevant reform experiences; (3) increased use of in-house expertise to assist field missions in carrying out project activities.

Planning and programming of all activities also includes an enhanced element of *gender mainstreaming*, following the guidance provided by participating States in the Action Plan on the Promotion of Gender Equality, adopted by the Ministerial Council in Sofia.⁹ In the ODIHR's work, promoting gender equality cuts across all programmes. Gender-specific structures can be useful and are still necessary, but cannot substitute for striving to implement gender aspects in all of the Organization's work.

A Stronger Focus on Planning and Co-ordination

Since 2003, special care has been taken to ensure that the ODIHR's programming is based on careful needs assessments, intensive planning, and extensive consultation with relevant host countries, OSCE field presences, other international organizations, civil society actors, and potential donors in order to identify the ODIHR's added value and to avoid duplication of effort. Only after completing this process does the ODIHR compile a comprehensive programming document as a basis for discussion with OSCE field presences and recipient States.

The detailed outlook of programme activities is presented in a regularly updated special document.¹⁰ Whereas the predecessors of this document contained a large number of individual project proposals, the new version organizes them in a number of "programmes". This helps to improve synchronization with the planning process of the unified budget and to give both providers and users of extra-budgetary contributions a better overview of the longer-term context and purpose of individual projects.

Human Dimension Meetings

As in the earlier years of its operation, one of the core activities of the ODIHR remains its role in the preparation and organization of *human dimension events* throughout the year. The topics and detailed agendas are deter-

9 2004 OSCE Action Plan for the Promotion of Gender Equality, Annex to Decision No. 14/04, in: Organization for Security and Co-operation in Europe, *Twelfth Meeting of the Ministerial Council*, 6 and 7 December 2004, Sofia 2004, MC.DOC/1/04, 7 December 2004, pp. 38-53, here: pp. 39-53.

10 *Democracy and Human Rights Assistance, OSCE/ODIHR Programmes Funded Through Extrabudgetary Contributions*, which is distributed periodically to the OSCE delegations and is also available on the internet.

mined according to the modalities adopted in 2002 by the Permanent Council in co-operation with the Chairmanship and the delegations.¹¹ The ODIHR also plays an assisting role with respect to a series of additional human dimension-related conferences held by participating States, often based on decisions of Ministerial Councils.

The Human Dimension Implementation Meeting (HDIM) in Warsaw is the largest regional human rights conference in Europe and represents the major occasion for reviewing the implementation of the human dimension commitments in the whole OSCE area. It also provides an opportunity for the exchange of ideas and suggestions on specific topics of particular relevance. Presentations, interventions, and discussions cover an enormous range of issues, some referring to encouraging achievements, others to areas of concern.

The tenth HDIM, which took place from 4-15 October 2005, was the third to be organized under the new modalities adopted in 2002, which attempt to ensure that there is a more specific thematic focus during the second week of the meeting. However, suggestions were made in view of even further enlarging and focusing debate and discussion. To make the HDIM successful, strong and active involvement from participating States, international organizations, OSCE institutions, and representatives of civil society is an absolute pre-requisite. It was therefore encouraging to see that the 2005 HDIM was able to attract some 1,000 participants, which represented a significant increase compared to previous years.¹² Of these, over 400 were representatives of more than 300 NGOs,¹³ who made use of the opportunity to contribute to the discussions on an equal footing with government representatives, thus enriching the debate and making exchanges more relevant and constructive. In addition, 33 representatives of twelve international organizations were present, often making valuable contributions on the work done by their organizations in the human dimension field and thus facilitating a co-ordinated approach of international actors.

The presence of staff from other OSCE institutions and practically all OSCE field missions was also of great value for these discussions. Almost all 55 participating States were represented at the meeting, and many were able to send larger delegations, including experts from their capitals, who were essential for a focused debate.

It is therefore anything but true to say that the OSCE's human dimension events have lost steam. Complementing the HDIM in Warsaw, the three Supplementary Human Dimension Meetings and the more technical, forward-looking Human Dimension Seminar represent excellent opportunities for politicians and diplomats, experts and field workers, academics and civil society activists to work together with a view to better implementation

11 OSCE, Permanent Council, Decision No. 476, Modalities for OSCE Meetings on Human Dimension Issues, 23 May 2002, PC.DEC/476.

12 For instance, in 2002, there were 475 participants at the HDIM.

13 The 2002 Implementation Meeting had gathered 155 participants from around 100 NGOs.

of human dimension commitments by focusing on specific issues and engaging in constructive and results-oriented debate. Nonetheless, there is still a need for an enhanced focus on follow-up to the recommendations collected at these meetings.

The People at the ODIHR

To fulfil its varied functions, the ODIHR develops and implements a broad range of programmes aimed at protecting human rights, strengthening democratic institutions, respecting the rule of law, promoting democratic electoral processes, combating intolerance and discrimination, and fostering civil society in all participating States. The ODIHR now employs more than 120 staff members from some 30 different countries. They are all dedicated professionals in a variety of areas of expertise, including lawyers, election experts, and anti-trafficking specialists, as well as individuals with experience in the fields of human rights education, monitoring places of detention, and minority rights – ODIHR staff have both academic and hands-on field experience.

Recent years have seen internal reforms that allow the ODIHR to provide long-term, country-specific programmes that meet the needs of individual participating States, while never losing sight of the individuals at the heart of our efforts. The central elements of these reforms are discussed below.

This diversity of backgrounds and experience are what make the ODIHR the flexible, responsive, and dynamic institution that it is. In recent years, the diversity of staff and experts has increased significantly. One example of this trend is the use of experts and consultants with local knowledge and language skills. They provide a tremendous resource for implementing any programme, not only in terms of their expertise but also with respect to their ability to gain the trust of their target group, which more often than not includes individuals with similar backgrounds. When conducting legal-reform activities in the Commonwealth of Independent States (CIS), for example, the ODIHR relies almost exclusively on lawyers with training and experience in the CIS, most of whom are from Russia.

But this rule applies equally to the ODIHR's permanent members of staff, more than one-third of whom come from within the CIS, while the rest come from all parts of Europe and North America. The ODIHR is therefore one of the most diverse parts of the whole Organization. While four years ago a "considerable discrepancy" was noted in the *Yearbook*, recent trends show significant improvements in this context, including efforts to ensure a better gender balance.

Many issues the ODIHR deals with are not confined to particular regions but are relevant to the entire OSCE area. These include trafficking in human beings, terrorism, intolerance, and election-related challenges. This

has been reflected in its activities, and the ODIHR will continue to address human dimension issues throughout the whole OSCE region.

Restructuring

In light of the growth of the ODIHR over the past years, it seemed necessary in 2003 to take stock, evaluate, and consolidate: As a consequence, the ODIHR developed a stronger focus, further strengthened its human resource capacity, and adapted some working methods and the internal structure of the Office. This development had to build on the existing strengths of the ODIHR, i.e. its flexibility to respond quickly to urgent political expediencies while at the same time preserving its in-depth competence. The reform also addressed certain weaknesses of the structure as it had emerged from the previous reform in 1997, which had been amended over time by *ad hoc* arrangements. Based on more than a decade of operational experience, the ODIHR moved to develop its role as a centre of excellence in the fields of elections, democratization, and human rights for the OSCE area.

The main objectives of the reform aimed at deepening and broadening the ODIHR's capacity with respect to all key human dimension commitments. They also included the need to develop the capacity for enhanced internal and external communication in view of new political and technological developments, and to build on the Office's capacity to interact with other partners, both inside and outside the Organization.

While structural aspects were identified as important for an office of the size and complexity of the new ODIHR, they were far from being the only area where improvements could be made. In order to achieve internal cohesion and a true sense of corporate identity, communication and co-ordination needed to be strengthened. To meet this goal, the practice of holding topical discussion forums, where all ODIHR staff are invited to contribute to issues of common interest, was initiated.

Other new initiatives to improve the flow of ideas between programmes focus on enhancing in-house capabilities to prepare senior staff prior to travel, on major events such as the mandated human dimension meetings, and on visits by experts to discuss current issues with staff from across the Office's broad range of expertise and specialization. Thus, while it did not become a "think-tank", the ODIHR was nevertheless able to enhance its internal reflective capacity, which has had positive effects on both the planning of programmes and on the creation of synergies among the many activities undertaken.

The new budgetary parameters, and in particular the introduction of the OSCE-wide Integrated Resource Management system (IRMA), forced the ODIHR (and all other OSCE institutions) to sharpen and consolidate its structural set-up in order to be better equipped to implement ever more de-

manding tasks and achieve better quality financial management. In essence, the new budgetary guidelines called for a clearer separation of general direction and policy development, fund administration, and substantive work. Comparatively speaking, the ODIHR was already well placed to adapt to these new guidelines; several organizational and structural measures were, however, necessary. As mentioned above, they coincided with what would have been wise to do anyway with respect to the ODIHR's new size and enhanced role as the cornerstone of the OSCE's human dimension.

As part of the general policy development and strategic direction of the Office, the *First Deputy Director* has directly assumed specific competencies – in addition to his overall role of standing in for the Director whenever needed – which require a co-ordination element for the entire Office. Thus, the First Deputy Director was specifically tasked with assuming responsibility for overall *programme and policy supervision*. This included, as a start, the co-ordination of strategic programme outlines and the preparation of the 2004 budget. To allow him to actively co-ordinate all programme planning and project activities in the ODIHR, he is assisted by a project co-ordinator, whose responsibilities had previously been concentrated in the democratization department. This new set-up addresses Office-wide co-ordination needs, while co-ordination within individual departments remains the responsibility of the various programme managers.

In addition, the First Deputy Director has been put in charge of the overall preparation of the *mandated human dimension meetings* that the ODIHR holds on an annual basis, i.e. the Human Dimension Implementation Meeting, and the Human Dimension Seminar, and is to assist in the preparation of the Supplementary Human Dimension Meetings.

The *Second Deputy Director* has overall responsibility for administrative and financial services. The structure of the *Common Services* department has remained roughly the same. However, an institution the size of the ODIHR needed stronger *human resources* management, which led to the creation of a professional human resources unit. Together with a strengthening of IT and procurement and the concentration of all financial assistants under the authority of the Finance Unit, this further professionalized the ODIHR's administrative capacity.

Clearly distinguished from general management and administration, the ODIHR's areas of expertise – elections, democratization, human rights, tolerance and non-discrimination, and the Contact Point for Roma and Sinti – were embodied in five thematic programmes staffed by professional experts.

Working with Other OSCE Structures, Particularly Field Missions

The ODIHR has been working on developing strategic relationships with its main partners, participating States, other parts of the Organization including

field missions, and other international organizations. It enjoys a special relationship with the other two key human dimension institutions, the High Commissioner on National Minorities and the Representative on Freedom of the Media. ODIHR's co-operation with the Chairmanship and the Secretariat (in particular the Conflict Prevention Centre, but increasingly also the specialized units) has also been particularly important in this context. Outreach to governmental and non-governmental organizations that share the ODIHR's goals and work in related fields has also been increased.

The OSCE's Threefold Field Strategy: Missions, Conflict Prevention Centre, the ODIHR

OSCE field missions vary greatly in size and resources, level of challenge in the host country, scope of mandate, and geographic location. All these factors have an effect on the specific relationship the ODIHR can develop with missions, but do not hinder the ODIHR from offering a specific set of services to missions within their particular set of parameters.

In doing so, the ODIHR has improved its responsiveness to field missions and listens systematically to the missions' own assessments and recommendations (taking into account their size and resources). This field of co-operation has become an intensive two-way exchange of field information and assessments, on the one hand, and human dimension related expertise, on the other. In all this, the OSCE Conflict Prevention Centre (CPC), which already constitutes an essential relay of information between the ODIHR and the missions, has come to play an increasingly significant role. A comprehensive and inclusive approach, creating an effective triangle of co-operation among the ODIHR, the Secretariat, and the missions, is essential to meet the growing challenges faced by missions in the field and the need for better management.

The CPC's Project Co-ordination Cell assists the missions in the handling of extra-budgetary contributions and co-ordinates the provision of substantive advice by the respective competence centre within the Organization. The ODIHR is already included in this screening of project proposals in terms of their content and the topics they deal with. In addition, the ODIHR is not limited to the reactive task of detecting inconsistencies in proposed project outlines, but has also moved towards developing substantive guidelines based on best practices on specific human dimension-related project modules. The ODIHR offers the field missions its support in the form of training exercises and concrete planning events.

The ODIHR's New Approach towards Field Missions

In general, OSCE staff in field missions regard the ODIHR as an external resource for substantive expertise while they see their own strengths in their

presence on the ground, the relationship they have developed with local counterparts, and in their ability to focus on one single country or context. The relationship with field missions thus goes significantly beyond co-operation in planning and implementing projects, which was one of the key outcomes of discussions with the OSCE field missions over the past couple of years. Projects are activities with a limited scope of time, objective, and financial implication. The ODIHR's work however includes a much larger range of interaction with participating States (and therefore with field missions), which often cannot be apportioned into "projects". The ODIHR can offer more than projects: external experts and its own expertise, materials for training as well as training itself, analysis, and advice.

At the request of field missions and following up on an analysis of deficiencies in field staff training and guidance¹⁴ the ODIHR has, since 2004, been organizing quarterly training courses for new human dimension officers in field operations in Warsaw. The purpose is to introduce new mission members to the human dimension and the ODIHR as well as to provide hands-on training for working in a mission. The training curriculum is flexible and adjustable to the profiles of the participants. Preparations before each training event include surveying the profiles of the participants as well as any special training requests. As such, it is more in-depth and specific for Human Dimension Officers than the general induction training in Vienna which the ODIHR training complements.

Participants have often spent some time in the field before training commences, which helps to keep the training focused on relevant issues and facilitates discussion and information sharing among the participants. The courses are open to international and local staff, including longer serving mission staffers, who can themselves often contribute by bringing in their specific expertise and experiences. The first eight such training events during 2004 and 2005 were attended by some 200 participants from all field operations across the OSCE region.

This training is followed up by encouraging the development of networks among participants in order to share concrete and issue-related experiences among themselves and with the ODIHR.

A Competence Centre on the Human Dimension for the Entire OSCE

Both the enhanced focus on programming and project development in co-operation with the field missions and the new role as a provider of training on programming and on human dimension expertise point in the direction of the ODIHR's goal of becoming a competence centre for the entire Organization

14 Institute for Peace Research and Security Policy at the University of Hamburg/Centre for OSCE Research (CORE), Annette Legutke, *Working in OSCE Field Missions – Recruitment, Selection, Preparation, Working and Employment Conditions of OSCE Seconded Personnel*, Hamburg, November 2003 (unpublished).

in the human dimension, i.e. in the fields of human rights, democratization, rule of law, elections, and tolerance and non-discrimination. One of the weaknesses associated with the OSCE's human resources management model, which is largely based on secondments and reflects the political decision to prevent it from becoming a "career organization" by limiting the length of time staff can serve in the Organization, is that lessons learned and good practices, in particular those in the field, tend to be lost or forgotten. An increased number of ODIHR staff with their own practical field experience in field missions, combined with a qualitatively enhanced focus on supporting field operations, put the ODIHR, as the main institution in the human dimension, in a better position to be a depository of successful strategies, methodologies, structures, and projects in the areas of the human dimension.

The ODIHR's role is different in every country, including those that host field missions. The ODIHR's relationship with the field missions is a complex one, and results from conscious decisions based on mandates, comparative advantages, and capacities. This does not necessarily mean that the ODIHR plays a bigger role in smaller missions and a more marginal one in larger presences, especially those in South-eastern Europe. Experience has shown that it is precisely those larger missions with full-fledged programmes on human rights, rule of law, or democratization that need an outside reference point, a depository for lessons learnt, a resource centre which can bring in knowledge from other field missions. The ODIHR can be used for safeguarding their expertise for the benefit of the whole Organization. The ODIHR thus plans to further expand on this relay and exchange function, which has come to be very much appreciated by OSCE staff in the field, who are often not in a position to do research and comparative analyses themselves.

Outreach to Other International Organizations

The ODIHR has developed a cordial and constructive working relationship with the Secretariat of the Council of Europe (CoE). The ODIHR Director and the Secretary General of the CoE regularly consult and co-ordinate directly, including during visits to Warsaw and Strasbourg respectively, and advisors have a good, close working relationship with their relevant counterparts. This good practice is based on issue-driven, informal consultations rather than diplomatic formalities.

Real practical co-operation and working level co-ordination has long existed. Both the CoE Secretariat and the ODIHR agree that, in fact, co-operation and co-ordination between the two organizations at staff level is excellent. This needs to be pointed out more clearly at the political level of both organizations, where the perception is not always one of close co-ordination and a debate on possible duplication of effort persists.

The ODIHR also continues to have close working level and head of institution level relations with the UN and its agencies. The interaction is frequent, both in formal frameworks such as the various interagency meetings and processes, and informally, primarily in the field and in the context of political consultations. The ODIHR has a special relationship with the UNHCHR, based on a co-operation agreement setting out regular consultations as well as joint work and initiatives. This is also the case for UNDP, with which the ODIHR shares quite close and good relations.

The ODIHR has been closely following the reform processes within the UN, in particular where they relate to international human rights protection mechanisms. The ODIHR stands ready to actively engage in this debate with its focus on the OSCE region and maintains, in this context, close relations to relevant UN partners in Geneva and elsewhere. It can be argued, indeed, that the recent proposal of Secretary-General Kofi Annan¹⁵ embraces essential elements of the three-dimensional concept of the OSCE – what better argument for the continued, indeed worldwide, relevance of our organization?

Co-operation also exists between a number of other organizations, not least with the European Union and its various bodies and institutions. The European Commission, has, for instance, practically adopted the ODIHR's methodology for its own election observation missions. The Commission is also a significant contributor to a variety of ODIHR assistance projects in transition countries. The European Monitoring Centre on Racism and Xenophobia (EUMC) is a primary partner of the ODIHR within its new tolerance and non-discrimination programme.

An exhaustive analysis of the entirety of inter-organizational and inter-institutional co-operation would go far beyond this overview and probably deserves separate attention. The ODIHR reports, as part of its annual reporting, on the various relationships with partner organizations.

Outlook and Conclusion

Fifteen years after it was conceived, the ODIHR is in very good shape. It has become a stable, high-performance institution, which is committed to its mandate and enjoys the support of all participating States that firmly stand behind the values and commitments on the basis of which the OSCE was established.

In more than a decade of activities, the ODIHR has proven that the OSCE needs institutions that can operate autonomously and which answer to the Permanent Council as a collective body, about the degree to which they have implemented their mandate. The unprecedented visibility the OSCE has received through the work of the Office in 2004 confirms that.

15 *In larger freedom: towards development, security and human rights for all*, Report of the Secretary-General Kofi Annan, United Nations, 2005.

The principles and commitments in the human dimension are clear and as relevant as ever. One thing that is often mentioned in this Organization is a concern that it might lose its “credibility” if certain challenges are not mastered. The ODIHR, through its dedicated staff, does its best to contribute much to the credibility the Organization enjoys.

Latest Developments and Challenges in the Fight against Trafficking in Human Beings in the OSCE Area

When they hear of trafficking in human beings, many people – and, unfortunately, many authorities – think in the first place of prostitutes, economic immigrants, illegal aliens, and unregistered workers, in short, “suspect” people of all kinds. In truth, however, we are dealing here with the victims of serious crime, human beings who, as a result of abduction, fraud, deception, or coercion have ended up in situations similar to slavery, where they are subject to brutal violence, locked up, intimidated, and exploited in the sex industry, as household servants, used as cheap labour, and in other forms of forced labour or services.

Unfortunately, these facts are still overlooked, while disproportionately intensive efforts are expended on dealing with questions of national security, such as border control and border security, combating illegal immigration (including people smuggling), and reducing and controlling migration, and these are frequently seen through the magnifying glass of the struggle against organized crime.

It is true that trafficking in persons has garnered increasing international attention in recent years, following the passing of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons. For the first time, laws have been made specifically to combat human trafficking, funds for projects and programmes aimed at tackling the phenomenon have begun to flow, and more and more governments, organizations, and individuals have started to deal more intensively with the problem. A growing number of actors are now involved in the fight against trafficking in human beings. And more commentators, researchers, and experts than ever are creating knowledge and disseminating information on this topic. Nonetheless, despite all these activities, there is still no sign of a substantial decline in human trafficking, which is precisely why we need to apply ourselves to this question.

Why Is Trafficking in Human Beings not Declining despite Years of Attention?

We can find some answers by examining more closely the assumptions we have made in our struggle so far. I believe that we will make no progress of note against human traffickers and will not be able to provide their victims with the assistance they need as long as we do not deal with these questions directly and openly.

Although there is widespread recognition that human trafficking is a grievous crime and a massive infringement of human rights, and although this is continually and forcefully reiterated by representatives of governments around the entire globe, measured by their deeds, most countries appear to have a rather restricted understanding of human trafficking, one based almost exclusively on concepts of national security and national sovereignty.

The Security-Based Approach to Combating Trafficking in Human Beings

If we consider the standard practice in many European and other destination countries, it becomes evident that protecting the fundamental rights of the victims of human trafficking is subordinated to the interests of the state. Governments claim they want to combat human trafficking while nonetheless seeing tackling illegal immigration as their top priority. As a rule, the EU and many West European and other destination countries consider their key task to be containing and preventing illegal immigration and combating abuse of the asylum system.

International co-operation on questions of human trafficking has also recently tended to concentrate on tightening border security and preventing irregular immigration. To this purpose, an increasing number of readmission and repatriation agreements have been signed and implemented, and other restrictive measures passed. As a result, victims of human trafficking run the risk of being treated as illegal immigrants and summarily deported to their countries of origin. Even if victims are granted a temporary right to remain, the support they receive depends on whether they have a role to play in a criminal prosecution and are willing to co-operate with law enforcement agencies. The victims are thus frequently treated as means to an end by the legal system, and this is one more case where their rights to protection of their physical and mental integrity are made secondary to the interests of the state.

A key element of this approach, which is oriented primarily towards national security, is border control. It is seen as *the* means with which to tackle human trafficking. However, for a number of reasons – which are discussed in greater detail below – it cannot be the only, or even the most important, element in an effective strategy to counter human trafficking. Very few cases of human trafficking can be or are in fact detected at borders. One reason for this is that the people being trafficked frequently do not yet know of the fate that awaits them, i.e. that they are about to be tricked and enslaved by traffickers and their accomplices. Experience shows that most future trafficking victims cross national frontiers legally and only later become illegal immigrants, e.g. on expiration of their visas. The traffickers often ensure that their victims arrive alone, supplied with valid travel documents, which are then taken off them on arrival in the country of destination. Thus, the stand-

ard reaction of many states – cracking down on fraud, making travel documents forgery proof, stepping up identification procedures, and training border personnel in detecting false documents – may be relevant to identifying illegal immigrants; it has, however, no role to play in a reasonable and effective course of action to deal with the key aspect of human trafficking, namely the exploitation and enslavement of people.

Since individual criminals usually facilitate the transportation and illegal border crossing of potential victims, making border crossing more difficult does little to scupper the plans of traffickers as a whole. At best, it can cause annoying disruptions or put individual drivers or smugglers out of operation for a while. These individuals do play a role in the human-trafficking chain, but they are not decisive for the trade as a whole. Moreover, by stressing border security, this approach ignores the growing phenomenon of domestic human trafficking.

Border officials and civil authorities can attempt to eliminate people smuggling, but their efforts are not directed at its most essential aspect, which is a matter of deceit, coercion, and exploitation. While smuggling people across borders can be seen as a violation of national sovereignty, trafficking in human beings is a serious crime against an individual, and an infringement of his or her human rights. The concept of “securing the borders” – which is often presented as the only real solution and implemented as such – is ineffective as the central instrument in fighting trafficking in human beings. There are many good reasons for tightening a country’s border security; such efforts, however, will not strike at the heart of human trafficking.

We need to recognize that mechanisms used to keep people out and to control who comes in cannot put an end to human trafficking. As currently practiced, the detection, deterrence, and immediate repatriation of victims is frequently the start of a vicious circle.

We must realize that a national policy that aims above all at self-protection rather than taking a comprehensive approach is counterproductive and itself part of the problem. The Western European states, which are the most important destination countries in Europe, thus have a crucial role to play, as do other destination countries.

Trafficking in human beings differs from people smuggling and illegal immigration in fundamental ways. It therefore requires its own dedicated measures in the areas of detection, prosecution, and prevention.

Migrants – and undocumented illegal migrants in particular – are certainly the group most at risk from human traffickers. Many work under conditions of the most blatant exploitation: They receive no medical care and are not informed of their rights; they are subject to physical and mental abuse; and they receive a pittance, which may be paid directly to middle-men. Traffickers make good use of the complete absence of social and legal protections. The fact that migration and organized crime are frequently thought to

be interlinked has further negative repercussions on the ways in which the victims of human trafficking are seen and treated.

A more detailed analysis confirms fears that, in practice, the interests of states – with their focus on controlling migration and prosecuting illegal immigrants – directly conflict with the rights and needs of the victims of human trafficking. The defenceless victims of cynical human traffickers are all too often still seen as criminals, arrested, and deported before the facts are investigated.

The Law Enforcement-Based Approach to Combating Trafficking in Human Beings

At present, almost all of those recognized as victims of human trafficking have been identified as such by the police. The extent to which people are identified as victims depends upon the familiarity the police have with the problem. Their level of awareness determines whether the victims will be treated appropriately. Finally, the police also determine whether there will be a criminal prosecution, as it is their task to interview the victims and create a crime file.

These facts already illustrate several burning issues in the struggle against trafficking in human beings: Cases of human trafficking and the fates of the victims are usually in the hands of the police – rather than the victims being given the opportunity to turn to a network of contact points and support agencies that will protect them from being delivered over to the legal and criminal machinery of a strange country. Studies show that victims of human trafficking rarely see the police as a potential source of protection and help.

The police also still often use interrogation techniques that seek to extract information by devious means. It is often also argued that a statement made immediately after arrest tends to be true and unadulterated, as the questioned person has had no chance to adjust his or her story or to plan a strategy. Victims of human trafficking are often arrested and taken into custody for this purpose.

In contrast, however, non-governmental organizations (NGOs) that work with the victims of human trafficking have recognized that, after their traumatic experiences, they need time for physical and mental recovery and reflection and that they need to develop trust in foreign authorities and institutions. At first, they often do not see themselves as the victims of crime and it takes time and considerable discussion before they understand their situation. In addition, the victims are often urged by their traffickers to trust nobody – especially not the police. They are sometimes also ashamed of what they have had to do – e.g. to work as prostitutes – and may even blame themselves. NGOs and international organizations thus take the view that the victims will tend only to relate their stories accurately and to tell the whole truth

after some time has been allowed to pass. Before they can discuss their experiences and reliably bear witness, they need have undergone a process of extensive contacts and regular discussions. The lesson we learn from this is that the identification of victims of human trafficking should not be left to the police. It would be far better if this were carried out as a collaborative effort between law enforcement agencies and NGOs.

In many countries, there is no organized and systematic co-operation between the police and NGOs running centres for the protection of victims of trafficking. This is significantly to the disadvantage of the victims. Co-operation between the police and the state prosecution service frequently also leaves much to be desired. The OSCE and our partners in the Alliance Against Trafficking in Persons therefore call for the establishment of national referral mechanisms (NRMs), i.e. national mechanisms for victim protection and co-operation, which would enable the improvement and institutionalization of co-operation both on a domestic level and especially between states.

We must free ourselves of the outdated view that the rights and needs of the victims of human trafficking are incompatible with effective law enforcement. We need to recognize that it is unrealistic and ultimately unacceptable to see a contradiction between prosecuting the perpetrators and supporting and protecting the victims of these crimes.

For this reason, it is essential to create awareness that trafficking in human beings is not only a question of law enforcement but also one of human rights – there is no either/or. Both issues need to be addressed together if we are to succeed in our struggle against trafficking in persons.

Comprehensive training is essential to meet the ongoing requirement to improve global awareness of human trafficking. Intensive training should be provided to everyone involved in law enforcement: from front-line police and special investigators to state prosecutors and judges. Training should also be offered to border officials and consular employees, and to government officials in key positions.

Providing the necessary education and training to all who require it is a major undertaking, but it is the only way of achieving the desired result. A concrete plan should thus be drawn up, detailing precisely who is to receive training and when. Team teaching, in which training is given by teams of instructors consisting of police officers and representatives of NGOs, have proved extremely effective and have raised educational and training standards.

A further factor that can help to overcome the terminological confusion is criminal law reform, which has begun in several states. As soon as countries start to attempt to get a handle on the problem of legally discriminating between trafficking in human beings and people smuggling, illegal immigration, prostitution, and assorted other offences, they find it necessary to create clear and unambiguous definitions of each.

This not only impacts criminal law provisions, it also affects victim support and witness protection measures. The differences between trafficking in human beings, people smuggling, and illegal immigration also become clearer when countries need to decide what services they would like to and will be able to provide to victims of human trafficking that they will not provide to smuggled persons and illegal immigrants – and on what grounds.

All this will increase understanding in this area. Police and justice officials, whose task it is to enforce the law, follow it to the letter. That is why new laws need to be enacted specifically to deal with trafficking in human beings. Moreover, the laws that are enacted must be comprehensive enough to take account of the multidimensional character of this grievous crime and the serious infringement of human rights that trafficking in human beings entails.

The Human Rights-Based Approach to Combating Trafficking in Human Beings

The preceding considerations make it clear that particular attention needs to be paid to the legal status of the victims and to their protection. States have an essential role to play here, especially as regards the treatment of the victims. When the affected persons and their immediate family are in safety, they will be more likely to co-operate with the prosecution of those who trafficked them, thereby helping to investigate and destroy their networks.

In order to break free of those who would use violence on them and living conditions in which the threat of violence is constant, victims of human trafficking require considerable social and economic support. They also need legal assistance. The provision of legal status to victims of human trafficking is an especially important element of any effective victim and witness protection strategy. A guaranteed legal status that offers security to the victims is the key precondition if they are to be reached by support programmes.

A central question in this context is that of the victims' right to remain (temporarily or permanently) in destination or transit countries. Ideally, victims of trafficking should be granted a right to remain irrespective of their ability or willingness to testify in criminal proceedings. Alongside residency rights, they should also be granted access to the labour market, and a right to state benefits and to reparations for the crimes that have been committed against them.

The status of victims of human trafficking in criminal proceedings demands particular attention. They should have the right to refuse to give evidence, and, if they are willing to testify, they should be able to do so in a non-confrontational environment. At the very least, it must be made absolutely certain that when they do give evidence they do not become victims for the second time, but instead find the process a positive, strengthening experience.

In practice, many states do not even provide victims that co-operate with criminal proceedings with even the most basic protection. Many countries do not grant witnesses a right of residency for the duration of the proceedings but rather require them to return for the trial – regardless of the costs involved and the safety of the victims and their families.

Of course, effective witness and victim protection does not end with the conclusion of criminal proceedings. Studies have shown that victims and the families they have left behind in their countries of origin are often left without protection and find themselves at the mercy of traffickers and their accomplices, who use or threaten violence. Victims' families should therefore also be granted a right to reunification. This is often the only way to ensure the safety of the nearest relatives of victims of human trafficking.

Although this problem has started to receive increasing attention in the political arena, there are few states that have concluded that it is *their* task to protect people from human trafficking and the human rights violations that go with it, as well as to provide victims with adequate support and legal means. Individual states and governments bear the chief responsibility for the implementation of measures to combat trafficking in human beings. They are responsible for fulfilling their human rights obligations under international law, i.e. to guarantee and protect the rights of each individual. While everyone can contribute to solving this problem, the ultimate responsibility for appropriate and effective countermeasures lies with the individual governments. Each government needs to face up to its responsibility and make itself accountable if we are to make progress in the struggle against trafficking in human beings.

Despite the tangible progress that has been made in creating formally institutionalized national mechanisms in many countries, there are few signs that governments are recognizing and accepting this responsibility as their own, particularly in relation to supporting and protecting victims of trafficking. Although this issue has been dealt with extensively in conferences and in the media, in practice, many states in the OSCE area do not devote the time or attention to it that it deserves. If we were to consider objectively what needs to be done to deal with the problem, we would realize that human trafficking requires our full and undivided attention. Nonetheless, there are few officials whose work is exclusively devoted to tackling the wide range of tasks associated with combating human trafficking.

Instead, governments – especially in countries that can rely on receiving financial support from donor countries – transfer responsibility for the implementation of activities in the fight against human trafficking to international organizations. That has decisive consequences. When action is needed, governments often step back from the edge rather than confronting the problem and becoming involved. But international organizations can never do all that is necessary to pursue this struggle, whose core issue is the protection of the human rights of citizens – one of the fundamental tasks of the state.

States also have an important role in determining how victims of human trafficking are perceived. By treating them appropriately, they can ensure that they are seen as the victims of crime. They must be accorded the legal status and protections appropriate to victims of serious crime and should not be treated as criminals. States have to ensure that trafficking victims are neither prosecuted nor punished under criminal or administrative law for acts arising in connection with their situation as trafficked persons. Governments should therefore refrain from summarily deporting those who may be victims of human trafficking on account of their status as illegal immigrants or unregistered workers.

The Multidimensional Nature of the Struggle against Trafficking in Human Beings

Trafficking in human beings cannot be represented by means of a single “snapshot”, but only as a series of pictures like a film. It does not occur at a particular moment, which is then over, and it does not transpire in a single location. It does not only take place in the destination country, where the victim or a perpetrator is discovered. Rather, it consists of a chain or series of criminal acts and human rights violations, starting in the country of origin and stretching over a period of time through various transit countries to the country of destination. Domestic trafficking in human beings also consists of a protracted series of criminal acts and human rights violations.

Recognizing that human trafficking consists of a series of criminal acts and prosecutable activities is a basic prerequisite for effectively combating it. Without this insight, and as long as anti-trafficking measures are not based upon these facts, there can be no effective response to human trafficking – neither in terms of prosecuting the perpetrators, nor in helping the victims.

The recognition that human trafficking consists of a chain of criminal acts makes it essential that law enforcement agencies take an approach that is cross-border, co-operative, and proactive rather than reactive. It also explains why a strategy based on “deterrence” at the border is not effective.

The fact that human trafficking is a cross-border activity is almost a cliché. The problem is that literally no one actually treats it as one in practice. In virtually no investigations of human trafficking cases are criminal activities in the countries of origin connected with law breakers in the destination countries. There are also virtually no institutionalized and co-ordinated efforts to look after the victims once they have been returned to their countries of origin. One of the key priorities therefore needs to be the development of mechanisms that make it possible to target the entire criminal network: from the countries of origin, where it all begins, right up to the “end customers” in the countries of destination. Moreover, these mechanisms need to be applied

across the board: to politics, law enforcement, NGOs engaged in victim support, and to justice systems.

Finally, the above observations show that, time and time again, a highly complex, multidimensional problem is reduced to an oversimplified, one-dimensional view in the search for quick fixes. Everyone with practical experience of dealing with the problem has recognized how incredibly complicated and difficult the whole puzzle is. The attempt to reduce the multiple dimensions to a single aspect can never lead to sustainable solutions. Some see human trafficking purely as a problem of illegal immigration, others consider it an issue concerning only the job market, some frame it as a problem determined entirely by the existence of a certain demand, and yet others look on it as only a question of organized crime. All these approaches suffer from tunnel vision. They completely ignore the complexity of the real situation, which makes them incapable of producing the desired results.

If we wish to be successful in fighting this scourge of humanity, we will require a truly comprehensive approach – one that covers every conceivable arena of activity. It is necessary to combine the efforts of all those who provide practical assistance in fighting poverty, in education, and in defence of human rights with those who deal with issues such as corruption and organized crime, or questions such as immigration and legal reform.

Just as we need to recognize that no country, no ministry, and no organization or agency can bring about an end to this horrific violation of human rights by itself, we must be aware that no one-dimensional approach can succeed either. The OSCE and our Alliance partners therefore appeal tirelessly to governments and other local stakeholders in relevant countries to put anti-trafficking measures in place that tackle the problem comprehensively, in all its many facets – attacking both its roots and the criminality that is symptomatic of it, establishing penalties for the perpetrators that correspond to the grievousness of their offences, and, most importantly, meeting the needs of the victims.

The Economic Dimension in the Struggle Against Trafficking in Human Beings

There can be no doubt that trafficking in human beings has its roots in the increasing poverty affecting many countries where victims of trafficking originate – especially the poverty of the female population (“feminization of poverty”). It is usually poverty, frequently in combination with political instability, that creates an environment where human trafficking can flourish, feeding not only the international sex industry, but also the markets for forced labour and services, household servants, children forced to work as beggars or thieves or otherwise abused, forced marriage, the organ trade, and so on.

Informal economic activity and flourishing black markets have become vital elements in the economies of many transition countries. The precarious employment this brings has become one of the most important sources of money for low-income groups, such as women. The reform process has failed to deliver regular employment to many people, instead forcing them into the informal sector and occasional jobs.

The most alarming consequences of this widespread poverty include corruption, white-collar crime, and organized crime – including trafficking in human beings. These have not only grown to a terrifying size, but they themselves act to destabilize and delay the ongoing development of institutional and economic structures.

The liquidation of entire sectors of the economy and the fact that international financial organizations attach conditions to structural adjustment loans that necessitate the elimination of vital social services may contribute directly or indirectly to human trafficking. The creation of illegal job markets entails a risk that people gradually drift into contact with the criminal world of human trafficking. We all know that – despite relatively high unemployment in many Western countries – irregular migrants can easily find work in the unprotected low-wage sector. That creates a need for more socially balanced economic programmes. The challenge lies in fighting on all fronts for economic development *and* social protection for all.

There is no alternative to tackling this problem at its roots, however complex, difficult, and apparently insurmountable it may be. Initiatives in the struggle against trafficking in human beings need to offer real opportunities to break the cycle of poverty, abuse, and exploitation.

If we want to end the traffic in human beings, we need to implement both short-term and long-term measures. On the one hand, the countermeasures have to take effect quickly. At the same time, we must also address the structural causes – namely the global imbalance in the distribution of work, resources, and wealth.

OSCE Mechanisms to Combat Trafficking in Human Beings

While much has certainly been done in the fight against human trafficking and efforts continue, a great deal of work still lies ahead.

The OSCE is well positioned to tackle this problem in all its complexity: Not only does human trafficking fall within the Organization's remit, the OSCE also includes countries of origin, transit, and destination among its participating States. Trafficking in human beings touches upon questions of human rights and the rule of law, law enforcement and the fight against crime, inequality and discrimination, corruption, economic exclusion, and migration. It cuts across all the dimensions of the OSCE's work and therefore demands a decisive and cross-dimensional approach.

Our answer to this steadily growing problem must be interdisciplinary and international. We are dealing with a transnational crime, and to combat this global problem, we need an approach that is co-ordinated at the national, regional, and international levels. Countries of origin, transit, and destination must work together if tangible progress is to be made.

During the Dutch OSCE Chairmanship in 2003, the fight against trafficking in human beings was declared one of the Organization's key priorities. The Maastricht Ministerial Council adopted the OSCE Action Plan to Combat Trafficking in Human Beings and established an appropriate OSCE mechanism. This consists of a Special Representative on Trafficking in Human Beings, who was appointed by the Bulgarian Chairmanship in May 2004, and the Anti-Trafficking Assistance Unit (ATAU), which supports the work of the Special Representative.

The responsibilities of the Special Representative are defined in Decision No. 2/03 of the Maastricht Ministerial Council (Combating Trafficking in Human Beings) of 2 December 2003. The main focus of my work is to assist participating States in implementing relevant OSCE and other international commitments, for instance, those that can be derived from the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons.

The OSCE Action Plan to Combat Trafficking in Human Beings provides the participating States with a diverse range of instruments to fulfil these commitments. It takes a comprehensive view of the problem, dealing with preventive activities, victim protection, and the prosecution of those who perpetrate or support these crimes. It contains recommendations to the participating States and the relevant OSCE institutions, structures, and field presences on appropriate means for dealing with the political, economic, legal, and humanitarian aspects of the problem.

The OSCE Action Plan to Combat Trafficking in Human Beings is the foundation of my work as OSCE Special Representative, the greatest challenge of which consists in turning theory into practice. I am therefore concentrating in the first instance on working with governments, encouraging them to live up to their responsibilities, and to become active in the struggle against human trafficking. I see it as my task to offer governments assistance in decision making with regard to their policies on human trafficking, and to advise them on related matters. Solutions should be developed that encourage an intensification of cross-border co-operation but are geared to the needs of individual states and accord with international standards. I also offer my support for the establishment of national structures necessary for effective domestic and transnational co-operation.

In my efforts to cover the entire human-trafficking chain, I encourage governments and other local stakeholders to see trafficking in human beings as a continuum – from the countries of origin, via the transit countries, to the countries of destination.

Raising awareness of the problem and its complexity, and advising on appropriate ways to deal with it – i.e. ways that encompass all areas and aspects – will naturally remain key aspects of my work.

It is of great importance that all dimensions of human trafficking be taken into account, i.e. trafficking for sexual exploitation, for exploitation in the form of forced labour or services – including as household servants – trafficking into forced marriages, trafficking in organs, and especially trafficking in children. With the support of the ATAU, I prepare background information on these issues and on best practices for achieving sustainable results in the fight against human trafficking.

A key aspect of my work is to ensure effective collaboration between all the actors and other stakeholders, including governmental authorities, law enforcement officials, and NGOs, not to mention international organizations, who contribute specialist expertise and knowledge.

Co-operation with OSCE institutions and field presences, especially with the Office for Democratic Institutions and Human Rights (ODIHR), the Strategic Police Matters Unit (SPMU), the Office of the Co-ordinator of OSCE Economic and Environmental Activities (OCEEA), the Senior Advisor on Gender Issues, and the Anti-Trafficking Focal Points in the Missions, is a further vital part of my work. It enables me to co-ordinate the various activities undertaken in the fight against human trafficking and to ensure they are built on a common foundation. Because of the important role parliamentarians play in framing legislation relevant to human trafficking, I place great value on co-operation with the OSCE Parliamentary Assembly.

The Alliance Against Trafficking in Persons

Bearing in mind that co-operation and co-ordination are the keys to sustainable solutions in the fight against trafficking in human beings, I have established close links with relevant international actors – the “Alliance Against Trafficking in Persons”.

The Alliance Against Trafficking in Persons is the banner for collective efforts being undertaken with important international partners. It illuminates the problem’s many aspects and complements existing efforts at co-ordination between the OSCE and its structures, on the one side, and other international, intergovernmental, and non-governmental organizations. The Alliance was established with a view to developing joint effective strategies, and, above all, to provide all the OSCE participating States and Partners for Co-operation with harmonized means of problem solving and decision making. It is a forum for the discussion and development of suitable countermeasures to apply to each of the links in the human-trafficking chain and to the problem as a whole. The inaugural meeting of the Alliance, with an agenda that reflected the many-sided nature of the problem, was held in July 2004.

The provision of support and protection to the victims of human trafficking is a central point that is still frequently neglected – often out of fear of abuse. This question was therefore made the subject of a meeting of national and international experts in February 2005 entitled “Taking a Stand: Effective Assistance and Protection to Victims of Trafficking”. Trafficking in children, which is a particularly grave form of human trafficking, was dealt with at a high-level conference in March 2005. Trafficking in children – for sexual exploitation, forced labour, exploitation in various criminal activities, adoption, or organ transplants – is a major cause for concern and creates a particular challenge. The intention of the conference, which was organized under the aegis of the Alliance Against Trafficking in Persons, was to encourage in-depth discussion of and co-ordinated action to tackle this burning issue, and to set in motion a process of dialogue between OSCE participating States on how trafficking in children can be stopped and the specific support and protection needs of children met. The conference helped to formulate an Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings designed to address the special needs of child victims of trafficking, which was adopted at the Ministerial Council in Ljubljana in December 2005.

In the second half of 2005, a high-level conference considered the problem of trafficking for “labour exploitation: forced and bonded labour”. The idea was to stimulate deeper reflection and co-ordinated action in tackling this specific dimension of human trafficking and to establish a dialogue with and among the OSCE participating States on how to dismantle the structures underlying trafficking for forced and bonded labour.

The goal of these conferences is to provide high-quality practice-oriented background information to governments as an aid to decision-making in the formulation of anti-trafficking strategies.

Fact-finding missions in all OSCE States are a vital means of combating human trafficking and shed light on what is actually being done in each country and what progress the governments are making in implementing their commitments. They also provide me with the opportunity to encourage states to take an effective approach to creating the necessary structures and to support the implementation of sustainable measures in the struggle against human trafficking. Country visits often also support the creation of comprehensive national action plans.

Personal contacts and the direct exchange of opinion have proved extremely valuable even in the age of easy global communication. Participation in international forums and national and regional conferences is essential to strengthen these contacts and to raise the profile of the OSCE’s work in the fight against trafficking in human beings.

A first annual report will detail the progress made by the participating States in combating trafficking in human beings and will list the factors that stand in the way of lasting solutions and obstruct the implementation of effective countermeasures.

External Relations and Influence

The OSCE and Outreach Activities – Prospects for an Enlarged Role?¹

Introduction

The CSCE/OSCE has a history of co-operation with other regions beyond its geographic area. In the past thirty years, the OSCE has developed a framework of relations with non-participating states and other regional organizations. This approach was entrenched in the 1975 Helsinki Final Act. The chapter on the Mediterranean, also known as the fourth dimension of security, emphasizes the inter-linkage of security in Europe and other parts of the world, in particular the Mediterranean area. Since then, this notion has been reiterated time and again in subsequent CSCE/OSCE documents. After the Cold War, the OSCE developed a similar framework for co-operation with Asian Partner States.

The OSCE has never operated in a vacuum. A basic premise for relations with Partner States is that security is indivisible. Co-operating by sharing information and expertise with a view to countering common challenges to security is part of the Organization's *raison d'être*. A major part of the ongoing dialogue between the OSCE and Partner States focuses on an exchange of views on issues of mutual interest and common concern. One of the main objectives has been to keep open channels of communication between the OSCE and the Partners, as well as among the Partners themselves.

It is often said that the OSCE could be a source of inspiration for other regions, because the OSCE has a broad mandate and a comprehensive approach to security and is renowned for its innovative and flexible ways of dealing with security issues. But it should be also noted that history never repeats itself, and other regions may develop equally innovative ways of dealing with their concerns. Still, the OSCE experience deserves close study.

In the past few years, the OSCE has undertaken efforts to strengthen relations with its Partner States. As relations have developed, the Partner States themselves have often taken the initiative. Questions raised in this dialogue have included the status of Partner States vis-à-vis the OSCE, possible additional fields of co-operation and the encouragement of Partners to voluntarily implement OSCE norms, principles and commitments.

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

Currently, the OSCE maintains relations with six Mediterranean Partners for Co-operation (Algeria, Egypt, Israel, Jordan, Morocco, and Tunisia). These relations were established in 1994 except in the case of Jordan, which joined the partnership in 1998. The OSCE has established relations with five Asian Partners for Co-operation: Afghanistan (2003), Japan (1992), the Republic of Korea (1994), Mongolia (2004), and Thailand (2000). The Mediterranean partnerships are rooted in the Mediterranean dimension, which was an initiative of the CSCE participating States in the 1970s. The Asian partnerships have developed individually and at the initiative of the Asian states concerned following the end of the Cold War.

Sharing information and expertise, especially on new threats to security and stability, such as terrorism, immigration and trafficking in all forms, and the need for tolerance and non-discrimination have consolidated relations between the OSCE and Partner States. Areas in which the OSCE has gained a comparative advantage, such as policing and border management, may also harbour further potential for co-operation with Partner States.

More traditional aspects of the OSCE's experience gained in confidence-building measures, rule of law and democracy building as well as economic and environmental issues remain important parts of the agenda of co-operation.

In the OSCE, interaction with the Partner States takes place at various levels and forums, and covers different areas, including security issues. The main mechanisms for co-operation include: informal Mediterranean and Asian Contact Group meetings within the framework of the Permanent Council (which provide for an exchange of information and discussion on issues of mutual interest), as well as joint conferences, seminars, and workshops. The Partners also have the possibility of participating in election observation missions and seconding staff to OSCE field missions.

In the last three or four years, the Partner States have been invited more regularly to observe meetings of the Permanent Council and the Forum for Security Co-operation. They participate in Summits, the Ministerial Council, and review meetings, as well as high-level meetings with the OSCE Troika and the Secretary General. Partner States have access to OSCE official documents and the right to submit views to the Chairman-in-Office.

Latest Developments – Becoming Involved Beyond the OSCE Region

The OSCE Ministerial Council meeting held in 2003 in Maastricht created new opportunities for fostering relations with Partner States. In the OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, the Organization decided to “intensify co-operation with its Mediterranean and Asian Partners for Co-operation, by early identification of areas

of common interest and concern and possibilities for further co-ordinated action”.

In a separate decision, the OSCE was tasked with preparing a report on partnership issues, to be submitted to the next Ministerial Council. The Sofia Ministerial Council in 2004 led to the strengthening of the partnership with the Mediterranean and Asian Partners. A comprehensive report on enhanced co-operation was submitted, based on the deliberations of an informal working group. The importance of the report was underscored in a Ministerial Council decision, which recognized the increasing importance of the well-established co-operation between OSCE and its Mediterranean and Asian Partners.

The report, which is annexed to the 2004 Sofia Ministerial Council Document, provides for a broad range of activities that could be undertaken with the Partner States. These range from offering assistance and support during elections to organizing workshops, training sessions, and briefings on subjects in which the OSCE has a particular comparative advantage with the participation of government officials, practitioners, NGOs, and academic institutions.

It should be noted that the Forum for Security Co-operation was closely involved in preparing the report, and its substantial contribution is included in the recommendations. Furthermore, the Partner delegations were invited to participate in some of the deliberations of the informal working group. They used this opportunity and also submitted their views in writing.

Elections are a further area where the OSCE has recently become more involved beyond its own region. In April 2004, the OSCE Parliamentary Assembly sent an observation mission to the presidential elections in Algeria.

In October 2004, acting on an invitation from the government of Afghanistan, the OSCE deployed at short notice an elections support team to assist a Partner State during the presidential elections. This was the first time that the OSCE had deployed an operation in a Partner State.

At the 2004 Mediterranean Seminar held in Sharm El Sheikh, a proposal was made to assist in the presidential elections in Palestine. This was followed by a formal invitation from the Palestinian Authority. The OSCE sent a short-term Training Needs Assessment Team to the January 2005 elections.

The Palestinian Authority also asked to become an OSCE Partner for Co-operation. After lengthy consultations the OSCE Chairman-in-Office replied that the necessary conditions for reaching a consensus were not yet in place, but it would be useful to pursue practical contacts and co-operation.

Global Security and OSCE Outreach

Security in Europe must be seen in the wider context of world security. This was well understood by those involved in the early stages of the CSCE pro-

cess leading up to the Helsinki Conference of 1975. However, the intense East-West tension in Europe sometimes overshadowed the broader context of security and led to a narrow interpretation of the Helsinki process.

As a result, some observers and practitioners questioned whether there was a need to continue the Helsinki process after the European map had been redrawn. If the aim of the CSCE had been limited to overcoming the division of Berlin, Germany, or indeed Europe, the process could have been declared complete with the end of the Cold War. For most of the 1990s, however, the OSCE concentrated on tasks related to intra-state conflicts in the Balkans and elsewhere. In the interim, other security concerns have emerged. Many of them are not limited to Europe and cannot be regarded as solely European problems.

Understanding the interconnectedness of European and global security has implications for the future potential of the OSCE. It could therefore be worthwhile to take a look at the wider context in which the process has developed.

The Helsinki Final Act expresses the conviction that “security in Europe is to be considered in the broader context of world security and is closely linked with security in the Mediterranean area as a whole, and that accordingly the process of improving security should not be confined to Europe but should extend to other parts of the world, and in particular to the Mediterranean area”.

Why does the Mediterranean area figure so prominently in the Final Act? Partly because, in fact, Europe and the countries south and east of the Mediterranean have a lot in common from a security point of view. The Second World War extended to the region, and colonial rule continued in some countries for decades after the war. The creation of the state of Israel had its roots in the persecution of Jews in Europe.

While CSCE consultations were already in process, the 1973 Arab-Israeli War broke out, causing a serious energy crisis in Western Europe. A peaceful solution to the Middle East conflict, including a settlement of the Palestinian problem, has been sought since the 1970s. Many OSCE participating States, including the United States, EU member countries, and Russia, are involved in such efforts.

The recent terrorist attacks, especially those in the United States in 2001 and in Spain in 2004, have been a stark reminder of the indivisibility of security for OSCE participating States as a result of the Middle Eastern and North African connections of many of the perpetrators. A further serious concern has been that Russia has suffered several terrorist attacks, which have also been inspired in part by religious extremism.

It would be simplistic to point at religious and cultural differences as the main sources of conflicts, but it seems that many OSCE countries are uncertain of how to deal with developments in the Islamic world. The Middle East conflict was a taboo topic in the OSCE until recently. Now there are several

topics that directly touch upon the Middle East, such as tolerance, democratization assistance in Palestine, and the possible development of new OSCE partnerships in the region.

No specific mention was made of any other continent in the 1975 Final Act. Still, there were certainly security concerns involving matters outside the OSCE area during the consultations in the early 1970s. In Asia, for example, where the United States was involved in a major war in Vietnam, and the Soviet Union was assisting the other side. The war came to an end only months before the Final Act was signed. The main adversaries of the Cold War agreed to *détente* in Europe while the confrontation continued elsewhere.

Another Asian conflict was perhaps more directly relevant for the early stages of the Helsinki process. China had challenged the Soviet Union's position as the leader of the Socialist bloc and underlined its strength by acquiring nuclear weapons in 1964 and by engaging Soviet forces in a limited armed conflict on the Ussuri River in 1969. The Chinese challenge may have moved the Soviet leadership to accept the compromises included in the Final Act to stabilize its Western "front", which was weakened by frequent popular uprisings.

The Cold War in East Asia and the Pacific had been as divisive as in Europe, and to some extent continues to this day, especially in the Korean Peninsula. After the orderly and largely non-violent end of the stand-off in Europe, a number of Asian countries expressed an interest in the OSCE process. A desire to follow in the footsteps of the CSCE/OSCE was not expressed by a group of countries but by individual countries: Japan at first, then the Republic of Korea, Thailand, and, more recently, Afghanistan and Mongolia. Although the People's Republic of Korea has had a few contacts with OSCE countries, it not officially participated in OSCE events or requested partnership status.

Faced with the growing threat of international terrorism, the OSCE used rather straightforward language when it adopted the Strategy to Address Threats to Security and Stability in the Twenty-First Century in 2003. The document states:

As threats originating or evolving in adjacent regions are of increasing importance, the OSCE will intensify its co-operation with its Mediterranean and Asian Partners for Co-operation, by early identification of areas of common interest and concern and possibilities for further co-ordinated action. We will encourage them to voluntarily implement the principles and commitments of the OSCE and will co-operate with them in this as appropriate [...] The OSCE will also consider ways in which OSCE norms, principles, commitments and values could be shared with

other regions, in particular neighbouring areas. Contacts with organizations in those areas will be further developed.²

The Strategy goes on to state that

One way of dealing with threats from outside the OSCE region is to seek possibilities for expanding the relevant principles, norms and measures contained in a number of OSCE politico-military documents to adjacent regions. The OSCE is particularly interested in encouraging its Partners for Co-operation and its Mediterranean Partners for Co-operation to take part in a number of existing information exchanges and other endeavours in the framework of the CSCE confidence- and security-building measures. Mutual early warning exchanges will be encouraged.³

The implicit argument that threats and challenges move mainly in one direction, from adjacent regions to the OSCE region, is striking. From a reverse angle, colonialism, neo-colonialism, and imposed ideologies and their consequences, which continue until the present time could also be seen as security challenges faced by the “adjacent regions”.

In an era of globalization, security will also have to be addressed globally. The international system has changed radically since 1945, and the United Nations struggles to identify the actors who should bear the main responsibility for international peace and security in today’s world. Multilateralism is of course only one possible way of dealing with security challenges. It has its deficiencies, just like democracy, but the alternatives may be much worse.

The OSCE, as a regional arrangement under the UN Charter, is also making attempts at reforming itself. Its Partners for Co-operation are following the reform process closely and making their own suggestions. Their voices should be heard if the OSCE is to remain a credible security organization in a global era.

Supply and Demand of the OSCE Acquis

As the above citations indicate, the strategy document suggests that co-operation between the OSCE and its Partners is largely based on the OSCE sharing its *acquis* with them, and encouraging the Partners in voluntary im-

2 OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, in: Organization for Security and Co-operation in Europe, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, MC.DOC/1/03, 2 December 2003, pp. 1-10, here: p. 4 (para. 23), at: <http://www.osce.org>.

3 Ibid., p. 9 (para. 51).

plementation. This was echoed in the call for the OSCE to further develop co-operation with the Partners for Co-operation during 2004. More precisely, the OSCE was tasked with:

- Identifying additional fields of co-operation and interaction with the OSCE Mediterranean and Asian Partners for Co-operation for the purpose of enhancing mutual security;
- Encouraging Partners for Co-operation to implement OSCE norms, principles, and commitments voluntarily, in part as a means to further interaction with the OSCE;
- Exploring the scope for wider sharing of OSCE norms, principles, and commitments with adjacent areas; and
- Pursuing its work on procedures for future applications for partnership.

As can be seen, the OSCE expected the Partners to follow the OSCE *acquis* if they wanted closer relations with the Organization. However, it was clear that their position with respect to the Organization would not change. Partners would not become observers and would not be invited to all meetings of the Permanent Council or the Forum for Security Co-operation. What was being offered was enhanced co-operation in making use of the “intellectual property”, the “know-how”, and the experience of the OSCE.

The OSCE *acquis* consists of different kinds of commitments. They could perhaps be divided into three groups: inter-state, intra-state, and reinforcing commitments. Inter-state commitments such as the Helsinki Decalogue and CBM/CSBMs derive from the Cold War era. Intra-state commitments were developed using the common value basis of the Paris Charter of 1990. Reinforcing commitments reinforce the validity of agreements and decisions made elsewhere, such as conventions and resolutions dealing with counter-terrorism.

Different participating States may emphasize different parts of the *acquis* in their co-operation with the Partners. Some emphasize long-term development, whereas others would like to have results in the short term.

In the informal working group of 2004 there was a discussion about the scope of “voluntary implementation”. Should the OSCE *acquis* be implemented by the Partners wholly or partially and who decides what part is the most urgent? It was a useful debate, making clear that the OSCE *acquis*, which has taken thirty years to develop, should be available for the Partners to use depending on their situation.

It should be borne in mind that for the Partners, other organizations – the United Nations as well as several regional organizations – may be the main avenues of security co-operation. For them, the decision on whether to implement OSCE principles, norms, and commitments is therefore the result of a cost-benefit analysis. The desire for closer relations not only with the

OSCE but also with individual participating States will certainly play a role in this decision.

The demand for the OSCE *acquis* may be tempered by the fact that the Partners are closely following the discussions among OSCE participating States on their compliance with commitments and on the need to reassess the validity of some commitments. The debate concerning free and fair elections and election monitoring is a case in point.

The benefits of following the OSCE *acquis* depend on the situation of the countries in question. If a peace agreement were concluded in the Middle East, the parties might welcome a number of OSCE-type commitments that would support it. If the stand-off in the Korean Peninsula began to show signs of easing, principles and measures from the OSCE *acquis* could prove useful. In such situations outside of the OSCE region, however, the OSCE would most probably have an indirect, supporting role.

Values, Civilizations, and OSCE Outreach

During the Cold War, the CSCE could be described as a forum for co-operation between adversaries. By the late 1980s, the situation had changed radically. In the Paris Charter for a New Europe, a common set of basic values was agreed on. All participating States pledged to co-operate on the foundation of respect for human rights, democracy, rule of law, and economic liberty and responsibility.

The OSCE Istanbul Summit document of 1999, which contained the Charter for European Security, confirmed the validity of the Paris Charter. As no Summits have been held since then, the set of basic values established in 1990 remains intact.

When the OSCE reaches out and encourages the Partners for Co-operation to implement its commitments, the question of values is unavoidable. Some pointed questions have been asked. Are OSCE values essentially European/Western? Is the OSCE being used to undermine other value systems now that Communism is dead? What if Western civilization has already peaked and the OSCE's language is nothing more than the afterglow of the euphoria associated with the demise of Communism?

It could be argued that the European Union is established on similar values, and it succeeds in attracting new members and partners, some of which do not belong to the conventional "Western world". Modernizing societies, including those outside the West, tend to adopt or at least move closer to these values. The attempt to pit the "West" against the "rest" on the basis of values is thus untenable. Basic values such as the respect for human rights are universal.

Here the OSCE has an important role to play. Its work against forms of intolerance such as racism, anti-Semitism, and discrimination against Mus-

lims, Christians, and others has already brought some results. The existence of such problems is now recognized and ways to address them are being sought.

Societies in Europe are already multicultural, and immigration from countries on other continents will continue. A great deal of courage will be required from all the countries involved, as both participating and Partner States work for reconciliation and mutual respect across cultural boundaries that may not strictly follow the borders of the OSCE region.

Regional Security Strategies for Afghanistan and Its Neighbours – A Role for the OSCE?

The OSCE in a Time of Failing States: Neighbourhood Assistance for Afghanistan?

Politico-strategic thinking during the Cold War was dominated by a bipolar interpretive schema that described violent conflicts at the periphery of the international system as “regional conflicts”, considered to be expressions of the global confrontation of systems. In contrast, the early years following the end of the bipolar world order were characterized by a politico-strategic vacuum. Only after 11 September 2001 was a new interpretive paradigm able to take the place of the old bipolar system of co-ordinates. The security doctrines of the most important states and international organizations are now almost unanimous in defining international terrorism, the collapse of state authority, and the proliferation of weapons of mass destruction as the greatest threats to national and international security. The causal connection between international terrorism and state failure, in particular, is often stressed. Today, these phenomena appear as both the most important causes of conflicts and a central strategic challenge for the international community.¹

Strictly speaking, there may be little empirical evidence for this connection. However, if terrorism is understood as a catch-all concept for various kinds of illegal and illegitimate (political) non-state violence, there are good reasons to argue that the failure of state structures is a measure of their social and institutional embeddedness – or rather disembeddedness. At the level of political practice, this formula certainly prevails for the time being. The strengthening of state authority by means of state or nation building² has become a central task of foreign and development policy. This not only provides the interventionism of the 1990s (Kosovo, Sudan, Haiti, Bosnia) with *ex post facto* strategic justification, it also makes regime stabilization and/or transformation a key foreign and security policy priority – and an expanded concept of security, one that encompasses political systems, becomes its fundamental prerequisite.

1 Cf. Ulrich Schneckener, *How Transnational Terrorists Profit from Fragile States*, SWP Research Paper 2004/S 18, Berlin 2004, p. 18.

2 Nation building is frequently used in reference to military interventions to which state building (the establishment of state institutions) is an adjunct. In fact, nation building correctly refers to the secular process of social and political mobilization within the borders of a state (whether these are accepted or contested); cf. Karl W. Deutsch, *Nationalism and Social Communication. An Inquiry into the Foundations of Nationality*, New York 1953. When talking of fragile statehood, it is hence more correct to speak of state building, cf. Francis Fukuyama, *State Building, Governance and World Order in the Twenty-first Century*, Ithaca 2004.

This development should play into the hands of an institution like the OSCE, which adopted an expanded concept of security earlier than other collective international political actors. The recognition that minimizing conventional security risks at the level of state relations depends on domestic matters within the countries in question and can be promoted by means of both domestic and international confidence- and security-building measures is one of the key lessons of the CSCE process. But the “new” threats to security also create challenges for the OSCE that extend beyond the scope of its existing activities: A plethora of security risks in the OSCE area, e.g. in the Western Balkans, in the Caucasus, and in Central Asia, are increasingly being compounded by destabilizing influences emanating from state and non-state actors in neighbouring regions. Afghanistan is the most prominent case here. The “new” OSCE participating States, Tajikistan, Uzbekistan, and Turkmenistan are all neighbours of Afghanistan, and each registered a deterioration in its security situation during the period of Taliban rule.³ After the overthrow of the Taliban and the establishment of a US and NATO politico-military presence, the immediate danger of cross-border-operating non-state actors may have been banished at first, but the instability on the OSCE’s southern flank remains: Afghanistan’s internal fragility, cross-border criminality, and the general lack of trust between states in the region provide enough explosive material for political crises that could become serious problems for some of the OSCE States that themselves still lack stability. From the perspective of the Organization and its participating States, the stabilization of Russia’s southern periphery, which is developing stronger links not only with Southern Asia and the Persian Gulf, but also with China, could also be significant with regard to Islam as a political “factor” in the region.⁴ A successful “neighbourhood policy” with regard to a country such as Afghanistan could in this way also exert a stabilizing influence on the OSCE States themselves.

If we follow this logic and understand the stabilization of the OSCE’s neighbour Afghanistan as a task that the Organization should undertake, we can distinguish between two basic approaches: The promotion of inter-state co-operation between Afghanistan, the bordering OSCE States, and other neighbours in the region, on the one hand, and measures aimed directly at the internal stabilization of Afghanistan, on the other. In this context, Afghanistan’s becoming an OSCE Partner for Co-operation on 3 April 2003 can be understood as a political signal, with which both sides acknowledged the importance of a stable environment. The OSCE’s support for the monitoring of the Afghan presidential elections in October 2004 is an example of the kind of “services” that the OSCE can provide to directly aid the rebuilding of Af-

3 Cf. International Crisis Group, *The OSCE in Central Asia: A New Strategy*, Osh/Brussels 2002, p. 8.

4 Cf. Arne C. Seifert, *The Islamic Factor and the OSCE Stabilization Strategy in Its Euro-Asian Region*, CORE Working Paper No. 4, Hamburg 2001.

ghanistan.⁵ The remainder of this contribution takes a more detailed look at the potential tension between these two dimensions and at the OSCE's regional environment in general. It starts by identifying needs in domestic and foreign security and goes on to discuss ways in which they might be met.

The Need for Regional Security-Policy Co-operation in the Process of State Building

If we consider the network of causal factors underlying the Afghanistan war that has lasted since 1978, it can be considered a genuine "regional conflict", in which a large number of state and non-state actors operate across national frontiers. But if Afghanistan was treated as a regional conflict from the start, this was only a linguistic convention of the Cold War: The Afghan conflict parties appeared to be dependent ("regional") agents, whose ("global") principals were located in Moscow and Washington. The independent will and power of the regional and local actors were generally underestimated, or even dismissed – the consequences of which included the events of 11 September 2001.

The conflict that followed the withdrawal of Soviet troops was characterized, first, in terms of an ethnopolitical paradigm, and then in terms of cultural conflict.⁶ Today, it is seen as a test case for the fight against international terrorism and nation building. But it is now time to approach Afghanistan as a regional conflict in the literal sense, and to pay more attention to the regional dimension of state building. It is true that the major challenges of state building are, in the first instance, national matters: establishing an effective *monopoly of force*, without which there can be no security and which is also a precondition for the effective exercise of authority on the part of a state and hence for any form of (basic) legitimacy, an *extractive capacity*, which allows the state to collect taxes and other contributions, enabling it to provide social security services, and a *legal capacity* that enables public institutions to make (democratically) created law effective in society and thereby to integrate state and society (the citizens).⁷ However, in addition to these three fundamental capacities, which together comprise the core of statehood, there is a fourth, to whose development international institutions such as the OSCE can make a particular contribution: an *external relations*

5 Cf. Robert L. Barry, The Future Tasks of the OSCE, in: Institute for Peace Research and Security Policy at the University of Hamburg/IFSH (ed.), *OSCE Yearbook 2004*, Baden-Baden 2005, pp. 27-32, here: p. 29.

6 Cf. Gilles Dorronsoro, *Revolution Unending. Afghanistan 1979 to the Present*, London 2005, pp. 5-18.

7 Cf. Boris Wilke, *State-Building in Afghanistan? Taking Stock of the International Presence in the Hindu Kush*, SWP Research Paper 2004/S 30, Berlin 2004, p. 13, and Andreas Wimmer/Conrad Schetter, *State Formation First: Recommendations for Reconstruction and Peace-Making in Afghanistan*, Center for Development Research, Discussion Paper on Development Policy No. 45, Bonn 2002.

capacity. For, just as the law only considers those political entities to be states that are recognized as such by the state environment, the quality of a country's statehood is influenced by the entire range of its neighbour states' political conduct towards it, apart from the question of formal recognition. For instance, the threat of military action made by one state on another directly affects the latter's internal constitution. The constitution of a state is thus not only determined from within, but also from outside. For this reason, regional co-operation and security, by enabling states still lacking stability to shape their external relations in ways that allow the minimization of conflict, also have a key role to play in state building.

There can hardly be a state of which this is more true than Afghanistan, which owes its very existence to its neighbours' interests and the imperatives of the international system. Unlike the states of Europe, Afghanistan was not created in a state-building process involving competition between various powers. Nor – as in the case of its neighbours India, Pakistan, and Sri Lanka – is it the product of colonial state building. Rather, it was created as a “buffer state” to separate the British, Russian, and Persian spheres of influence. While in countries such as India, Pakistan, and Sri Lanka political institutions developed out of the internal exigencies of colonial rule, Afghan statehood is a result of balancing the interests of external powers and the political calculations of local rulers, who secured annuities thanks to the status of their country as a buffer state. This not only resulted in two tracks of post-colonial development, with corresponding differences in the strength of political institutions, but also created a geopolitical imbalance between powerful states such as India and Pakistan, on the one hand, and the “black hole” of Afghanistan, on the other. As Afghanistan became first the canvas on which regional power struggles were projected and then the arena of activity of violent non-state actors, the institutional divide only widened.

This meant that Afghanistan's domestic political elite were highly dependent on external actors. Instead of following the path pursued in other historical state building processes and extorting “protection money” from the populace to fund the creation of state institutions, from the late 1950s, the rulers of Afghanistan relied on aid money for over 40 per cent of the cost of running their state, thus making Afghanistan a special sort of *rentier* state.⁸ This dependence of the state elites on external actors, which was reflected in the inability to establish domestic hegemony, translated into a strong dependence on external powers. This brought with it a susceptibility to political and

8 Cf. Conrad Schetter, *Kleine Geschichte Afghanistans* [A Short History of Afghanistan], Munich 2004, p. 12. In this context, “aid” should be understood not only as development assistance or emergency aid, but as encompassing all kinds of transfer activities – i.e. also including military aid or the cost of unwelcome external intervention. As a category in the sociology of the state, aid is the second most important source of revenue for the state after extraction proper (tax, contributions, duty, profits from state monopolies, etc.). For more on “protection money”, cf. Charles Tilly, *War Making and State Making as Organized Crime*, in: Peter Evans et al. (eds), *Bringing the State Back In*, Cambridge 1985, pp. 169–191.

military intervention that finally led to the decline – and finally the collapse – of state authority: A chain of events that stretches from the Soviet intervention in the seventies, which exacerbated the antagonism between city and country that led to the civil war, via the Western protection and arming of the Mujahideen that made them a powerful cross-border violent actor, to the intervention of the anti-terror coalition testifies to the contemporary impact of Afghanistan's historical legacy.

The Regional post-Conflict Situation and Afghan Ownership

As a buffer state, Afghanistan is not only a *product* of hegemonic ambitions and political calculations – its current (post-)conflict situation is also determined by the cross-border character of the problem complex. The dependence of all actors in Afghanistan on external support makes it possible for neighbouring countries and regional powers to export their conflicting interests into Afghanistan. This was as much a cause of the failure of early attempts to solve the “problem of Afghanistan” as the irreconcilable interests of the two blocs.⁹ In the meantime, many of the “Afghan” problems have (once more) started to encroach on neighbouring states. The diffusion of violence typical of long-lasting armed conflicts was accompanied by a proliferation of conflict parties, whose activities range across national borders: from religious solidarity networks, to international militias.¹⁰ Not only arms and drug trafficking are organized on a cross-border basis, but also the supply of the conflict parties with international fighters, whose radius of activity has expanded in the last decade from Kashmir via Afghanistan, Central Asia, and the Caucasus, as far as the Balkans.¹¹ This is the underlying reason why Afghanistan experienced not peace but rather an unprecedented escalation of violence following the end of the Cold War.

Against the backdrop of this cross-border conflict situation, it appears remarkable that the regional dimension of the peace-consolidation process has so far played a minor role. Unlike the earlier “six plus two” arrangement, in which Afghanistan's neighbours participated, and the USA and the Soviet Union acted as guarantors, the “Bonn process” and the forthcoming “Kabul process” foresee these states remaining outside observers. The “Kabul Declaration on Good-Neighbourly Relations”, signed by Afghanistan and its six neighbours – China, Pakistan, Tajikistan, Turkmenistan, Uzbekistan, and Iran – merely updates the principles of non-interference and good-neighbourly relations in the context of the war on terrorism. While it does provide a

9 Cf. Barnett R. Rubin, *The Search for Peace in Afghanistan. From Buffer State to Failed State*, New Haven/London 1995.

10 Cf. Steve Coll, *Ghost Wars. The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet Invasion to September 10, 2001*, New York 2004.

11 Cf. Mariam Abou Zahab/Olivier Roy, *Islamist Networks. The Afghan-Pakistan Connection*, London 2004.

framework for consultations and conferences – one that has already been made use of¹² – it provides for no consultation mechanism between Afghanistan's neighbours and the states currently intervening in the country.

While it is understandable, in the light of historical experience, that the strategy of strengthening Afghan "ownership" as propounded by the United Nations and the states currently intervening in Afghanistan deliberately seeks to keep the country's neighbours out of the "Bonn process", it remains to be seen whether this is realistic. It is not at all clear whether peace can successfully be brought to Afghanistan without the neighbouring states' active participation, especially since the states currently intervening, most of which are Western, are constantly seeking to exercise a direct influence on political events in Kabul and are perpetuating Afghanistan's structural dependence by means of bilateral agreements on political and military co-operation, such as recently agreed between the United States and Afghanistan.¹³ Nor is it certain that an international armed force from another part of the world that currently consists of slightly over 20,000 troops will be capable, via military or political means, of preventing clandestine intervention by neighbouring states in the long term.

Alongside the question of effectiveness, the issue of legitimacy also needs to be considered. In the eyes of the international community, the international sponsors of the Karzai government, who include not just the USA and its allies – the UN-mandated International Security Assistance Force (ISAF) – but also private security companies, may differ from other, undesirable "destructive elements" in terms of degree of legitimacy. However, as experience shows – from Somalia via Afghanistan to Iraq – legitimacy cannot be simply be decreed by external powers – and certainly not for a whole region. In the medium to long term, the international presence will again be seen for what it really is: the expression of a structural problem of legitimate rule and the dependency of the Afghan state.

Potential Roles for the OSCE and Other International Organizations

It is thus doubtful whether an approach that largely ignores Afghanistan's neighbouring states but rather builds upon its dependence on external actors can succeed in the long term. If the inability of the Afghan state to support itself financially and to secure its borders means that Afghan societal rela-

12 The Berlin Declaration on Counter-Narcotics was adopted on 1 April 2004. Since then, conferences were held in Doha (May 2004) and in Riyadh (February 2005) on police co-operation and counter-terrorism policy, respectively.

13 On 23 May 2005, Presidents Bush and Karzai signed the Joint U.S.-Afghan Declaration for Strategic Partnership, which gave the USA the right to maintain its own military bases and to carry out, in consultation with the Afghan authorities, military operations on Afghan territory, e.g. as part of counter-terror and anti-drug operations. In return, the USA guaranteed medium to long-term financing of the Afghan military, see: <http://usinfo.state.gov/sa/Archive/2005/May/24-124331.html>.

tions in general are being internationalized and are tending to ignore national or ethnic boundaries, the “problem of Afghanistan” can only be solved as part of an integrated regional approach.¹⁴ Whether an individual state such as the USA is suitable to act as Afghanistan’s guarantor in the long term appears highly dubious – at least when considered in terms of Washington’s highly changeable relationship to Western and Southern Asia over the last 50 years.

For Afghanistan, regional security is not a question of “balancing” threats but rather a strategically necessary aspect of the state- and nation-building process. Analogous to the small states in post-War Europe, Afghanistan will only find the necessary supportive environment in the form of a regional peace regime. In this connection, Afghanistan’s geopolitical position between Southern Asia, Central Asia, and the Middle East becomes problematic. In terms of geographic focus, topics of concern, or (a lack of) institutionalization, organizations like the Economic Cooperation Organization (ECO), the South Asian Association for Regional Cooperation (SAARC) and the Shanghai Cooperation Organization (SCO) are currently not in a position to play the role of a “security community”¹⁵ in Asia in either the short or the long term.¹⁶ Consequently, Afghanistan will be reliant on either importing security for the foreseeable future or on participating as a neighbour in existing security and co-operation arrangements.

Two organizations come into question: NATO and the OSCE. As the area of operation of the NATO-led Provincial Reconstruction Teams (PRTs) is expanded to all four sectors of Afghanistan, and given the more difficult operating conditions that this will presumably create, the question of an institutionalized security policy dialogue with (at first individual) neighbouring states will inevitably be placed on the agenda.¹⁷ Whether this will occur within the scope of the Partnership for Peace or in a different institutional context, there will inevitably be a qualitative transformation of Afghanistan’s relationships with both NATO itself and with the NATO member states that are currently engaged in Afghanistan. However, because NATO’s agenda will at first focus on military matters (perhaps later encompassing a broader range of security-policy issues) and will not deal with regional co-operation

14 Cf. Barnett R. Rubin/Andrea Armstrong, Regional Issues in the Reconstruction of Afghanistan, in: *World Policy Journal* 1/2003, pp. 31-40.

15 Karl W. Deutsch, *Political Community in the North Atlantic. International Organization in the Light of Historical Experience*, Princeton 1968.

16 Here it is necessary to draw the following distinction: SAARC, from which Afghanistan could benefit the most – thanks to the central importance of the Afghanistan-Pakistan opposition for state and nation building – is structurally hindered by the antagonism between India and Pakistan. If the SCO were to be expanded to include Pakistan, India, and Afghanistan, it could play a stabilizing role. The ECO has so far remained peripheral in every respect.

17 NATO is scheduled to take over command of the PRTs currently under US command in the west (Phase 1), the south (phase 2), and the east (phase 3) of Afghanistan in 2005 and 2006. The last two areas are considered unsafe and require a new interpretation of the NATO/UN mandate. Cf. Paul Adams, Questions for Nato in Afghanistan, BBC NEWS, 28 May 2005, at: http://news.bbc.co.uk/1/hi/programmes/from_our_own_correspondent/4587185.stm.

in a narrow sense, there is room for the OSCE to play a role that could, to some extent, be described as complementary. Afghanistan's status as an OSCE Partner for Co-operation could help smooth the way for the development of a regional security strategy, initially focusing on the collective threats of state failure and terrorism. From this starting point, it could expand to take in questions such as border regimes, co-operation in the fight against cross-border organized crime, and energy and water security, thereby supporting Afghan statehood from outside.

The outlook for this kind of security and regional policy agenda, however, does not appear so bright if we consider the OSCE's sobering experiences in Central Asia.¹⁸ This agenda is blocked not only by the reluctance of the Central Asian participating States but also by the path dependence of an OSCE that has for a long time seen itself as less the guarantor of external security for Central Asia and neighbouring countries, than an exporter of human rights and democracy. If the OSCE's existing (limited) involvement in observing the Afghan presidential elections of October 2004 proves indicative of the shape of things to come, it would be reason for significant scepticism. For even if "technical" support may be essential at first, every activity that promises direct assistance within the country raises questions of institutional compatibility. The local institutions in a traditional society such as Afghanistan are not easily recognized as such by organizations dominated by the West such as the OSCE. It is also necessary to take into account that the OSCE would thereby become part of the internationalized structure of governance that has been established in parallel to the emerging native Afghan apparatus of state. Each activity needs to be examined to determine whether it creates or strengthens parallel structures instead of supporting state institutions. This applies equally to police training and other forms of external state building.¹⁹ As in the case of election monitoring, it is important to ensure that the police are not made to become answerable to the international community, but to the government and the people of Afghanistan. In addition, guaranteeing human rights requires a social consensus on the legal system that is to be upheld by the state – something that remains a rather distant prospect for Afghanistan. The current existence of a plurality of state and non-state regimes of violence is hard to reconcile with the OSCE's "*acquis* of norms, standards, and commitments".²⁰

The ability of the OSCE (and CSCE) process²¹ to serve as a model thus ends precisely where, within a process of political discussion and co-operation,

18 For more information, see: Marie-Carin von Gumpenberg, *Die Organisation für Sicherheit und Zusammenarbeit in Europa, Stabilisierendes Moment in Zentral Asien?* [The Organization for Security and Co-operation in Europe. A Stabilizing Factor in Central Asia?], SWP Research Paper 2002/S 33, Berlin 2002.

19 Cf. Barry, cited above (Note 5), p. 29.

20 Emily Haber, The OSCE in a New International Landscape – Eleven Theses, in: *OSCE Yearbook 2004*, cited above (Note 5), pp. 33-40, here: p. 34.

21 Cf. Margret Johannsen, The "Helsinki Coup": A Model for American Democratization Efforts in the Middle East? In: *OSCE Yearbook 2004*, cited above (Note 5), pp. 517-532.

the principles of rule of law, democracy, and the market economy are made preconditions for co-operation. Societies like Afghanistan face quite different external and internal problems from those dealt with by the CSCE/OSCE States during the Cold War and the subsequent phase of post-bipolar co-operation: States that are limited in their ability to manage the use of force and the privatization of security are combined with the existence of a large number of groups seeking to achieve military and political hegemony. Not only are three regional and global powers, China, Russia, and India, seeking to follow their largely conflicting interests in the region; mid-sized powers, such as Iran and Pakistan, also have the power to disrupt, not to mention thousands of interlinked non-state violent actors, some of whom co-operate with state actors in pursuing their “security policy goals”. A modest degree of activity on the part of the OSCE that allowed Afghanistan’s western and eastern neighbours to profit from the security zone in the north would be the most suitable way to support the long-term process of Afghan state and nation building.

Annexes

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

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* CIO.GAL/100/05 of 27 June 2005.

Introduction: A Mandate for Change

Europe is going through a dynamic period of transition. It has experienced significant political and social changes. Much of what has been agreed since 1975 in Helsinki has been achieved. There has been substantial progress on the path of establishing democratic institutions and market economies. The Cold War division lines have disappeared. The OSCE has contributed to this progress.

New threats to international security and stability have emerged. Different historic backgrounds, the uneven pace of integration, economic growth and democratic development have led to the emergence of new problems in achieving comprehensive security.

Although the OSCE's ability to adjust in a flexible manner to the changing security environment is generally appreciated, its relevance, effectiveness and strategic orientation have been questioned. In 2004, most members of the Commonwealth of Independent States issued the Moscow Declaration and then the Astana Appeal to OSCE partners with a number of criticisms and suggestions for reforming the OSCE.

The underlying concern is whether the OSCE is living up to the expectations of building a Europe "whole and free", or whether new dividing lines are being drawn. Is the OSCE losing its focus and its relevance? Has it been applying double standards? Is there an imbalance between the dimensions and an exaggerated focus on countries East of Vienna? Does a real political will exist to make use of the Organization to solve problems related to the region's security issues? Such questions are being asked at the highest level.

Several Chairmanships have given reform a high priority. At the Ministerial Council in Sofia in December 2004, OSCE Foreign Ministers expressed their awareness of the need for a broad and thorough debate on reviewing and strengthening the role of the OSCE. They expressed the belief that the OSCE could be more effective, and therefore decided to establish a Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE. This was followed up by the Slovenian Chairmanship through the appointment of the signatories.

The mandate of the Panel is to give new impetus to political dialogue and provide strategic vision for the OSCE in the 21st century, to review the effectiveness of the Organization, its bodies and structures, and to provide recommendations on measures to effectively meet the challenges ahead.

The Panel has not reviewed global threats and challenges. This has already been comprehensively addressed, in the OSCE context, through the OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century.

The Panel briefly assessed the strategic role and position of the OSCE in the European security network, considered how this role can be more clearly

defined and further strengthened, and provided recommendations on how this could be done.

These recommendations are designed to contribute to the High Level OSCE Consultations, to strengthen the long-term effectiveness of the Organization, for the benefit of improving security through co-operation in the OSCE area. The Panel trusts that the participating States will find its recommendations useful and that the outcome will contribute to revitalising the Organization.

Nikolay Afanasievsky/Vladimir Shustov

Hans van den Broek

Wilhelm Höynck

Kuanysh Sultanov

Knut Vollebaek

Richard Williamson

Miomir Žužul

1. The OSCE's Position, Role, and Approach

1.1 Adapting to a new security paradigm

1. The OSCE is an integral part of "European" security, including both the Transatlantic and Eurasian dimensions. In the network of European security organisations it is distinguishable by its broad membership, its comprehensive mandate and its activities in its field operations. The OSCE is the only regional Organization for co-operative security issues in which States from Vancouver to Vladivostok participate on equal terms. The OSCE's comprehensive approach to security is based on high-level political dialogue and a broad range of flexible institutions and instruments. The OSCE has a comprehensive approach to security, clearly expressed in a series of agreements and supported by instruments in all dimensions of security, to which all members have agreed. This combination has made the OSCE a useful service provider in all fields.
2. The old dividing lines of the Cold War no longer exist. As a consequence, the role of the OSCE, like other security organisations, is being adapted to this new security paradigm. While the OSCE, during the last 15 years, has continued to prove its value through its ability to respond adequately to new threats to European security, the Organization's agenda and its set of operational tools needs further improvement.

3. A rapidly evolving European and Eurasian landscape requires an organisation like the OSCE to play a constructive role in preventing the emergence of new dividing lines. Recent events show the need for the OSCE to manage and resolve crises, prevent conflict, and strengthen comprehensive security, regional co-operation and foster peace. Unresolved conflicts in the OSCE area are a concern to all participating States. States in which official institutions and their capacity to govern are still developing can benefit from OSCE assistance. Terrorism, trafficking (in particular in human beings), corruption and organised crime all profit from instability, which in turn has an impact on the security of all participating States.
4. The OSCE's consensus-based decision-making and co-operative approach make it a forum where all participants come together with an equal voice. It integrates all States with an interest and stake in European security. In that respect, it is a necessary, yet underused forum for comprehensive political dialogue on issues with an impact on security and co-operation across a vast area.
5. As a privileged member of the OSCE family, the Parliamentary Assembly can make a specific contribution. In particular it can play an important role in raising awareness of OSCE principles and commitments notably in national parliaments of participating States.
6. The relationship with NGOs is important and should be further developed. NGOs can provide useful information and be valuable partners in processes of broad consultations.

1.2 Strengthening unity of purpose and effectiveness

7. OSCE values and commitments are the bedrock on which the Organization stands. They constitute the principles and standards on the basis of which States participate in the OSCE. Therefore the most important step towards a stronger and more relevant OSCE is a firm recommitment to the standards and political commitments its leaders have signed up to since 1975. All OSCE commitments, without exception, apply equally to all participating States. Any action undertaken in accordance with one such commitment should be consistent with all other commitments. Raising awareness of OSCE commitments, and their full implementation by all participating States will enhance the profile of the Organization and the understanding of its relevance.
8. To increase the effectiveness of the OSCE, the Organization needs to create a stronger sense of common purpose among its participants, to make States feel that they have a stake in the Organization and that they are treated as equals. Such a development could be realised along the following lines:

- a) While retaining its comprehensive approach to security the OSCE should focus its work on those areas where it has comparative advantages and can add value;
- b) Strengthening trust and confidence between participating States as well as between groups of States is of crucial importance. The OSCE should play its role as an organisation for equal and even-handed co-operation and assistance in maintaining security and stability, and all OSCE instruments should be applied in this spirit;
- c) Identifying agendas, priorities and topics consistent with fostering compliance with OSCE commitments;
- d) The work of the Secretariat, Institutions and field operations of the Organization must be coherent and consistent with priorities of the OSCE set by the participating States so that the Organization has a common focus and external profile;
- e) The basic priorities and action plans must have a long-term perspective and be in line with the evolving security environment;
- f) A stronger focus and coherence of action would shape a stronger OSCE identity with a common perception of the OSCE's goals, both internally as well as for the general public;
- g) Stronger political leadership and management of the Secretariat, Institutions and field operations of the Organization should contribute to the desired coherence and long-term relevance and applicability of basic principles, while the different Institutions should retain their ability to make independent evaluations and take programmatic initiatives in accordance with their respective mandates.

1.3 *Relations with other international organisations and partners*

- 9. The OSCE's role as a regional arrangement under Chapter VIII of the United Nations Charter has been influenced by the enlargement of the European Union, NATO and the Council of Europe. This has led to an increasing overlap in memberships, mandates and capacities. Moreover, the role of the OSCE and how it is perceived vary in the different participating States, *inter alia* depending on their relationship to these other international organisations.
- 10. Managed well and taking into account the legitimate interests of all participating States, co-operation and co-ordination with other actors strengthen common and comprehensive security within the OSCE area. The main responsibility lies with participating States to ensure that policy planning looks at European security organisations in concert and not in isolation. The Panel recommends that:
 - a) The relationship with the UN should be further developed, taking into account the ongoing discussions on the reform of the UN to strengthen the complementarity between the UN and regional ar-

- rangements, for example in the regional implementation of global instruments, in conflict prevention and peace-building;
- b) Pragmatic and even-handed co-operation should be enhanced between the OSCE and other regional and sub-regional organisations especially in relation to crisis management, setting and implementation of norms, and operational activities;
 - c) On the basis of the Declaration on Co-operation endorsed in Warsaw on 17 May 2005 between the OSCE and the Council of Europe, further practical work should be carried out to fully realise the potential of this co-operative relationship;
 - d) Being an independent Organization with its distinctive mandate, relations between the OSCE and other international organisations in the European security network should focus on what the OSCE does best and where its added value lies;
 - e) The OSCE's role and comparative advantages should be regularly and systematically assessed as part of the agenda of the Ministerial Council and the Permanent Council.
11. Since security in the OSCE area is affected by international developments, particularly in adjacent areas, the OSCE has a clear self-interest in sharing its security-related expertise with its neighbours. The OSCE should remain prepared to consider invitations to contribute as appropriate to the development of security and democracy, particularly in Partners for Co-operation and neighbouring States, and in special cases outside the OSCE area.

1.4 Comparative advantages and focus

- 12. Making use of its comparative advantages, the OSCE should bear in mind its co-operative approach and should help States, at their request and invitation, to help themselves in the agreed areas. Assistance in capacity-building, with respect to implementing OSCE commitments should therefore be a main aim of operational activities.
- 13. In some OSCE priority areas, such as police training, rule of law and the fight against trafficking in human beings, the OSCE could take a leading role.
- 14. The OSCE is a norm-setter in areas covered by its comprehensive mandate. When requested, the OSCE should assist participating States to fulfil OSCE commitments. If asked, it could also encourage and assist within its competence participating States to adopt and implement the norms and standards set by other international organisations.
- 15. Under the prevailing circumstances and taking into account that the priorities for OSCE co-operation with participating States may vary from country to country, the Panel believes that the OSCE should give priority to:

- a) Enhancing political dialogue;
- b) Early warning and conflict prevention;
- c) Post-conflict rehabilitation including restorative justice and reconciliation;
- d) Arms control and confidence- and security-building measures;
- e) The fight against terrorism, extremism and organised crime;
- f) Promotion of police training, border management, the rule of law and democratic control of armed forces;
- g) Encouraging regional economic co-operation;
- h) Promotion of tolerance and non-discrimination, including respect for the rights of persons belonging to national minorities and protection of freedom of the media;
- i) Election observation and the follow-up of recommendations;
- j) Institution-building and the promotion of good governance;
- k) The fight against trafficking in human beings, drugs and weapons.

2. Improving Comprehensive, Common and Co-operative Security

2.1 *New threats and challenges – the need for a cross-dimensional perspective*

- 16. Since the 1975 Helsinki Final Act, the CSCE/OSCE's commitments and activities have traditionally been divided into three baskets, or dimensions. This has been a convenient way to cluster issues into subject areas: the politico-military, economic and environmental, and human dimensions.
- 17. The CSCE/OSCE early on recognised that security is comprehensive and indivisible and that the dimensions are inter-linked. As UN Secretary-General Kofi Annan writes in his report *In larger freedom*, "not only are development, security and human rights all imperative; they also reinforce each other".
- 18. The OSCE's comprehensive approach to security, plus its comprehensive mandate, are two of its hallmarks and greatest strengths. Globalisation, increasing inter-dependence and the emergence of new threats to security in the OSCE region (including from non-state actors) have led to a further blurring of lines between dimensions and make a narrow one-dimensional approach less relevant. A cross-dimensional perspective is therefore needed more than ever, both in terms of a conceptual approach and in leading to co-ordinated, pragmatic activities. Such an approach underlines the crucial importance of all three dimensions in the context of comprehensive security. The OSCE is well-equipped and well-positioned to take such a cross-dimensional approach and put it into practice. Furthermore, effective multilateralism can enable collec-

tive action to tackle trans-national and cross-sector challenges. The Panel therefore recommends:

- a) High-level, high-profile meetings on thematic issues could be convened as necessary to focus attention on matters of relevance to all participating States. For example, decisions on the venue of future conferences on tolerance and non-discrimination should be decided taking into account the geographical diversity of States with multi-ethnic and multi-religious populations;
- b) Cross-dimensional approaches should be reflected in all aspects of OSCE activities, including meetings like the Economic Forum, the budget, Programme Outline and public relations material;
- c) In view of the specific structural and institutional set-up of the OSCE, a cross-dimensional approach implies the need for increased intra-Organizational co-ordination, particularly in relation to combating new threats to security;
- d) Cross-dimensional elements of strategies and projects should be strengthened by close co-operation with other regional and sub-regional organisations that offer complementary resources, capabilities and expertise.

2.2 The Politico-Military Dimension

19. The OSCE has a well-earned reputation for dealing with the politico-military aspects of security. The OSCE's infrastructure and work in disarmament, arms control and confidence- and security-building measures (CSBMs) play an important role in fostering security in Europe and are an integral element of the OSCE's comprehensive approach to security.
20. As the OSCE's work in the politico-military dimension was geared towards the military balances and strategic priorities of the 1980s and early 1990s, it should be brought up to date to deal with the challenges identified in the OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century.
21. Other fundamental documents dealing with the political-military dimension, like certain elements of Chapter III of the 1992 Helsinki Document and the 1999 Vienna Document should be reviewed and brought up to date where necessary.
22. The OSCE could share its expertise in this dimension with others facing similar threats, particularly at the sub-regional level. In turn, it could if advantageous draw on the expertise and resources of others to make the most effective use of available capabilities.

2.3 The Economic and Environmental Dimension

23. The Strategy Document for the Economic and Environmental Dimension offers a good opportunity for addressing common economic and environmental challenges to security in the OSCE area. The OSCE will

never have the means and resources to be a major donor. Its niche is in addressing economic and environmental aspects of security in a holistic, cross-dimensional way that takes into account the comprehensive nature of security as a way of promoting co-operation and conflict prevention.

- a) The OSCE should strengthen its capacities including those on the ground to support and help in meeting local challenges by mobilising international resources and expertise possessed, for instance, by the World Bank, European Union, UN Development Program (UNDP), European Bank for Reconstruction and Development (EBRD), NGOs and others;
- b) Such an approach would highlight the OSCE's possibilities as a co-operative partner, and it would strengthen the link between economic development, inter-state economic co-operation, good governance and democratisation. By linking international actors with significant resources to host countries with specific needs, the OSCE could promote a programmatic approach without unnecessarily (and unrealistically) trying to develop and manage large-scale projects on its own;
- c) The OSCE should promote sub-regional co-operation, for example in south-eastern Europe, the South Caucasus and Central Asia;
- d) Activities in the economic and environmental dimension should reflect the OSCE's role as a comprehensive security organisation. A good example is the Environment and Security Initiative, where the OSCE adds value regarding the security aspect, whereas the UNDP incorporates the development aspect and the UN Environment Program (UNEP) the environmental aspect;
- e) Environmental problems have important security aspects in fields that the OSCE could address, *inter alia* the growing problem of environmental refugees and internally displaced persons;
- f) Public-private partnership is crucial to achieve environmentally sustainable growth. The OSCE should promote the UN's Global Compact Initiative and similar initiatives.

2.4 *The Human Dimension*

24. In the human dimension, encompassing human rights (including national minority rights), the rule of law, and democracy, the OSCE has developed comprehensive standards and commitments. OSCE participating States have agreed, for example in the 1991 Moscow Document, that commitments undertaken in the human dimension are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned. The OSCE has a progressive approach to protecting the dignity of the individual. Human security in general, and the security of the individual in particular,

are seen as the individual and collective responsibility of all participating States. Human rights and security are inseparable.

- a) Monitoring of the implementation of human dimension standards is a particularly challenging and in many situations highly sensitive task. To encourage equal treatment and improve transparency, OSCE monitoring should be done in an unbiased and more standardised way.
 - b) The OSCE/ODIHR's work on electoral monitoring and assistance is an area where the OSCE has extensive experience and expertise and is widely known. It is important to improve and further develop a high OSCE profile on this issue to help participating States upon their request to implement the commitments they have already undertaken and to consider new commitments which correspond to evolving election issues, such as the introduction of new technologies.
 - c) Special attention should be devoted to election monitoring standards based on experience acquired. Criteria and methodology that ensure objectiveness, transparency and professionalism should be further developed and an approach taken that guarantees equal treatment of all participating States. The existing handbook on election monitoring and other election mechanisms and practices should be periodically updated with the active involvement of election practitioners from various election monitoring bodies;
 - d) Participating States concerned and ODIHR should be encouraged to pay more attention to post-election follow-up through dialogue and practical co-operative support. In addition, after consultation with the State concerned, ODIHR should report to the Permanent Council (PC) on election follow-up.
 - e) The OSCE should build on its work on tolerance and non-discrimination, and promote this theme across its full range of activities. ODIHR and other Institutions should make effective use of the data, information and existing analytical capacities of other international organisations and research institutes.
 - f) The OSCE should restructure the role currently played by the three Personal Representatives on tolerance and non-discrimination, incorporating the work of the Personal Representatives into the structure of the ODIHR in a suitable way.
25. If a Human Dimension Committee is established (see para. 32), the Human Dimension Implementation Meeting (HDIM) could be reduced to a maximum of five days. Upon invitation, the HDIM could be held outside Warsaw every second year in order to raise its profile and increase the sense of ownership among participating States.

3. The Structural Response

26. In order to improve its effectiveness, the OSCE requires structural reform. A number of changes are necessary to address the issue of the Organization's profile and identity, its management and leadership, its decision-making processes, how its field operations are run, and its operational capabilities.

3.1 *Strengthening the OSCE's identity and profile*

27. The Panel believes it is important to raise the awareness of the OSCE in the participating States.
28. The OSCE's development from a conference to a full-fledged international organisation must now be completed, finally making "participating States" into "member States".
29. The OSCE's standing as an international organisation is handicapped by its lack of a legal personality. The lack of a clear status also affects OSCE personnel when stationed in crisis areas without the protection that diplomatic recognition would give them.
30. The Panel therefore recommends that:
 - a) Participating States should devise a concise Statute or Charter of the OSCE containing its basic goals, principles and commitments, as well as the structure of its main decision-making bodies. This would help the OSCE to become a full-scale regional organisation;
 - b) Participating States agree on a convention recognising the OSCE's legal capacity and granting privileges and immunities to the OSCE and its officials. Such a convention would not diminish in any way the politically binding character of OSCE commitments.
 - c) The OSCE's profile among other international organisations would be raised by focusing more clearly on a limited range of priorities, giving a more public and long-term face to its leadership, and encouraging a stronger sense of ownership among its participants.
 - d) To make itself more accessible the OSCE should provide to the public a better understanding of what is happening within the OSCE. More efforts should be made to publicise and explain the important work of the field operations. Admission of the press or public to meetings of the Permanent Council should be considered more often. Deepening further the engagement with NGOs would also help to spread information about the OSCE's contributions to comprehensive security.
 - e) A long-term strategic perspective based on established OSCE strategies would be useful in order to improve planning and continuity and reduce the chance of priorities changing annually. This could be enhanced by giving the Secretary General a stronger role in ensuring consistency and continuity of OSCE priorities.

- f) The Permanent Council should play a leading role in adopting political priorities and planning activities of the Organization in accordance with Ministerial Council decisions and translating them into budget programmes.

3.2 *Improving consultative and decision-making processes*

- 31. The OSCE should actively use its potential as a forum for equal, meaningful and high-level political dialogue among all participating States.
- 32. One of the OSCE's strengths is its inclusiveness. This should be fully reflected in its consultative and decision-making bodies. In order to make these bodies more inclusive, inter-active and transparent, involving all participating States more actively and effectively, the Panel recommends:
 - a) To introduce a committee structure made up of three pillars corresponding to the traditional dimensions: a Security Committee, a Human Dimension Committee and an Economic and Environmental Committee. Such a Committee structure, sub-ordinate to the Permanent Council, would allow for more open exchanges, would focus the agenda of the Permanent Council and would raise its profile as a forum for political dialogue and decision-making.
 - b) The Panel was divided on whether the actual tasks and functions of the Forum for Security Co-operation (FSC) could be fulfilled by the new Security Committee. One view was that the FSC should be transformed into the new Security Committee. The other view was that the FSC should be maintained with its autonomous status, fulfilling its 1992 mandate with its agenda updated. The latter position would mean that the new Security Committee would not substitute for the FSC but would only fulfil the non-military aspects of the politico-military dimension, not covered by the FSC.
- 33. The Panel further recommends:
 - a) To broaden the ownership of the participatory process by increasing the number of participating States involved in chairing committees;
 - b) That the OSCE should codify, revise and bring up to date its rules of procedure;
 - c) That consensus should be preserved as the rule for OSCE decision-making;
 - d) That in order to prevent protracted debates over senior appointments, participating States with candidates should not abuse the consensus rule by unilaterally blocking consensus;
 - e) That the countries that are blocking consensus should be identified;
 - f) That more effective use should be made of informal discussions, as a part of the decision-making process;

- g) That ambassadors-only discussions could be held in Vienna from time to time, to encourage a more open exchange of views on sensitive matters.
34. For a number of years, Ministerial Council meetings have been particularly difficult. The meetings (including the preparations thereof) are perceived to have been overloaded with reports and decisions that could have been dealt with by the Permanent Council. The Panel recommends:
 - a) Reviewing the preparations for the Ministerial Council and the traditional form of the Ministerial Council decisions. Concentrating the official results in an agreed political communiqué might help to regain the attention of the public for this central event in the OSCE's yearly work cycle.
- 3.3 *Clarifying the roles of the Chairman-in-Office and Secretary General*
35. In addressing the division of labour between the Chairman-in-Office and the Secretary General, the Panel believes that it is necessary to have a more precise definition of roles in order to increase effectiveness and provide the OSCE with a clearer identity.
 36. The role of the Chairman-in-Office should be to lead the political, rather than the operational activities of the Organization. The Chairman-in-Office's most important tasks, to be performed personally or through his/her representative, should continue to include:
 - a) Providing the executive political leadership of the Organization;
 - b) Preparing the Ministerial Council;
 - c) Preparing draft decisions and presiding over the discussions of the Permanent Council;
 - d) Introducing new political initiatives and proposals for political priorities for the Organization, to be submitted to the Permanent Council;
 - e) Assisting the participating States in building consensus.
 37. Building on the Sofia Ministerial Council decision on the Role of the Secretary General (MC.DEC/15/04), the Panel recommends that the role of the Secretary General should be further enhanced so as to enable him/her to:
 - a) Be a public face of the Organization, to be able to communicate a long-term, coherent identity of the OSCE and its operations;
 - b) Play a greater role in identifying potential threats to regional security and bring them, after consultation with the Chairman-in-Office, to the attention of participating States;
 - c) Be more actively involved in developing the operational aspects of the OSCE's priorities;
 - d) Play a more active role in the operational management of field operations. As the development of events requires, the Secretary Gen-

- eral should report to the Permanent Council on field operation-related activities;
- e) Take the lead on OSCE's operational engagement in crisis situations;
 - f) Play a greater role in planning, by proposing multi-year objectives (including a budget perspective);
 - g) Play a more active role in co-ordinating OSCE activities, including through the hosting of at least one meeting a year with heads of Institutions;
 - h) Be the central point of contact for other international organisations and NGOs for all aspects of operational issues relevant beyond the mandate of individual OSCE structures and Institutions.
38. The enhanced and more active role for the Secretary General will entail:
- a) A continuous exchange of information and close co-operation between the Secretary General and the Chairman-in-Office;
 - b) The need for a strengthened Secretariat, organised to support the Secretary General as well as the Chairman-in-Office;
 - c) Better pooling and channelling of existing information particularly from OSCE Institutions, field operations and research centres as well as improved processing of such information, including the development of lessons learned and best practices.
39. The enhanced role of the Secretary General may necessitate the creation of the post of Under or Deputy Secretary General.
40. It may also entail the need for more resources to enable the Secretary General to effectively carry out his/her mandate.

3.4 Enhancing field operations

41. Field Operations remain an innovative and operational aspect of the OSCE's work, and deserve special attention. They are an asset and where possible should be even further improved.
42. The Panel makes the following recommendations for improving the effectiveness of field operations:
- a) Mandates must ensure that the objectives of the mission are clear and agreed between the OSCE and the host State;
 - b) Mandates should normally not be fixed for more than one year and could be renewable depending on the specific tasks and on the outcome of consultations with the host States;
 - c) To improve guidance and facilitate the regular evaluation of the work of field operations, realistic benchmarks should be established for measuring progress and duration of implementation of the mandate;
 - d) In order to strengthen accountability and political oversight Heads of Mission should personally present a report at least twice a year to

- the Permanent Council. In addition, they should also hold regular meetings with informal “Friends of ...” groups, where these exist;
- e) The Secretary General should take the lead role in the operational guidance of field activities;
 - f) Heads of Missions should submit regular and spot written reports to the Secretary General with a copy to the Chairman-in-Office;
 - g) Field operations should receive more specialised support, particularly in relation to all phases of capacity-building projects, from OSCE Institutions including more effective use of short-term staff visits;
 - h) Special attention should be paid to the issue of local staffing, particularly in order to build up national capacity to deal with issues covered by OSCE field activities, address salary discrepancies, and encourage staff rotation.
 - i) To take into account the broad spectrum of new threats and challenges and their cross-dimensional nature, the OSCE could consider developing a new type of thematic mission that could look at a specific issue in one country, or to ensure coherence in the work in a broader regional/sub-regional context.
 - j) The Panel underlines the importance of the process of selection of Heads of Missions being transparent and as competitive as possible. The nominations should be made by the Chairmanship in consultation with the Secretary General and the host country. To improve the actual situation, the Panel recommends making Heads and Deputy Heads of Mission posts open to public competition with salaries paid from the core budget of the OSCE. This could increase the professionalism of such posts and open them up to a broader pool of candidates.

3.5 *Strengthening operational capacities*

- 43. The Secretariat, Institutions, as well as Personal and Special Representatives all contribute to advancing the OSCE’s agenda. However, there is frustration among participating States, including Chairmanships, that current structures are not optimal for putting the political priorities of the participating States into operation. Against this background, the Panel recommends that:
 - a) Participating States should resist the proliferation of structures in the OSCE;
 - b) The appointment of Personal and Special Representatives should be for a limited period of time and focusing on a specific issue. Personal and Special Representatives should not build up separate operational capacities; rather they should make use of existing operational capacities in the ODIHR, the Secretariat and field operations;

- c) Employment should always be based on professionalism as well as reflecting gender and geographic balance. Without making the OSCE a career organisation, ways should be considered to enable the Organization to retain staff (subject to regular assessment) for a sufficiently long period in order to preserve continuity;
- d) The Panel underlines the importance of a clear and transparent system on the use of extra-budgetary contributions;
- e) The Secretariat should be re-structured to take into account political and operational changes, as well as reforms and changes in operational priorities.

Annex I: Acknowledgements

The Panel

Nikolay Afanasievsky, Ambassador of the Russian Federation to Poland. He is a CSCE pioneer, having served with the Soviet Delegation at the negotiations of the Helsinki Final Act from 1973 to 1975. Later he served as the Ambassador of the USSR and subsequently the Russian Federation to Belgium and then France, as well as Deputy Foreign Minister. For the final meeting, Ambassador Afanasievsky was represented by Ambassador *Vladimir Shustov*, former Permanent Representative of the Russian Federation to the CSCE/OSCE.

Hans van den Broek, Minister of Foreign Affairs of the Netherlands from 1982 to 1992, and member of the European Commission from 1993 to 1999, responsible for enlargement and external relations. Presently he is Chairman of the Boards of a number of non-profit organisations such as the Netherlands Institute for International Relations, *Clingendael*, and the Carnegie Foundation.

Wilhelm Höynck, first OSCE Secretary General from 1993 to 1996, following a distinguished career in the Foreign Service of the Federal Republic of Germany. In 1999 and 2001, he was Personal Representative for Central Asia of the OSCE Chairman-in-Office.

Kuanysh Sultanov, Deputy of the Senate of the Parliament of Kazakhstan and Chairman of the Committee on Social and Cultural Development. Ambassador Sultanov previously served as his country's Ambassador to the People's Democratic Republic of China and non-resident Ambassador to Vietnam, Mongolia and the Democratic People's Republic of Korea.

Knut Vollebaek, Ambassador of Norway to the United States. During his term as Minister of Foreign Affairs of Norway, from 1997 to 2000, he was Chairman-in-Office of the OSCE in 1999. Ambassador Vollebaek has chaired the meetings of the Panel as its *Primus inter Pares*.

Richard Williamson, a partner in the US law firm Mayer, Brown, Rowe & Maw. He has held a number of senior posts in his country's foreign service including Assistant Secretary of State at the US Department of State, Ambassador to the UN Offices in Vienna, the UN Commission on Human Rights, and as Ambassador and Alternative Representative to the UN for Special Political Affairs.

Miomir Žužul, Member of Parliament and Minister of Foreign Affairs of Croatia, 2004-05. Previously he served as Croatia's Ambassador to the United States, after having served as Ambassador and Permanent Representative of the Republic of Croatia to the UN in Geneva.

Panel Meetings

<i>Date</i>	<i>Venue</i>
17 February 2005	Brdo pri Kranju, Slovenia
10-11 March	Vienna, Austria
6-7 April	Warsaw, Poland,
4-6 May	Brussels, Belgium
1-3 June	Vienna, Austria

The Panel was supported by, among others:

The Chairmanship-in-Office (focal point)

Ambassador Boris Frlec, Head of the OSCE Task Force, Ljubljana

Renata Marmulaku, Counsellor, OSCE Task Force

Tatjana Pirc, First Secretary, OSCE Task Force

The OSCE Secretariat

Walter Kemp, Senior Adviser, Office of the OSCE Secretary General

Keith Jinks, Senior Press and Public Information Officer

Hans-Michael Plut, Deputy Director for Conference Services

Personal Assistants

Andrey Rudenko, Senior Counsellor, Mission of the Russian Federation to the OSCE (PA to Afanasievsky and Shustov)

Arjen van den Berg, Senior Policy Advisor, Ministry of Foreign Affairs, The Hague (PA to Van den Broek)

Ricklef Beutin, OSCE Desk Officer, Federal Foreign Office, Berlin (PA to Höynck)

Akan Rakhmetllin, Head of OSCE Section, Ministry of Foreign Affairs, Astana (PA to Sultanov)
Tobias F. Svenningsen, Adviser, Ministry of Foreign Affairs, Oslo (PA to Vollebaek)
David Kostelancik, Deputy Political Counsellor, Mission of the United States to the OSCE (PA to Williamson)
Daniel Riđièki, Adviser, Minister of Foreign Affairs, Zagreb (PA to Žužul)

Panel Guests

The following people were invited to brief the Panel:

Marco Borsotti, UNDP Representative in Baku
Ambassador Liviu Bota, Head of the Permanent Mission of Romania to the OSCE
Pieter De Crem, Member of the Belgian Parliament
Ambassador Rolf Ekeus, OSCE High Commissioner on National Minorities
Pieter Feith, Deputy Director for External Relations and Politico-Military Affairs, Council of the European Union
Walter Gehr, Project Co-ordinator, Terrorism Prevention Branch, UNODC
Professor Victor-Yves Ghebali, Graduate Institute of International Studies, Geneva
Ambassador Istvan Gyarmati, Chairman of the Board, The Centre for Euro-Atlantic Integration and Democracy
Miklos Haraszti, OSCE Representative on Freedom of the Media
Helga Konrad, Special Representative to the Chairman-in-Office Against Human Trafficking
Ambassador Ed Kronenburg, Director of the Private Office of the Secretary General of NATO
Dimitar Jalnev, Programme Co-ordinator, Action Against Terrorism Unit, OSCE Secretariat
Ján Kubiš, Secretary General of the OSCE
Dr. Dov Lynch, research Fellow, European Union Institute for Security Studies, Paris
Spencer Oliver, Secretary General, OSCE Parliamentary Assembly
Ambassador Roy Reeve, Head of the OSCE Mission to Georgia
Dr. Aaron Rhodes, Executive Director, International Helsinki Federation for Human Rights
Klaus Schumann, Director General, Council of Europe Secretariat
Ambassador Peter Semneby, former Head of the OSCE Mission to Croatia
Ms. Daniele Smadja, Director Multilateral Relations and Human Rights, Directorate General for External Relations, European Commission
Ambassador Christian Strohal, Director, Office for Democratic Institutions and Human Rights

Marcin Swiecicki, Co-ordinator of OSCE Economic and Environmental Activities
Ambassador Margit Waestfelt, Head of the Permanent Mission of Austria to the OSCE and Chairman of the Informal Group of Friends on Improving the Functioning and Effectiveness of the OSCE Field Operations.
Dr. Monika Wohlfeld, Deputy Director, OSCE Conflict Prevention Centre
Dr. Andrei Zagorski, Moscow State Institute for Foreign Affairs
Dr. Wolfgang Zellner, Acting Head, Centre for OSCE Research (CORE), Hamburg

The Panel would also like to thank:

H.E. Karel De Gucht, Minister of Foreign Affairs of the Kingdom of Belgium
H.E. Dr. Daniel Rotfeld, Minister of Foreign Affairs of the Republic of Poland
H.E. Dr. Dimitrij Rupel, Chairman-in-Office and Minister of Foreign Affairs of the Republic of Slovenia
H.E. Ján Kubiš, Secretary General of the OSCE
H.E. Daan Everts, Permanent Representative of the Kingdom of the Netherlands to the OSCE
H.E. Mette Kongslem, Permanent Representative of the Kingdom of Norway to the OSCE

The Governments of the *Kingdom of Belgium*, *Federal Republic of Germany*, *Principality of Liechtenstein*, *Kingdom of Norway*, and the *United States of America* for their financial support

All individuals, Institutions, Missions and Governments of participating States that have briefed or assisted Panel Members during this process.

Annex II: The Panel's Mandate

Organization for Security and Co-operation in Europe
Ministerial Council
Sofia 2004
MC.DEC/16/04
7 December 2004
Original: ENGLISH
MC(12) Journal No. 2, Agenda item 8

Decision No. 16/04
Establishment of a Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE

The Ministerial Council,

Determined to enhance the OSCE's capacity to address the challenges of the twenty-first century as one of the pillars of the Euro-Atlantic security architecture,

Recognizing that the thirtieth anniversary of the Helsinki Final Act, the fifteenth anniversary of the Charter of Paris for a New Europe and the tenth anniversary of the OSCE provide with a unique opportunity to reflect on the role of the Organization in a transforming Europe,

Realizing that there is a need to improve the Organization's functioning as well as its capabilities for collective action, without diminishing its strengths and flexibility,

Mindful of the need to proceed further with this work in 2005 by taking broad and forward-looking approach to strengthening the overall capacity of the OSCE:

I.

1. Decides to establish a Panel of Eminent Persons on Strengthening the Effectiveness of the OSCE, in order to give new impetus to political dialogue and provide strategic vision for the Organization in the twenty-first century;
2. Further decides that the Panel will review the effectiveness of the Organization, its bodies and structures and provide an assessment in view of the challenges ahead. The Panel will make recommendations on measures in order to meet these challenges effectively;
3. Tasks the Chairman-in-Office to appoint the members of the Panel after consultations with all participating States. The composition of the Panel, which shall have up to seven eminent persons with knowledge of the OSCE, will take into account the diversity of the OSCE community, including from participating States hosting field presences. Members of the Panel will have their costs covered by extrabudgetary contributions. Secretariat support shall be provided by the OSCE Secretariat through existing resources. The Chairman-in-Office shall act as Focal Point for the Panel during its work. The Panel shall present its report with recommendations no later than the end of June 2005 to the participating States through the Chairman-in-Office. Specially convened High Level OSCE Consultations will be held as a follow-up. The Permanent Council shall take a decision on the organizational modalities and the timetable of such a specially convened High Level OSCE Consultation by the end of July 2005;
4. The Consultations will examine the report of the Panel as well as other possible contributions, and will forward their conclusions and recommendations through the Permanent Council to the Ministerial Council meeting in 2005 for appropriate action.

II.

The Ministerial Council further tasks the Permanent Council, through the Working Group on Reform and the Informal Group of Friends of the Chair on Improving the Functioning and Effectiveness of OSCE Field Operations, to continue consideration of issues pertaining to improving the functioning of the Organization.

The Chairpersons of the Groups will be available for consultations with the Panel of Eminent Persons when necessary.

Report: Colloquium on “The Future of the OSCE”*

A Joint Project of the OSCE Parliamentary Assembly and the Swiss Institute for World Affairs

Washington, 5-6 June 2005

Executive Summary

The OSCE is facing serious difficulties as well as challenges to its purpose and political relevancy. Participants and contributors to the Colloquium unanimously agreed that the OSCE is still a valuable and relevant international organization that should continue to play a critical role in promoting stability and security in Europe. The political commitments made in the Helsinki Final Act and the Charter of Paris as well as in other CSCE/OSCE documents are of great value. They should be preserved and upheld by the participating States.

It was also agreed that the crisis of the OSCE is first and foremost political. The structural reform in and by itself will not solve the political problems that only participating States can address. The governments of the 55 OSCE states should reconfirm their commitment to a useful, credible and professional OSCE that serves the interest of all. They should also commit themselves, at the highest political levels, to the full implementation of all of their OSCE commitments and to future improvements in the structures and procedures of the Organization.

It was also agreed that:

1. The strengthening of OSCE activities in the field of security, economy and environment should not be done at the expense of the human dimension or to the detriment of basic OSCE values and principles. The security dimension should be expanded by further elaborating the Code of Conduct on politico-military aspects of security and increasing the role of the Forum for Security Co-operation.
2. Election observation is one of the most politically relevant and visible aspects of the Organization. The independence of these missions must

* This report has been agreed by President of the OSCE PA, Congressman Alcee L. Hastings, and the Swiss Foundation Chairman, Ambassador Edouard Brunner. It has been drafted by Ambassador Gérard Stoudmann, Director of the Geneva Centre for Security Policy, and Spencer Oliver, Secretary General of the OSCE PA who served as co-Rapporteurs during the Colloquium. They were assisted by Nicolas Kaczorowski, Deputy to Ambassador Stoudmann and Tina Schön from the International Secretariat of the OSCE PA. The Report is a synopsis of views expressed at the Colloquium as seen by the Rapporteurs, and it also takes into consideration opinions expressed in the written contributions which were submitted to the project. The Report has been reviewed by the participants at the Colloquium who agree with the content [...].

be protected and efforts should focus on expanding electoral standards without weakening existing commitments. It is recommended that ODIHR and the OSCE PA increase their co-operation in order to maintain and ensure the independence of the OSCE election observation that has been recently eroded. Finally, election assessments could be expanded further in Western democracies. Double standards in electoral observations should be avoided.

3. The role of the OSCE Secretary General should be strengthened in the political, budgetary and administrative spheres. The Secretary General, as well as and in consultation with the Chairman-in-Office, should be able to speak for the Organization and to make policy pronouncements as well as appropriate criticisms when OSCE commitments are not observed.
4. The OSCE should improve its ability to make timely decisions through adjusting its decision-making procedure. The consensus rules could be modified for decisions related to personnel, budget and administration.
5. Transparency and accountability can be improved by requiring that a country which blocks or holds up consensus must do so openly and be prepared to defend such position publicly.
6. The OSCE Parliamentary Assembly could approve the budget and confirm the Secretary General once nominated, by an absolute or weighted majority vote and after appropriate consultations.
7. The budget must be adopted in a timely fashion and be commensurate to OSCE political objectives. A multi-year financial plan should be established in order to pursue longer term strategies.
8. Structural reform is needed to improve the functioning of the Organization: 1) Enhancing the analytical capabilities of the Secretariat by the creation of an Analysis and Prospective Unit; 2) Building permanent lessons learned capabilities by setting up a best Practices Unit; and 3) developing a truly operational civilian rapid reaction capability to intervene at time of crisis.
9. Professional standards should be raised in all OSCE structures. In order to attract and retain performing staff, fixed term limits on duration of service should be eliminated. At the same time, reliance on seconded personnel should be reduced. However, when seconded personnel are assigned, Governments should ensure that such assignment is for a substantial period of time – at least one or two years.
10. The OSCE needs to increase its network capabilities and reinforce its strategic co-operation with the EU, NATO, and the UN by opening liaison offices in Brussels and New York City.
11. The OSCE could export its comprehensive security concept, expertise such as election observation and assistance and share its values and experience beyond the OSCE area.

Addressing the Political Challenges First

At a time when the OSCE's purposefulness and political relevance are challenged and put into question, the participants in the colloquium unanimously agreed that with its unique composition and comprehensive security concept as well as its crisis prevention and management capacities, the OSCE still has the potential and has a relevant role to play in a Europe facing new security challenges. In recent years, the OSCE has encountered serious problems and has entered into a critical situation that requires high-level attention by the participating States.

The problems are first and foremost of a political nature and should find political responses at the outset. *Structural reforms are certainly needed, but the essential problem lies elsewhere. Putting the emphasis on these can only blur the issue and confuse the priorities. Only then does it make sense to proceed with structural reforms. If participating States decide to support the OSCE in its objectives, they need to commit resilience, will and resources in politically revitalizing the Organization before they undertake the structural reform.* The OSCE's ability to reform will ultimately depend on how much participating States are committed to and interested in the Organization's potential.

The OSCE today is in a complex situation. With successive EU and NATO enlargements, there is a tendency at the political level to devote less attention to the OSCE which has increasingly disappeared from public view. In many countries, the OSCE is rarely placed high on political agendas in Capitals. The fact that the OSCE Ministerial Council Meetings are attended at an increasingly lower political level is a sign of this diminishing political interest. These elements all point to the reduced political relevance of the OSCE. Political issues relevant to its mandate and geographical areas are barely addressed seriously any more at the Permanent Council.

The culture of informal discussions and consultations, which once was necessary to build up consensus and formal decisions has been eroded. Broad consultations should be carried out on current political issues. The EU countries in the OSCE arduously negotiate issues among themselves before they disclose their common position to non-EU countries. Once a compromise in the EU has been found, there is very little scope for negotiations, which contributes to the shrinking importance of the OSCE as a political platform. Therefore, rebalancing the decision-making process and making it more transparent and inclusive is a necessity.

Rebalance the OSCE Multidimensional Approach

The three dimensions of the OSCE have constituted the early and innovative recognition of the inseparable link between security, development and democracy that ensures stability. The OSCE comprehensive security concept is

still current and very relevant for addressing the challenges of the XXI century. *The expansion of security related activities should not be done to the detriment of the importance of the human dimension. Within the security dimension, actions should be taken to increase the role of the Forum for Security Co-operation, to involve the OSCE in security sector governance, by inter alia elaborating the Code of Conduct on politico-military aspects of security.*

Maintain the OSCE Lead on Electoral Activities

Election observation is recognized as the remaining most politically relevant and visible activity of the OSCE. This must remain so and the OSCE should not relinquish its leading comparative advantage in this field. The involvement of the Parliamentary Assembly is critical to maintain the visibility and independence of OSCE election observation. *Agreement was found on the need to complement the existing election standards and to continue to improve election observation, which should in no way result in a watered-down version of existing standards. As previously indicated, it is recommended that ODIHR and the OSCE PA increase their co-operation in order to maintain and ensure the independence of the OSCE election observation that has been recently eroded. Finally, election assessments could be expanded further in Western democracies. Double standards in electoral observations should be avoided.*

Democratization of the OSCE

Strengthening the Role of the OSCE Secretary General

It has been agreed that the present status quo is not sustainable and it would be in the interest of the Organization and the Chairman-in-Office itself to benefit from a strengthened role of the Secretary General. There is no contradiction or conflict of interest between a reinforced role for the Secretary General and the overall responsibilities of the Chairmanship. A Chairman-in-Office rotating annually means ever changing directions, lack of political continuity and difficulty to define long-term, coherent and sustainable priorities. The aims and role of the OSCE Secretary General should:

1. Ensure better political continuity from one Chairmanship to another;
2. Define long-term priorities, thus improving the OSCE credibility;
3. Serve as the focal point for the Organization;
4. Increasing his/her decision making power in personnel and administrative issues;
5. Speak for the Organization and making political pronouncements;
6. Take political initiatives;

7. Propose priorities for resource allocation (financial, human and administrative) and other activities in particular present a multi-year financial plan; and
8. Ensure that budget is adopted in a timely fashion and human and financial means be commensurate to the political objectives of the Organization. A slight increase in the OSCE budget will greatly boost its effectiveness.

Permanent Council Procedures: Transparency and Accountability in the Decision-making

Achieving consensus within the OSCE has become increasingly difficult. Protracted negotiations on relatively minor issues have hampered the effectiveness of the Organization and have, at times, led to paralysis. *It is recognized that the consensus rule for decisions related to budget, personnel appointments and general administrative issues should be modified.*

Furthermore, the decision-making process has to become more transparent. *A country should only be able to block the consensus openly and publicly. Debates should be more open and transparent and not limited to issues where a consensus exists but should extend to contentious matters where consensus is lacking. Informal consultations and generally better information sharing are critical to improve accountability, transparency and visibility of the Organization.*

Strengthened Role of the OSCE PA

The OSCE Parliamentary Assembly remains an essential player because it is by essence more independent and can take political initiative. The PA should be more closely associated to the OSCE decision shaping and making processes as is the case for the Parliamentary Assembly of the Council of Europe. The OSCE PA should approve the budget of the OSCE and confirm the OSCE Secretary General after the nomination. This would ensure the independence and legitimacy of the OSCE Secretary General, and reinforce his/her position.

Furthermore, in the field of conflict prevention and crisis management, the OSCE PA should take more political initiative such as organizing "fact finding missions", facilitating negotiations. These initiatives could be public or confidential assimilated to silent diplomacy and carried out alone or in co-operation with other parliamentary actors (European Parliament, Parliamentary Assembly of the Council of Europe). Such initiatives would substantially increase the political credibility and visibility of the Organization.

Institutional Reform

Structural Adjustments

To regain political credibility, the OSCE has to act as an effective crisis management and conflict prevention/resolution body. The OSCE needs effective early warning and an ability to carry out swift follow-up action.

To this end, three concrete measures are recommended:

1. *Enhancing the analytical capabilities in the Secretariat by the creation of an Analysis and Prospective Unit.* It will process and analyze the wealth of information that the OSCE collects in the field and through its network of institutions and missions. This instrument would be essential to set up credible early warning and conflict prevention mechanisms.
2. *Establishing a Best Practices Unit in the Secretariat will provide the OSCE with a permanent lessons learned capability.* This unit will *inter alia* formulate recommendations aiming at improving the functioning, effectiveness and work of field missions. It will also analyse working methods of other organizations and will seek to adapt and apply them to the OSCE, when and where appropriate. And,
3. *Developing a civilian rapid reaction capability that could be deployed in time of crisis to supplement the work of field missions.* These teams would provide the OSCE with the opportunity to react swiftly to an unfolding crisis, assess the situation and the needs, and make policy recommendations to the OSCE executive bodies for future actions. These civilian experts could be recruited on an ad hoc basis.

Increased Co-operation with other International Organizations

The OSCE should further develop its network capabilities which are currently too dependent on personal individual contacts. *Permanent channels of communications must be opened and strategic co-operation with the EU, NATO and the UN must be established through the creation of liaison offices in Brussels and New York City.* Carefully selected liaison personnel would have a multiplier effect on networking, working contacts, and on guaranteeing prime access to strategic thinking and planned operations from other organizations. This would improve the OSCE's ability to respond adequately and swiftly.

OSCE Field Presences

The OSCE field presences offer significant comparative advantages. However, current weaknesses and grievances from the field, institutions and participating States indicate:

1. deficient recruitment procedures;
2. in some cases, insufficient professionalism;
3. a lack of adequate human and financial resources; and
4. a too often lack of clear political guidance and of coherent priorities.

Consequently, it is recommended that:

- i) clear political guidance be regularly updated and reviewed;
- ii) interaction and support from the Chairmanship, the Secretariat and field missions be revisited with the aim of improving the political and administrative functioning of missions;
- iii) micromanagement from Vienna be avoided; and
- iv) geographic and substantive priorities established for field missions be periodically reviewed.

Professionalism

The OSCE counts good professionals. The problem is that the Organization is not able to retain them or attract experienced senior staff due to restrictive staff rules that limit the maximum duration of employment to seven years. These rules have become counter productive. The OSCE loses not only experience and know-how, but it also lacks the continuity needed for the successful implementation of programs on the ground. The OSCE competes directly with other career-based international organizations e.g. the European Commission, the UN, NATO and Council of Europe, for experienced trained staff. Addressing this problem is essential to improve the quality and credibility of the work of OSCE. The OSCE needs to keep efficient employees for as long as desirable in order not to lose experience, institutional memory and valuable networks. *To that effect, the OSCE employment rules should be revised. This can be done by eliminating maximum time limits while maintaining fixed term contracts subject to periodical, in-depth review of performance. Such system would allow full flexibility as well as preserve the best OSCE professional staff.*

Despite its financial advantages, the secondment system has shown its inherent weaknesses, such as the uneven quality of the recruited staff and the lack of transparency in the recruitment process. The Organization has little control over who is recruited through this system, and the quality control is less effective than for contracted personnel. Secondment is a factor that contributes to diminished effectiveness and credibility of the Organization. However, secondment in its current form and under specific circumstances is still useful since it confers flexibility to quickly deploy large scale and temporary missions such as military observers, but it should not be used to fill the Organization's core positions that require continuity. It is *recommended to re-*

view the OSCE secondment system, using for instance the UN system, whereby employees have a contractual relationship with the Organization.

Additional recommendations include: 1) *reducing reliance on seconded personnel in core positions in the field*; 2) *requesting participating States to second personnel for no less than one year at a time*; 3) *empowering regional experts*, and 4) *pursuing efforts on training*. There is an urgent need to reform the OSCE recruitment policy in order to enhance the level of continuity among the staff in the field and within institutions, and to guarantee highest possible professional standards.

Expanding Out-of-Area Activities

On the one hand, the OSCE specific expertise such as election observation and assistance could be used out-of-area directly or indirectly where it can contribute positively to the stabilization of an area. On the other hand, the OSCE should consider exporting its model of comprehensive and co-operative security to partner countries and beyond (Middle East, Africa, etc). There is a growing interest in the Organization from areas outside the OSCE. This opportunity should be seized to share OSCE values and experience. The OSCE should stand ready to provide assistance with regard to crisis in other areas. *This “out-of-area” policy could be endorsed at the next Ministerial Council. If approved, appropriate resources should be allocated to credibly implement this policy.*

Increased Visibility

The OSCE is not attractive for the media and will never be, unless it regains political credibility and is perceived as a relevant security actor. Therefore the issue of visibility is very much limited to the further political role of the Organization and cannot be fixed technically.

It is recommended to improve co-ordination and cross fertilization between the various media units in the Organization, in particular between the Chairmanship and the Secretariat.

Managing Change in Europe

Evaluating the OSCE and Its Future Role: Competencies, Capabilities, and Missions

*Centre for OSCE Research (CORE), Hamburg**

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* This report was written by Dr. Wolfgang Zellner, Acting Head of CORE (Hamburg), in consultation with Ambassador Alyson Bailes, Director of the Stockholm International Peace Research Institute (SIPRI), Prof. Victor-Yves Ghebali, Graduate Institute of International Studies (Geneva), Prof. Terrence Hopmann, The Watson Institute for International Studies, Brown University (Providence, RI, USA), Dr. Andrei Zagorski, Moscow State Institute of International Relations (MGIMO), and experts at the Centre for OSCE Research, Hamburg. CORE Working Paper 13, Hamburg 2005.

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Executive Summary

The past and present contribution of the Organization for Security and Co-operation in Europe (OSCE) to peace and stability, progress and change in the larger Europe is far greater than generally acknowledged. The Conference on Security and Co-operation in Europe (CSCE), later the OSCE, has provided Europe with an inclusive framework for dialogue and co-operation, established basic elements of a pan-European space of democracy and the rule of law, and given essential assistance to its participating States in resolving conflicts, establishing structures of good governance, and implementing common commitments.

Despite its great merits, the OSCE is currently in the middle of a double adaptation crisis. This can either serve as a starting point for the participating States to redefine the Organization's functions and tasks, or will leave the OSCE severely reduced in relevance.

The first cause of the crisis is the Organization's need to adapt to new challenges and tasks. During the 1990s, intra- and inter-state conflicts were the number-one priority. Consequently, the OSCE developed unmatched competencies in conflict prevention, crisis management, and post-conflict rehabilitation. Today, however, the key focus of international security has shifted to transnational threats and risks, and the Organization has to develop new strategies and working instruments accordingly, such as thematic missions.

The second cause of the crisis is the OSCE's need to respond to the changing political constellation in Europe. EU and NATO enlargements have fundamentally altered the continent's political geography. Russian aspirations to consolidate its influence in the post-Soviet space have remained largely unsuccessful, and have been shaken by the developments in Georgia, Ukraine, and in Kyrgyzstan. This has profoundly influenced political relations between participating States and the place they give the OSCE among the European security organizations.

Together, these two developments have created the need for OSCE reform.

Strategic change has led to controversies within the OSCE, primarily between Russia, the USA, and the EU states. Russia wants to avoid sudden changes of regime in the post-Soviet space and perceives the USA and EU states as unfairly using the OSCE to bring about such change. Russia also perceives Western influence in the post-Soviet space to be growing at its expense. Consequently, the Russian Federation and Western states have come to disagree on regional issues, on the human dimension in general, election monitoring in particular, and on the further institutional development of the Organization. These opposing views have led to a stalemate, which up until now has blocked the necessary reform of the OSCE.

The essential precondition that must be met to break this stalemate and to start to address OSCE reform is for all parties to recognize that change in Europe will continue and that managing change and containing the dangers of change are both necessary and possible. Once the participating States accept that this is a strategic task they must share and not a tactical contest between them, they will be able to begin to elaborate how the OSCE can contribute to this long-term challenge.

Provided that this basic common understanding can be achieved, the OSCE can not only continue to provide a stabilizing framework for security relations between states and state groupings in its geographical space, but can help focus their efforts on substantive tasks of even wider relevance. Two priorities should be:

- *Addressing transnational threats and risks.* This fairly new yet critical task aims to address issues such as the root causes of terrorism; trafficking in human beings, drugs, and weapons; and illegal migration flows. It seeks to do so by means of a concept of peace-building that aims both at strengthening state capacities and at developing transnational coalitions of civil-society actors. To address this increasingly important challenge, the OSCE and its participating States should create new working instruments, such as thematic missions.
- *Assistance in resolving “frozen conflicts” and preventing new ones.* Although this task is by no means new, it is both timely and urgent. While accelerated change can exacerbate the negative effects of unresolved frozen conflicts, the chances for their resolution should increase as the general level of conflict and tension in the OSCE space falls and the common need to combat transnational threats is recognized. The OSCE and its participating States should therefore develop new initiatives to contribute to the resolution of the frozen conflicts in Transdniestria, Nagorno-Karabakh and South Ossetia. It is also essential that the Organization maintains and strengthens conflict prevention activities in places such as the former Yugoslav Republic of Macedonia (FYROM), Central Asia, and the South Caucasus, and peace-building work in war-torn societies such as Bosnia and Herzegovina, Kosovo, and Tajikistan.

In redefining the OSCE's future, it is essential that States do not give up, compromise, or water down OSCE principles, norms, and commitments in any of its dimensions. Even if this might offer political short-term gains, it would be the beginning of the end of the OSCE as a values-driven organization.

If the participating States can reach a consensus on the Organization's future functions, they should adapt its working structures accordingly. Here, the essential task consists in strengthening the OSCE's continuity, coordination, and co-operation functions by upgrading the competencies of the Secretary General and streamlining the structures of the Secretariat.

The OSCE stands at a crossroads. It addressed the "Challenges of Change" in Helsinki in 1992, in Porto in 2002 it identified the task of "Responding to Change". Now it has to adapt its policies and instruments once more to the long-term task of managing change in Europe. If its participating States cannot agree on a meaningful reform agenda, the Organization's relevance will be seriously undermined and it can expect to be reduced to a kind of stand-by existence, having lost most of its operational activities. This minimal option represents a clear regression. It would threaten security and stability in Europe, and would reflect the participating States' inability to make full and sincere use of multilateral options to meet their common challenges.

However, if the participating States succeed in agreeing on a meaningful reform agenda, the OSCE will have a future. It will not have a dominant role in the dynamically changing pattern of European organizations, and may indeed become a more limited and specialized actor. But its specialized contribution will be a vital one of providing a stable pan-European security framework while addressing specific threats and risks on the basis of a comprehensive *acquis* of common values, norms, and shared commitments and drawing on its expertise and operational capacities. This optimal option represents the best possible future available to the OSCE.

1. Introduction

The OSCE's past and present contribution to peace and stability, progress and change in the larger Europe is far greater than generally acknowledged. The CSCE/OSCE has provided Europe with an inclusive framework for dialogue and co-operation, established basic elements of a pan-European space of democracy and the rule of law, and given essential assistance to its participating States in preventing violence, resolving conflicts, establishing structures of good governance, and implementing common commitments.

The question we have to consider at the current juncture is whether the Organization's role can be maintained in the future or whether it will shrink or change in functional terms.

The relevance of international organizations and their very existence depend on the changing threats and risks their member states are exposed to, and on how states decide to make use of international organizations to meet these challenges. To clarify possible options for the OSCE's future role, therefore, it is necessary to determine which tasks and functions the Organization can carry out in a substantially changed strategic environment and amidst the changing interests of its key participating States.

Following an introduction to the OSCE's historical development and the current crisis, this report will

- examine the impact of the changed strategic environment on the interests of key participating States in utilizing the OSCE;
- analyse the changed nature of threats and risks societies and states face on the global level as well as specifically within the OSCE area;
- analyse the current status of the OSCE's fields of activity and institutional structures, and make recommendations on how they can be adapted to meet the challenges ahead.

The report closes by sketching two possible options for the future of the OSCE: a minimal option where the Organization is reduced to a bare minimum and a best possible future where optimal use is made of the Organization's potential.

2. *The Historical Development of the OSCE and Its Current Crisis*

Bridging contradictions between Europe's various political regions and providing them with a broad framework for dialogue and co-operation has always been the core mission of the CSCE/OSCE. In fulfilling this role, the Conference/Organization has performed four basic functions with varying degrees of intensity at different times:

- A *normative function* to establish commonly agreed principles, norms, and rules for international and domestic (state) behaviour, including a role as a normative mediator.
- An *international-security function* aimed at maintaining stability and security between states in Europe by means of normative commitments, dialogue, and co-operation in areas such as arms-control and confidence- and security-building measures (CSBMs).
- A *conflict-management function*, directed at the domestic situation in individual states as well as inter-state relations, comprising early warning, conflict prevention and resolution, and post-conflict rehabilitation.
- Finally, following the collapse of the communist regimes in Europe, a security-related *good-governance-assistance function* aimed at provid-

ing the transition states with support in implementing good governance as they progress towards democracy, the rule of law, and market economies.

With its 30 years of history, the OSCE is a relatively young institution. Nevertheless, one can distinguish three distinct phases of its development.

CSCE I: Management of Confrontation during the Cold War

The Cold War situation was characterized by two politico-military blocs separated by a clear dividing line. The CSCE was an essential instrument for the leaders on both sides. It enabled them to manage this confrontational situation and to overcome it, at least in part, by entering into what has been called “antagonistic co-operation”. In doing so, they were actively supported by a group of dedicated neutral and non-aligned states, for which the CSCE provided a welcome security forum. The CSCE’s basic approach consisted in establishing a framework for continuous dialogue and elaborating a comprehensive set of security-related principles and commitments, enshrined in the 1975 Helsinki Final Act, followed by discussions and other practical steps for their implementation. The CSCE’s dominant functions at that time concerned norm-setting and security-building. The basic method of bridging the gap between divergent interests was to assemble “package deals” that balanced and integrated the needs of different parties. Although the CSCE’s primary function during this period consisted in managing the status quo, its evolving normative *acquis* has proved to be a major agent of peaceful change in the transition from authoritarian to democratic rule.

CSCE/OSCE II: Conflict Management until the Late 1990s

The transformation of Central and Eastern Europe brought the East-West confrontation to an end. Clear-cut spheres of influence began to dissolve. For the Central European states, which reoriented themselves towards the West, the primary question was how quickly integration would occur and in what form. Russia, on the other hand, after a brief period of enthusiasm, was preoccupied with trying to reconsolidate its influence in the former Soviet space within the framework of the Commonwealth of Independent States (CIS).

During this period, the CSCE reinvented itself for the first time. The primary challenges, particularly during the early years of this phase, were to prevent violent conflict from breaking out in various transition countries and to contribute to ending hostilities where they could not be prevented from starting. With its 1990 Charter of Paris, the 1992 Helsinki Document “The Challenges of Change”, and the 1994 Budapest Decision “Towards a Genuine Partnership in a New Era”, the CSCE, more rapidly than any other international organization, created an extensive toolbox of instruments for conflict prevention, crisis management, and post-conflict rehabilitation. The centrality of the human dimension for the CSCE’s norms was underlined in the 1990

Copenhagen and 1991 Moscow Documents. The CSCE built up operational capabilities, deployed them in the field, and, in the process, transformed itself from a conference into an organization. In the early 1990s, arms-control measures and CSBMs under the aegis of the CSCE helped to manage the parcelling out of the military legacy of the Soviet Union among its successor states. During this period, while all four CSCE functions remained effective, their character and relevance changed. And although important new normative commitments were created at the start of the 1990s, particularly in the field of human and minority rights, but also regarding the use of military power, the main focus of the normative function later shifted to socialization and implementation. The OSCE's classical international-security function gradually declined in importance. Its conflict-management function, however, gained prominence reflecting qualitatively improved inter-state relations, on the one hand, and a series of emerging limited conflicts primarily within states, on the other. The Organization's good-governance-assistance function was first established during this period; it has continuously grown in importance by addressing the root causes of instability and insecurity, namely poor governance by weak and overstretched states.

OSCE III: Adaptation Crisis since the Late 1990s

The character of the dominant threats and risks affecting the OSCE area has changed once again. Although inter-state conflict and intra-state violence – in the form of inter-ethnic, regional, or separatist conflicts – remain important problems, transnational threats and risks have increasingly become the dominant challenge. While all international actors have started to address these issues, the development of long-term strategies is still in its early stages.

This change in the nature of the challenges facing Europe and European organizations parallels strategic changes on the global level. Intra-European conflicts are no longer at the top of the global security agenda. The focus of attention has shifted to regions such as the Middle East, Africa, and East Asia. Within Europe, the enlargements of the EU and NATO and the unsuccessful attempts by Russia to reintegrate the post-Soviet space have left spheres of influence poorly defined, and have created the perception by many in the Russian Federation that their country is isolated or even encircled by unfriendly regimes. This has resulted in unresolved conflicts of interests between Russia and Western states.

Consequently, the OSCE finds itself in the midst of a double adaptation crisis. On the one hand, it has to address a new category of threats and risks, on the other, its participating States struggle with disputes among themselves. While the Organization runs close to twenty field operations, it is unable to agree on common policies in many areas. At three of the last five Ministerial Meetings, the participating States were not able to agree on a concluding statement. The situation has escalated to become an open crisis that increasingly endangers the Organization's practical work. The current Chairman-in-

Office, Slovenian Foreign Minister Dimitrij Rupel, expressed this point forcibly in *The Washington Post* on 7 March 2005: "I sense a hardening of attitudes on all sides, and I hear rhetoric uncomfortably reminiscent of the Cold War. If the impasse continues, the OSCE's credibility and its survival will be in jeopardy."

However, for the OSCE, a crisis has always also been an opportunity to adapt to new realities. The 2004 Sofia Ministerial Meeting established a Panel of Eminent Persons to "provide strategic vision for the Organization in the twenty-first century". The report of the panel, which was submitted at the end of June 2005, is to be followed by high-level consultations in the autumn of this year that will set the scene for negotiations on the future role of the OSCE.

3. Strategic Change and Evolving State Interests

Both the European and the global strategic environments have profoundly changed during the last fifteen years. This has substantially altered the interests of participating States and will play a major role in deciding the future relevance of the OSCE.

3.1 Adapting to a New Political Environment

While strategic change is far more comprehensive than can be analysed here, the following three trends specifically influence the OSCE's future function and tasks: the decreasing frequency and intensity of intra-European violent conflicts alongside the increase in transnational threats to the security of both states and individual citizens, EU enlargement and functional change, and the largely unsuccessful attempts of Russia to consolidate its influence in the CIS region.

First, the number and intensity of intra-European violent conflicts are clearly decreasing. While this is good news and reflects success in resolving or at least containing these conflicts, it also means that an international organization dealing exclusively with European security, such as the OSCE, will decline in importance unless it succeeds in redefining its tasks according to new needs. The decreasing intensity of intra-European violent conflicts gives States and international organizations more room to find answers to the still unresolved conflicts in the Balkans, Eastern Europe, and the South Caucasus, and to prevent new ones in Central Asia and other parts of the continent. At the same time, regions adjacent to the OSCE area, in particular the Middle East, harbour (potentially) violent conflicts that could impact on the OSCE region, and the OSCE should pay more attention to these threats by extending its outreach activities.

Second, the enlargement of the EU and its adoption of new functions have fundamentally influenced the political geography and the institutional division of labour in Europe. While the most recent enlargement of the EU already included smaller parts of the former Soviet space in the form of Estonia, Latvia, and Lithuania, larger ones are eager to follow. In the framework of its neighbourhood policy, the EU has increased its interests in countries such as Ukraine, Belarus, and Moldova. The EU played a visible role in the management of democratic change in Ukraine in 2004. It has deepened its relations with Russia by adopting, at the EU-Russia Summit on 10 May 2005, a single package of four “Road Maps” for the long-term creation of a Common Economic Space; a Common Space of Freedom, Security and Justice; a Common Space of External Security; and a Common Space of Research and Education, Including Cultural Aspects.¹ At the same time, the EU has accepted competencies and developed instruments across the whole spectrum of civilian and military conflict prevention and crisis management. Both EU and NATO have taken on a global crisis intervention role.

Third, the Russian Federation has remained largely unsuccessful in consolidating its influence in the CIS region. Against this background, Russia has perceived recent developments in Georgia, Ukraine, and Kyrgyzstan as a threat, and has seen the OSCE as one of the agents of change. Consequently, many in the Russian Federation believe that Russia is being isolated or even encircled by potentially hostile states. A further problem is Russia’s failure to settle the Chechen conflict, which is also associated with a serious danger of horizontal escalation to other parts of the (North) Caucasus and beyond.

Each of these three trends has the potential to severely impact on the future role of the OSCE. If its participating States cannot agree on a new function and new tasks for the Organization, its current status will be increasingly undermined and its relevance called seriously into question. In order to achieve a better understanding of the chances of such an agreement being reached, it is necessary to take a closer look at the OSCE-related interests of three key actors: the Russian Federation, the United States, and the European Union.

3.2 The Interests of Key Participating States and Groups of States

The OSCE is an inter-governmental organization made up of participating States. The balance of states’ interests decisively influences the Organization’s future role. While all participating States’ interests and activities are important for the OSCE, this paper limits its analysis to the interests of three key players: the Russian Federation, the USA, and the EU.

1 Available at: http://europa.eu.int/comm/external_relations/russia/summit_05_05/index.htm (June 2005).

3.2.1 Loss of Ownership: The Russian Federation

Over the last fifteen years, Russia's positive interests in the CSCE/OSCE have continuously decreased while disincentives to engage with the Organization, its goals and activities have tended to grow, especially during the past five years. In the early 1990s, Russia continued to follow the Soviet course of taking a strong interest in the CSCE. By the 1994 Budapest Summit, Russia's prime objective consisted in transforming the Organization into a UN-type umbrella security organization on a legal basis and with binding competencies. The revamped Organization would have included a sort of Security Council (Executive Committee) that would have replaced or at least taken precedence over NATO. This approach failed because Western states preferred to enlarge their own (security) organizations rather than to create a new one. The 1999 Kosovo war was a key experience for Russian policymakers and a turning point in their relations with the OSCE. The Organization not only proved unable to resolve the crisis, but, from the Russian perspective, was actually used by NATO to start a war, while Russia was unable to exert any influence over the course of events.

Another longstanding Russian interest in the OSCE was its advocacy on behalf of the Russian-speaking minorities in Estonia and Latvia. Moscow was disappointed with the closure of the OSCE Missions to Estonia and Latvia at the end of 2001, and vehemently opposed this action.

Russia does have a serious interest in European arms control. While Moscow's interest in the ratification of the Adapted Conventional Armed Forces in Europe (CFE) Treaty is based more on political than military considerations, its interest in potentially destabilizing developments not covered by arms-control treaties, such as new NATO bases close to Russia or long-range weapons, is a reflection of genuine security concerns. This interest is manifested in Russia's call for a seminar on military doctrines. Russian interest in economic and environmental matters continues, but is essentially marginal.

The Russian Federation is broadly interested in the OSCE taking on a role in addressing transnational threats. Anti-terrorism is not a new issue for Moscow, which has regularly warned of terrorism and extremism in the Caucasus since the early 1990s. Russia has also feared the rise of religious fundamentalism in Central Asia. The 2001 Bucharest Ministerial Meeting was salvaged by the agreement of participating States on anti-terrorism issues. Since the Ministerial, Russian representatives have consistently referred to the OSCE's anti-terrorism efforts as the Organization's top priority. However, in its own dealings with terrorism, Russia primarily follows a unilateral military approach, which is showing itself ineffective in addressing the root causes of terrorism. While the OSCE focuses on longer-term conditions, Russia targets more immediate threats – Chechnya being the most extreme ex-

ample of counter-terrorism activities being narrowly focussed on military instruments.

While Russia has a certain interest in the OSCE playing a role in Nagorno-Karabakh, South Ossetia, and Transdniestria, it was seriously disappointed by the OSCE's rejection in late 2003 of the Kozak Memorandum, a Russian initiative outside the agreed negotiation format that aimed to resolve the conflict.

During the last five years, Russia's waning positive interest in the OSCE has been increasingly combined with a distinctly negative attitude. The leadership of the Russian Federation is frightened by unexpected changes in its perceived sphere of interest, and it sees the OSCE as one of the agents of change. Russian reactions include continued attacks on the validity of OSCE election-monitoring and other human-dimension activities. Moscow's more general complaint is that certain participating States use the OSCE to intervene in the domestic affairs of others. The latter points figured as key items in the Moscow Declaration and the Astana Appeal signed by a number of CIS states in 2004. With these two documents, the Russian Federation has questioned the principle contained in the 1991 Moscow Document that "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". Instead, Russia appears to be returning to its old argument of non-intervention based on Principle Six of the Helsinki Final Act, which most participating States consider to have been merely interpreted by the 1991 Moscow Document. Another example of Russia's selective use of OSCE commitments is its violation of the commitment not to deploy troops in foreign countries without the consent of the host state – as Russia did in Georgia and continues to do so in Moldova.

All things considered, the current balance of Russian interests in the OSCE is negative. While some limited positive interests remain, they are clearly outweighed by negatives. Consequently, the Russian Federation has widely lost its sense of ownership in the Organization. Whether this will change depends on three questions: The first is whether Russia will see advantages in accepting an OSCE role in managing change and containing the dangers of change in countries neighbouring Russia, namely in Belarus, in Central Asia, and possibly even within the Russian Federation itself. The second question is whether the participating States will agree to give more weight to the OSCE's security dimension in general, and to the question of addressing transnational threats in particular. The third question is whether Russia may use its new special relationships with NATO and the EU to address what it perceives as these organizations' intrusions upon its interests rather than using the OSCE for this purpose.

3.2.2 Focus on Democratic Change: The United States

The US position on the OSCE is framed by its current attitude of unilateralism and distrust toward international institutions. In this regard, however, the OSCE is relatively weak and non-constraining, and the US has in the past frequently used it to pursue specific policy goals. At the same time, however, US security concerns are now increasingly focussed on conflicts outside Europe. Consequently, when the US does substantially engage with international organizations, it prefers to deal at a more global level (UN, G8). And where Europe is concerned, Washington's chosen instruments are NATO and the EU. While the US Mission to the OSCE remains active and committed, it has little influence on senior Washington decision-makers. However, the US still regards the OSCE as a means for decision-making on a number of issues in which it has an interest.

US interest in arms control is limited. Arms-control instruments are generally suspected of being ineffective at best and of limiting the operational room for manoeuvre of US armed forces at worst. There is however some indication that progress concerning the ratification and entry into force of the Adapted CFE Treaty cannot be ruled out, *first*, because this is an issue below the level of strategic US interests, and *second*, because the recent Georgian-Russian agreement on the withdrawal of Russian armed forces removes one of the most important obstacles to ratification.

Washington's interest in the OSCE's economic and environmental dimension has been limited since it became clear not only that the forum is unsuited for addressing major economic issues, but also that the EU is not prepared to let it do so. Conflict resolution under the *aegis* of the OSCE is still seen as a US interest, although this depends on Russian co-operation. Consequently, the main interest of the US in the OSCE concerns human-dimension issues: election monitoring, freedom of religion or belief, and the fight against intolerance, discrimination, xenophobia, and anti-Semitism. The most important issue of concern for the USA where the OSCE plays a key role is democratization and democratic change in countries such as Georgia and Ukraine. Washington would like to encourage equivalent developments in Belarus and other countries of the region as well.

While there is a clear US interest in the OSCE's anti-terrorism efforts, there is also a certain ambiguity between its more unilateral and operational short-term approach and the OSCE's focus on the root causes of terrorism and the upholding of human-rights standards when pursuing counter-terrorism activities. There is clear and active US support for arms-control measures related to anti-terrorism such as export controls on Man-Portable Air Defense Systems (MANPADS) and the destruction of surplus weapons and ammunition.

To sum up, the main focus of US interest in the OSCE's human-dimension efforts is precisely what upsets the Russian Federation and some other

CIS states most. As a result, the most contentious question for the US and Russia might not be what positive steps the OSCE could take in the future, but what it might refrain from doing in this one area – the area that is perceived by the US (and others) as democratization, and by Russia as destabilization. Although Russian interest in arms control has so far not been required by the US, progress could be achieved if the US were to merely make some small changes in its position on this issue. With regard to the OSCE's anti-terrorism efforts, the two states are closer here than in other areas. What remains to be seen is whether this area of agreement can be broadened to give the OSCE a more comprehensive role in addressing transnational threats and risks.

3.2.3 Closeness to OSCE Philosophy: The European Union

In recent years, the EU has been preoccupied with its own enlargement and institutional development, with transnational and non-European security challenges, and with trans-Atlantic disagreements related to the latter. To the extent that it focuses on traditional security issues within Europe, it deals with the following issues: *First*, on the basis of the Stabilization and Association Process, the EU has taken on a long-term commitment for stability and prosperity in the Western Balkans. There is close co-operation between the EU and the OSCE in Croatia, FYROM, and Kosovo. *Second*, in the framework of its new neighbourhood policy, the EU shows considerably more interest in countries such as Ukraine, Belarus, and Moldova. *Third*, to strengthen bilateral relations with Russia, road maps for the four "Common Spaces" were adopted at the EU-Russia Summit in May 2005. In addition, the EU can mobilize incomparably larger resources devoted to the stabilization of its neighbourhood than can any other international organization or state.

The institutionalization of the Common Foreign and Security Policy and the European Security and Defence Policy (CFSP/ESDP) has led to the development of autonomous EU capacities for (civilian) crisis prevention and conflict resolution, areas that are also core competencies of the OSCE and in which it had hitherto enjoyed a kind of monopoly. Although this development is necessary and strengthens overall European capacities for crisis management, it makes it urgent to rethink the co-operation between the EU (Commission and Council Secretariat) and the OSCE in more concrete terms. In doing this, it should be borne in mind that the EU's capacity and political will to act autonomously in the Caucasus and Central Asia are still limited and will remain so in the next few years. While it is too early to assess the consequences of the failed ratification of the European Union's constitution, it is evident that the EU will be in need of more co-operation with other international organizations including the OSCE to implement its stability-related policies, in particular its neighbourhood policy.

In terms of concrete activities, the EU's most prominent interest certainly concerns the OSCE's human dimension; the European Commission funds a considerable number of projects set up by the Office for Democratic Institutions and Human Rights (ODIHR) in Central Asia. The EU shares with other countries a sympathy for an enhanced OSCE role in addressing transnational threats. With regard to the EU's key concern of securing its borders, the OSCE can contribute related activities, not only in regions directly neighbouring the EU, but also in the South Caucasus and Central Asia. Although the EU is more interested in arms control than the USA, it has not yet managed to elaborate its own arms-control strategy on the core issues (conventional arms, CSBMs, but also small arms and light weapons) that the OSCE deals with. The EU tends to block the OSCE from dealing with economic and environmental issues, which are seen as an EU core competency.

Including its associated and candidate countries, the EU accounts for more than 30 of the OSCE's 55 participating States and provides some 70 per cent of the Organization's budget and personnel. By this token, the EU is a key player in the OSCE. Another factor that might play an even more important role can be formulated as follows: Although EU member states differ widely in their foreign policy traditions, the Union as such, by virtue of its own history and development, shares many characteristics with the OSCE. In particular, both pursue a multilateral, comprehensive, and co-operative policy approach based primarily on non-military means. This aspect is underlined by the activities of a range of smaller EU member states sympathetic to the OSCE. Making better use of the closeness of the EU's basic philosophy to that of the OSCE – the concrete impact of which is still hampered by the slow pace of EU decision-making and its scattered competencies – is one of the greatest challenges that the four successive OSCE Chairmanships held by EU member states (Slovenia, Belgium, Spain, and Finland) will be facing in the years 2005-2008.

3.3 Balancing State Interests: Defining the Future of the OSCE

It seems fair to start from the assumption that no participating State is ready to dissolve the OSCE, although very few states will be striving to restore it to its predominant position among European security organizations. The challenge facing the participating States will therefore be to find the OSCE's proper level between these two extremes and to define its functions and tasks accordingly. The relationships between the interests of the various states and groups of states and the potential for compromises are highly complex: There might be agreement among the states on certain goals they want to achieve, and on other outcomes they wish to avoid; there may also be both common and conflicting interests within certain working fields, and asymmetric constellations of interests among several of the OSCE's dimensions. Thus, the results of the participating States' negotiations on the future of the Organiza-

tion – which might well develop into a longer process rather than being achieved in a single step – might take on the form of complex “package deals” in the tradition of the early CSCE.

Interests in Addressing New Threats and Risks

If anything accords with the interests of all the key actors within the OSCE, it is the desire to address the broad range of new transnational threats and risks that either directly (terrorism, organized crime, trafficking), or indirectly (e.g. demographic developments, migration, economic disparities) undermine European stability. While all the major players agree on the high priority of these issues, there is less accord on concrete strategies and actions. However, there exists at least a common starting point for the joint development of a suitable strategy.

Interests in Arms Control and Conflict Resolution

Contrary to widespread assumptions, it might not be impossible to find some common ground in the field of arms control. It should not be too difficult to agree on the long-standing Russian demand to hold a seminar on military doctrines. This would be the right place to define the need for further steps, such as a new generation of CSBMs directed at new destabilizing tendencies, or the rethinking of sub-regional CSBMs. Even with regard to the most contentious issue of the ratification and entry into force of the Adapted CFE Treaty, a breakthrough would seem possible if progress can be made on Moldova following the Georgian-Russian agreement on the withdrawal of the Russian forces from Georgia. Altogether, these points could create a certain, admittedly modest, dynamic in European arms control, which would improve the general political climate and contribute to a better balance among the OSCE's dimensions.

Although there is currently no decisive movement concerning the resolution of the frozen conflicts, progress in at least one of these cases cannot be excluded. On behalf of the Co-chairs of the Minsk Group, a number of OSCE participating States sent a fact-finding mission to the occupied areas of Nagorno-Karabakh in spring 2005. Negotiation activity facilitated by the Co-Chairs of the Minsk Group has been stepped up, high-level bilateral discussions seem to be proving constructive. A breakthrough in Nagorno-Karabakh would represent a significant success for the OSCE and could even lead to some form of low-key OSCE peacekeeping and other rehabilitation work.

Although many uncertainties remain, the first dimension offers several opportunities to the participating States to recover common ground. The key problem thus seems to be disagreement over the human dimension.

Interests in the Human Dimension

The core problem in agreeing on a viable package deal on the future role of the OSCE lies in the human dimension, whose norms have been intimately

linked to issues of European security since the 1975 Helsinki Final Act. Given their own performance in the implementation of human-dimension commitments, it is unlikely that the Russian Federation and its supporters within the CIS will overcome their aversion to this dimension. Consequently, from the Russian perspective, the question is not how much more can be achieved here, but how far activities can be reduced.

This places the developed democracies in a rather difficult situation, particularly with regard to the emerging positive prospects in the first dimension. The key question concerns which compromises the developed democracies can agree to and which they cannot. They will certainly not weaken the OSCE human-dimension *acquis* and its implementation. What is open for debate, however, is the question of whether there should be more human-dimension activities in Western countries. To achieve this, it would be necessary to create a general human-dimension monitoring instrument that covers all states without exception. It would also be necessary to create some political, not legal, consultation mechanism to deal with complaints made by states over reports issued by OSCE election observation missions. Furthermore, it is also vital to debate the relation between democratization and stability, which is a key issue in the larger context of managing change. It seems that any approach that neglects one side of this balance is mistaken. Nonetheless, even if the developed democracies show flexibility, the prospects of consensus in the human dimension remain uncertain.

Package Deals for the Management of Change

It can be assumed that a certain amount of common ground in the first dimension will be found. The critical question, however, is whether this will be sufficient to persuade the Russian Federation to accept human-dimension issues being stressed robustly enough to satisfy the EU, US, and other developed democracies. Another question is whether agreement on some elements designed to strengthen the institutional effectiveness of the OSCE – e.g. the role of the Secretary General or new forms of field operations – can contribute to an overall climate of compromise. All in all, it is unclear whether the potential agreements that may be reached will be broad enough to give the Organization an effective and worthwhile role. A related question is whether the high-level consultations scheduled for September 2005 will be a one-off occurrence or a starting point for a continued process of consultation and negotiation.

Considered more generally, the crucial question is whether the participating States can agree on the relevance of an inclusive and flexible organization for the management of change and for containing the dangers of change. A more specific question is whether the EU and Russia can agree on the desirability of the OSCE to serve as an instrument to cushion possible tensions between them beyond their bilateral relations. A related issue is whether the USA will continue to appreciate the value of the OSCE as an-

other forum for trans-Atlantic co-operation besides NATO, which is currently facing its own crisis of adaptation. These broader deliberations will contribute considerably to answering the question of whether the participating States will be able to reach some compromise on the future role of the OSCE.

4. Addressing Transnational Threats and Risks

The OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century, adopted at the 2003 Maastricht Ministerial Meeting, acknowledges that threats of a politico-military nature are still a matter of concern for participating States and that addressing violent inter-state and intra-state conflicts remains a key task for the Organization. However, the document also states that: “Threats to security and stability in the OSCE region are today more likely to arise as negative, destabilizing consequences of developments that cut across the politico-military, economic and environmental and human dimensions, than from any major armed conflict.”²

Consequently, this chapter discusses the most prominent features of transnational threats and risks, and the OSCE’s comparative advantages and disadvantages in addressing them. This is the most salient challenge the Organization is currently facing. Its more traditional and better-known priorities, which remain valid, are dealt with in Chapter 5.

4.1 Characterizing Transnational Threats and Risks

Transnational threats and risks can be considered the dark side of the process of globalization that has become one of the most basic features of the system of international relations. Globalization, driven by a new scientific and technological revolution, increases the interdependence of states and societies, results in a new global division of labour, and increases the opportunities for co-operation leading to higher overall efficiency. Globalization also reduces the abilities of states and even international organizations to act, while enhancing the power of transnational actors, be they business groups, NGOs, criminal networks, or terrorist groups. Global competition creates winners and losers, leading to sharp asymmetries between different regions, countries, and social groups in economic, social, military, and ideological or spiritual terms. This asymmetric interdependence across the whole spectrum of human life provides the background for transnational threats and risks.

The category of transnational threats subsumes a wide range of phenomena, from terrorism to organized crime and trafficking in drugs, weapons, and human beings. Expanding the category to include phenomena that have a

2 OSCE, Eleventh Meeting of the Ministerial Council, Maastricht, 1 and 2 December 2003, OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century, p. 1.

less direct relation to security makes it possible to add economic factors such as corruption, poverty, and high unemployment as well as environmental degradation, demographic change, widespread degradation of health, and practices of discrimination and intolerance. As diverse as these threats may be, they have some features in common.

Characteristics of Transnational Threats and Risks

Transnational threats are complex and of multi-dimensional and long-term nature. Trafficking in weapons, for example, concerns the security, economic, and human dimensions. While most transnational threats are of a non-military character, they can profoundly affect the security of states, social groups, and individuals. However, some of them, such as terrorism, have a distinct military dimension with terrorists applying asymmetric methods of unconventional warfare.

Transnational threats are multiply interlinked. Drug trafficking is one of the most important sources of funding for terrorism; terrorism utilizes the structures of organized crime, which again foster all kinds of trafficking. Weapons of mass destruction in the hands of terrorists represent the worst nightmare that can be imagined. But even the spread of small arms and light weapons has stimulated violence in the OSCE region, as for example in the former Yugoslav Republic of Macedonia in 2001. Political extremism, intolerance, and discrimination can prepare the ground for terrorism.

Transnational threats represent a global phenomenon by their very nature. Threats originating from outside a specific region affect security and stability within other regions. This aspect is all the more important as the OSCE area is adjacent to regions of violent conflict, particularly the Middle East.

Actors associated with transnational threats are usually non-state entities. They frequently do not have a public face and are far more difficult to address than nation states. As for transnational risks such as demographic developments or environmental degradation, “actors” can only be associated with the failure of competent state agencies to act.

Transnational threats do not emerge out of a vacuum. Weak and overstretched states provide the most important breeding ground for transnational threats, either in the form of criminal and/or extremist actors that cannot be marginalized and may even be supported by corrupt officials, or in the shape of economic, ecological, or social-dysfunctional developments that cannot be contained by governments. However, both organized crime and the support structures of terrorism have also proven their ability to survive in highly developed states.

Violent conflict breeds transnational threats. Relevant in this context are those internationally unrecognized pseudo-states that have been established in the cases of frozen conflicts, where the “state” is essentially little more than an instrument for the unlimited enrichment of those in power.

These states have often become “black holes” in which criminal groups and terrorists may operate with relative impunity.

Transnational threats affect states and population groups in both developed and less developed regions. In terms of their threat potential, they represent some of the real hard-security issues of our time.

Because transnational threats reflect basic features of the process of globalization, they represent a category of problems that cannot be simply solved, but at best contained. Even at this more modest level, no state or international organization can claim to have viable answers. While most activities concentrate on (necessary) operational short-term approaches, long-term strategies to address the root causes of transnational threats are still widely neglected.

Functional Prerequisites of a Long-Term Approach to Transnational Threats

First, transnational threats and risks can only be effectively addressed by means of a cross-dimensional and long-term approach. What is easy to analyse, is extremely difficult to do. Working structures of states and international organizations are heavily compartmentalized and oriented toward short-term success. In addition, properly addressing transnational threats requires thorough analytical preparation and long planning horizons.

Second, transnational threats and risks must be addressed with a global approach. Consequently, the UN is the necessary lead agency and should make proper use of regional arrangements, such as the OSCE, and other international and transnational actors.

Third, a proper balance between short-term (operational and tactical) and long-term (strategic) approaches to address the structural root causes of transnational threats has to be found. This must include a division of labour between organizations oriented more toward the first group of tasks and those working more in the second area. Long-term approaches naturally entail a need to engage in long-term commitments and planning.

Fourth, addressing transnational threats requires the (re)strengthening of weak state structures *and* civil-society actors. While the report of the UN High-level Panel on Threats, Challenges and Change of 2 December 2004³ rightly focuses on the strengthening of state capacity and international co-operation, it widely neglects the role of transnational civil-society actors. However, if it is true that globalization means a loss of both states’ and international organizations’ ability to act, success in addressing transnational threats can only be achieved by building a new type of coalition between state, international, and (trans)national civil-society actors. Malign transnational actors can only be successfully managed by engaging benign transnational actors.

3 United Nations, General Assembly, A more secure world: our shared responsibility, Report of the High-level Panel on Threats, Challenges and Change, 2 December 2004 (A/59/565).

Fifth, all this means that the new category of transnational threats cannot be addressed effectively using only the working instruments that have been developed for other types of challenges. Consequently, the existing working structures of both state institutions and international organizations have to be adapted and new ones need to be created with the main focus on creating opportunities for coalitions with civil-society actors.

4.2 The OSCE's Comparative Advantages and Disadvantages

Analysing the OSCE's comparative advantages and disadvantages in addressing transnational threats and risks means both inquiring where comparative advantages are not sufficiently exploited and looking for ways to compensate for disadvantages as far as possible.

Specific Comparative Advantages of the OSCE

First, the OSCE's comprehensive concept of security with its focus on soft security issues represents an essential comparative advantage. Complex issues require a complex response – one which looks at a range of root causes and comprehensive solutions. However, much of this advantage is negated by the institutional division between the three OSCE dimensions and the difficulties of co-ordination among them that make it more difficult to address multidimensional threats by means of cross-dimensional approaches.

Second, the OSCE's political and geographical inclusiveness represents another important comparative advantage. It makes a great difference whether an international organization deals with a certain country or region from within, based on mutual assistance, or from without, possibly based on a system of conditionality. However, this great advantage is undermined by the overly narrow methods of consultation that characterize the Organization's day-to-day political work and fall short of the ideal of inclusiveness. In addition, participating States must solve their current political disputes to profit fully from the principle of inclusiveness.

Third, one of the greatest comparative advantages of the OSCE is its vast field experience collected over more than a decade, together with its flexible system of deploying, managing, and closing field operations. Most field operations, and particularly the larger ones, are still predominantly oriented towards tasks related to intra-state and inter-state conflicts, including post-conflict rehabilitation. While these tried-and-tested forms of field operations remain necessary, new forms of mission addressing transnational threats, such as "thematic missions", should be created, building on the OSCE's extensive field experience.

Fourth, the inclusion of civil-society actors in its activities constitutes another important comparative advantage of the OSCE, particularly in view of the need to build up broad coalitions to address transnational threats. This openness to civil partners is most fully developed in the human and environ-

mental dimensions as well as in the work of the field operations. If other fields of activity follow this approach, the inclusion of civil-society actors could develop into one of the decisive strengths of the OSCE.

Specific Comparative Disadvantages of the OSCE

First, the OSCE is a regional and not a global actor and, in addition, lacks the means for effective global outreach. In view of the global character of transnational threats and the need for global approaches, this constitutes an undeniable comparative disadvantage that can only be partially overcome by the OSCE acting alone. One way to overcome this is to make greater use of the capacity of the OSCE as a regional arrangement under Chapter VIII of the UN Charter and to support the UN in addressing specific transnational threats, as has already been done in the field of counter-terrorism. Other possibilities include enhancing outreach and co-operation activities with the Mediterranean and Asian Partners.

Second, the OSCE does not have any authority or mechanism to adopt legally binding measures that can be implemented within states against non-state actors. However, the fact that OSCE commitments are politically but not legally binding makes it easier for the participating States to accept them.

Third, the shortage of resources, and particularly the lack of long-term resource commitments, probably constitutes the OSCE's most serious comparative disadvantage. In many areas, this means that OSCE activities are little more than symbolic and all too rarely produce concrete results. The lack of financial commitments extending over a number of years makes long-term planning nearly impossible.

Fourth, and closely related to the third point, the lack of mechanisms for making use of lessons-learned, and the shortage of analytical and planning capacities constitutes a significant comparative disadvantage, particularly in view of the longer-term planning and implementation horizons necessary for addressing transnational threats.

In sum, the OSCE has a significant stock of comparative advantages that can be further developed to enable it to effectively address transnational threats on a long-term basis together with (trans)national and international partners. To achieve this aim and to compensate for its disadvantages, three crucial conditions have to be met:

- The participating States must commit themselves to engaging the OSCE in addressing transnational threats on a long-term basis.
- The participating States should provide the resources and, in particular, the long-term resources necessary to implement these commitments.
- On this basis, they should establish lessons-learned mechanisms and long-term analysis and planning capacities in the Secretariat, including a capability to provide support to OSCE field operations.

From the point of view of the security of the participating States and their populations, there is a clear need to address transnational threats on a more sustainable and long-term basis. The OSCE can make a substantial contribution to this. It is up to the participating States to decide whether they will entrust the Organization with this task.

5. Adapting the OSCE's Competencies, Capabilities, and Missions to the Challenges Ahead

This chapter analyses the Organization's fields of activity, its structures, procedures, and working instruments, and its co-operative relations, with the aim of defining strengths and weaknesses and areas where reform is necessary.

5.1 Fields of Activity

Although the division into three dimensions is not fully commensurate with the challenges ahead, this chapter follows this structure, which underpins the entire institutional outlook of the OSCE. However, the new cross-dimensional area of transnational threats and risks is treated first, followed by the politico-military dimension and conflict prevention, management, and resolution.

5.1.1 Addressing the Cross-Dimensional Challenge of Transnational Threats and Risks

The OSCE Strategy to Address Threats to Security and Stability in the Twenty-First Century refines the analysis of transnational threats and risks and formulates general answers and recommendations. However, the Strategy does not descend to the operational level. More detailed plans and operational capacities are distributed, quite unevenly, among the OSCE's various fields of activity. The spectrum ranges from well developed fields, such as police matters, via less developed areas, such as trafficking (in human beings), to areas where little more has been done than to identify issues of concern, as in the case of migration.

In the field of police matters, an area that is crucial for addressing many transnational threats, the OSCE possesses a functioning Strategic Police Matters Unit, and considerable project experience from Kosovo, Southern Serbia, Croatia, FYROM, Kyrgyzstan, and, most recently, Armenia. With this combination of strategy, capacities, and experience, the Organization has crossed the critical threshold that divides rhetoric from practical impact. As a result, the OSCE's police-related work has become a benchmark for other fields of activity. A regional border security and management project has been started in the Western Balkans; work on an OSCE Border Security and

Management Concept is underway; and a small working group has been established in the Secretariat. The Action against Terrorism Unit in the Secretariat has successfully started work on supporting states with the ratification of the twelve UN anti-terrorism conventions, and in the areas of travel-document security and container security. Capacity-building and interoperability are important aspects of all these efforts, especially in regions such as Central Asia and the South Caucasus, where resources have not been sufficient to implement these goals adequately.

In the area of anti-trafficking, the OSCE adopted solid documents in Vienna in 2000 and in Maastricht in 2003. With the establishment of the Action Plan against Trafficking in Human Beings, a Special Representative on Combating Trafficking in Human Beings has been appointed, supported by an Assistance Unit in the OSCE Secretariat. In addition, a small Anti-Trafficking Unit exists within ODIHR, and the 11th OSCE Economic Forum has tasked the Office of the Economic and Environmental Coordinator to address these issues. However, the OSCE's work on trafficking still remains at the level of political rhetoric with only a few exceptions, such as seminars and awareness-raising campaigns, most of which are organized by OSCE field operations. The essential reason for this is the lack of personnel and budgetary resources. The establishment of a Thematic Mission on Trafficking in Human Beings in close co-operation with the EU and other regional and sub-regional organizations as well as civil-society actors would provide a clear signal that the OSCE is ready to make a serious effort to tackle transnational threats and to test new forms of field operations to this end.

Although some missions work across the whole spectrum of security-related capacity-building, the OSCE has no comprehensive concept for addressing transnational threats and risks that would identify clear priorities. Because such a concept necessarily builds on a comprehensive approach to security, the OSCE is well positioned to elaborate it. Conversely, the lack of such a concept threatens to undermine one of the OSCE's greatest comparative advantages, precisely its comprehensive approach to security, which cannot become fully effective so long as different issues are dealt with in isolation. The elaboration of a concept for addressing transnational threats and risks is thus one of the most urgent tasks the OSCE faces. This concept should include at the very least the OSCE's activities on anti-terrorism, policing, border security and management, and anti-trafficking.

The adoption of such a strategy would have important consequences for the OSCE's work: It would strengthen the need for closer co-operation with regional and sub-regional organizations; it would underline the necessity of formulating cross-dimensional strategies and adapting working structures and instruments to this end; and it would highlight the need for enhanced analytical and lessons-learned capacities within the Organization.

5.1.2 *Revitalizing Arms Control*

Arms control has not become obsolete. The CFE Treaty, the Vienna Document 1999, and other instruments provide Europe with a unique arms-control regime that is of continuing relevance. However, if it is not adapted to the evolving strategic environment, this regime will lose significance. During the last few years, the work of the Forum for Security Co-operation (FSC) has been predominantly devoted to implementation issues. The most recent adaptation of the Vienna Document took place in 1999, and it did not take into account today's destabilizing tendencies brought about by mobile warfare, long-range capabilities, and pre-emptive military doctrines. A seminar on military doctrines – as recently suggested by the Russian Federation – would therefore be a timely event and one that would build on the tradition of the CSCE, which convened such seminars in 1990 and 1991. Such an event could be the starting point for the definition of a new generation of CSBMs to address threats not yet covered.

Although the CFE Treaty does not belong to the OSCE agenda, it is of critical importance for the OSCE arms-control regime. The Adapted CFE (ACFE) Treaty, signed at the 1999 Istanbul Summit, has not yet entered into force due to the fact that NATO states consider the implementation of the 1999 OSCE Istanbul Summit commitments (withdrawal of Russian forces from Georgia and Moldova) in their entirety to be a precondition for ratification. The Russian Federation, while acknowledging the commitments it made in Istanbul, views them as not having any implications for the ACFE ratification process. Russia and the NATO states should facilitate a solution to the ratification problem. The recent agreement on the withdrawal of Russian forces from Georgia suggests that a solution could be within reach. NATO states could then start the ratification process in recognition of Russia's agreement with Georgia while withholding final ratification until an agreement is also made on the withdrawal of the Russian forces from Moldova. The entry into force of the ACFE Treaty would open it to the accession of new states parties, including the new NATO states of Estonia, Latvia, and Lithuania, whose accession is a longstanding desire of Russia. At the same time, the entry into force of the ACFE Treaty could open the door to the harmonization of existing European arms-control commitments.

One instrument that has already proved its worth and still has considerable potential to exploit is the elaboration of sub-regional arms-control measures and CSBMs – e.g. in the Black Sea or Baltic Sea – in co-operation with sub-regional organizations. The same is even more true of sub-regional arms control as an element of conflict resolution – on the model of Bosnia and Herzegovina. Although there is an urgent need for arms-control arrangements to contribute to the potential political settlement of the conflicts in Transnistria, South Ossetia, and Nagorno-Karabakh, there has been little discussion

of this issue up to now, the arms-control concept for the case of Transdnistria elaborated by the OSCE Mission to Moldova notwithstanding.

In 2001 the OSCE adopted a Document on Small Arms and Light Weapons, and in 2003 one on export controls on Man-Portable Air Defense Systems (MANPADS) as part of the effort to prevent these dangerous weapons from reaching the hands of terrorists. It has also undertaken initiatives in several regions to provide services for the destruction of dangerous surplus weapons. While all these efforts point in the right direction, they should be more closely linked to a more general plan to address transnational threats and risks. Furthermore, many of the recommendations contained in these documents and decisions have remained at the level of rhetoric and have not been fully implemented. While a comprehensive system of controls on small arms may be difficult to achieve, an effort to control the smuggling of light weapons across national borders should become part of a comprehensive effort at reducing the flow of illicit traffic across borders. Similarly, OSCE efforts in the destruction of surplus weapons and ammunition should be implemented in close co-operation with NATO.

5.1.3 Resolving “Frozen Conflicts” and Preventing New Ones

Facilitating the resolution of frozen conflicts and carrying out tasks in the areas of post-conflict rehabilitation and conflict prevention remain priorities for the OSCE. Left unresolved, these conflicts will continue to serve as breeding grounds for malign transnational actors, who poison the European political atmosphere as a whole, and the danger of renewed escalation will be present.

Consequently, the OSCE should promote new initiatives aimed at facilitating the resolution of the conflicts in South Ossetia, Nagorno-Karabakh, and Transdnistria in accordance with its mandates. So far, neither the OSCE nor any other international organization has been successful in assisting in the resolution of these conflicts. What the OSCE has done is to contribute to keeping them frozen and escalation processes under control. This is particularly true for 2004, where it was largely due to the OSCE’s quiet-but-firm on-site diplomacy that escalation was prevented in South Ossetia and Moldova. While the key factor is whether the parties concerned, including the Russian Federation, which is an important stakeholder, can agree on a solution, the OSCE can do more to broker solutions.

In order to resolve the frozen conflicts by means of compromises that include Russia, increasing levels of high-level involvement are necessary. The OSCE should co-ordinate its efforts with the EU, and should take advantage of the fact that EU states will hold the OSCE Chairmanship from 2005 to 2008. Sub-regional arms control and economic issues, both of whose importance are frequently underestimated, could play a significant role in resolving these conflicts. Although the OSCE has not yet carried out any full-

fledged peacekeeping tasks (although the Kosovo Verification Mission and the Mission to Georgia contained peacekeeping functions), the assumption of a peacekeeping role should not be excluded as an option for the cases mentioned above. The OSCE could either provide a mandate for third-party peacekeeping, or could implement low-key forms of peacekeeping itself in a framework of more comprehensive, multifunctional field operations.

The OSCE currently still spends around two-thirds of its resources on its large Balkan missions. This will fundamentally change during the next decade, as the EU substantially upgrades its commitment to these regions and the countries in question hopefully reach higher levels of stability. Although the OSCE should remain active in post-conflict rehabilitation in the region for as long as it is needed, it should also be prepared to shift its long-term focus more to the (South) Caucasus, to Central Asia, and to pan-European issues.

Conflict prevention via OSCE field operations and the High Commissioner on National Minorities (HCNM) will remain an important OSCE task. The High Commissioner, who has already dealt with the cases of Estonia, Greece, Latvia, and Turkey, should pay more attention to minority-related conflicts in Western countries where necessary. Turkey should be encouraged to make use of the High Commissioner to ease tensions related to its Kurdish minority, as has been proposed by the EU.

5.1.4 Integrating the Economic and Environmental Dimension into the OSCE's Tasks

The OSCE is neither an economic organization nor a major donor. Accordingly, the main deficiency of the OSCE's economic and environmental dimension (EED) activities is its lack of strategic vision and resources. Its activities are only tenuously integrated into the Organization's current and future strategic tasks and challenges. The mandate of the Co-ordinator of OSCE Economic and Environmental Activities (CEEAA) is weak and his office understaffed. There is some co-operation with environmental groups, but almost no interaction with key economic actors.

The OSCE Strategy Document for the EED, adopted in Maastricht in 2003, includes some updating of the basic Bonn Document on EED of 1990. Nonetheless, more consideration of the economic dimension of early warning, conflict resolution, and post-conflict rehabilitation is necessary. Other institutions with more resources will inevitably have to take the lead in the implementation of general economic-development projects, but the special role of the OSCE can be to advise implementers on how their projects should be targeted to alleviate the underlying causes of violent conflict.

To date, the links between the OSCE's EED activities and other working fields have been weak. This is particularly true of conflict resolution, where there is a shortage of both analyses of the economic root causes of

conflicts and models of how economic tools can be used for early warning and conflict resolution. The same is true with regard to post-conflict rehabilitation and long-term peace-building. Since economic issues can be key factors in a conflict, looking at the political economy should be part of the solution. The CEEA should develop plans for using economic instruments to facilitate the resolution of the conflicts in Transdniestria, South Ossetia, and Nagorno-Karabakh, and models for the economic revitalization of these regions. In general, the CEEA should use its expertise to help international financial and donor organizations to build up a proper understanding of the economic dimension of (violent) conflict.

There has also been insufficient consideration of long-term economic developments relevant to security and stability in Europe such as energy security, transnational migration, and freedom of movement. The CEEA should identify specific transnational risks in the EED, as well as the economic and environmental dimensions of other transnational challenges, and integrate them in an overall concept. The CEEA should also be involved more closely in OSCE planning and policy-making, stressing the aspects of anti-corruption, transparency, good governance, and other economic rights, including tighter co-operation with business and other private sector experts.

5.1.5 Resolving the Dispute over the Human Dimension

Human-dimension issues have become the OSCE's most important field of activity and the area where the Organization's worldwide profile is highest. Foremost among the OSCE's human-dimension activities are election monitoring and assistance, where the OSCE is Europe's leading creator of standards and, in many respects, its key implementing agent. Other important areas of activities concern democratic governance, the rule of law, rights of persons belonging to (national) minorities, media development, gender equality, and freedom of movement. Despite many examples of successful activities within the human dimension, the criticisms levelled by the Russian Federation and other CIS states concentrate on the human dimension. A first conclusion that can be drawn from this is that, in order to solve the crisis of the OSCE, it will not be enough merely to better "balance the three dimensions", or to launch more politico-military and economic and environmental activities. If the kernel of the disagreement concerns the human dimension, a discussion aiming at a new common understanding must also start there. The solution to this problem should certainly not be to dismantle the OSCE's capacity (via ODIHR) to assist with and monitor the compliance of participating States with their commitments under the 1990 Copenhagen Document and other relevant norms of the OSCE *acquis*. At the same time, certain modalities for implementing these norms may be improved.

One dispute concerns the mechanisms the OSCE uses to monitor compliance with its human-dimension commitments. Major differences exist

among the participating States with respect to the observance of human rights, electoral standards, and other human-dimension commitments. This in itself constitutes a severe problem in terms of the coherence of the OSCE and the ability of its participating States to co-operate. However, the situation is not improved by the fact that the OSCE's human-dimension monitoring instruments focus largely on Eastern Europe and the former Soviet Union. This focus, which may appear logical at first sight, has proved politically counter-productive, by making it possible for Russia and other CIS countries to complain of double standards. It is therefore necessary to create a general human-dimension monitoring instrument that covers all participating States without exception. This kind of monitoring should be based on questionnaires to be answered by each state. The states' replies could then be presented and discussed at the OSCE's annual Human Dimension Implementation Meetings. A more parsimonious and at the same time more co-operative option would be to use the proposed annual human rights reports of the UN High Commissioner for Human Rights as the basis of discussion, provided the UN follows this suggestion.⁴

The 2003 Maastricht Ministerial Meeting tasked the Permanent Council with considering the need for additional election-related commitments, supplementing those of the 1990 Copenhagen Document. The relevance of this question is increased by the fact that election procedures and techniques vary widely among participating States, including established democracies; and the validity of elections in Western countries (such as the USA) has also been questioned in relation to certain (in this case electronic) voting techniques. It might therefore be fruitful to consider additional commitments related to new election methods and their specific monitoring needs. However, this must not lead to lower standards, to a "Copenhagen minus", but rather to an enhanced "Copenhagen plus".

The reports of OSCE election observation missions are at times disputed between the state concerned and the OSCE election observation mission. It would be desirable to have a political consultation mechanism to clarify these kinds of disputes. This does not mean that states should be given a right to influence the substance of the reports, which should remain the sole responsibility of the election observation missions. The coherence of election monitoring by different international organizations/bodies could be strengthened by introducing standardized training measures for observers from the OSCE, the OSCE Parliamentary Assembly, the Council of Europe Parliamentary Assembly, the CIS, and other interested international organizations.

As the OSCE increasingly focuses on transnational threats, it needs to include the human-rights aspects of these issues. There is a legitimate concern in particular about excessive counter-terrorism and border-security measures being implemented at the expense of human-rights considerations. More generally, the OSCE should also address the more general issues of the

4 Cf. *ibid.*, p. 75.

human rights of refugees and asylum seekers, as well as the question of freedom of movement and visa regimes.

The OSCE and the Council of Europe (CoE), which share a number of fundamental values and have widely overlapping spheres of competence and member states, should co-operate more closely. There is also a remarkable potential for synergy between the CoE's strong Secretariat and the OSCE's strong field operations. The Declaration on Co-operation between the Council of Europe and the Organization for Security and Co-operation from 17 May 2005, which proposes various measures including joint meetings and activities, and the establishment of a Co-ordination Group, is a good starting point.

5.2 Structures, Procedures, and Instruments

5.2.1 Achieving more Inclusive Consultations

The OSCE's function as a forum for dialogue and consultation has declined in recent years for several reasons. *First*, compared to the situation in 1990, participating States – transition states in particular – now have access to a broader range of multilateral and bilateral forums in which they are able to discuss specific questions. *Second*, conflicts within the OSCE have meant that many discussions have been unproductive, as reflected in the increasingly formal character of debates in the Permanent Council and elsewhere. *Third*, consultations in preparation for OSCE decisions are frequently the preserve of an exclusive group. As it is virtually impossible to hold meaningful consultations among 55 states, consultations are generally conducted between the Chairperson, the USA, the EU, the Russian Federation and the country concerned.⁵ This *modus* of consultations does not live up to the ideal of inclusiveness and discourages many states from genuinely participating in the OSCE's working process. A return to more inclusive consultation and decision-making is key to regaining a wider sense of ownership. This issue could be addressed by further developing the currently rather *ad hoc* structure of the PC's informal working groups into a more organized system that reflects the Organization's main areas of activity. This would enable states to participate in precisely those areas where they are most interested.

What has also become clear is that there is too little dialogue and consultation between the OSCE and its Parliamentary Assembly (PA). As a consequence, the OSCE does not fully exploit the considerable potential possessed by its parliamentary dimension to be a further point of contact with its participating States. The Chairman-in-Office (CiO) should therefore explore

5 Even the Netherlands, an EU and NATO member State, once complained that it had been sidelined in the decision-making process (cf. PC.JOUR/313, 7 December 2000, Annex, Statement by the Delegation of the Netherlands).

ways to engage the PA and its members more closely in the work of the OSCE.

A further critical matter is the possibility of convening an OSCE Summit Meeting, the last one having been held in Istanbul in 1999. The next OSCE Summit should adopt a reform agenda for the Organization, provided that the participating States have succeeded in finding sufficient common ground in the preparatory stage.

5.2.2 Strengthening the Role of the Secretary General

For structural reasons, OSCE institutions and field operations suffer from a general lack of political leadership and co-ordination. In organizational terms, the OSCE can be described as having a highly diversified and geographically dispersed structure with weak central institutions. This organizational system is not the result of any master plan, but rather the consequence of the way the OSCE has developed as an organization in reaction to numerous urgent crises, and a reflection of the individual interests of its participating States. Such a diffuse organization calls for a huge input of leadership and co-ordination to achieve effectiveness.

The Chairman-in-Office, whose mandate includes a leadership function, can only perform this task to a limited degree for three reasons. *First*, the annually rotating Chairmanship lacks continuity by definition. *Second*, the Chairmanship does not have the capacities needed to perform effectively in a guidance role, especially when the post is filled by smaller countries with limited resources. *Third*, the autonomous or semi-autonomous character of OSCE institutions and the separate and autonomous mandates given to OSCE field operations mean that it would be difficult to gain acceptance for enhanced centralized powers. The Secretary General (SG) as “chief administrative officer” does not have the mandate to give political guidance, although the decision on the gradual extension of the SG’s competencies adopted in 2004 in Sofia is a step in the right direction. In other words, there is no OSCE institution that could effectively guide, co-ordinate and control. As a result, OSCE institutions and field operations enjoy considerable autonomy and largely depend on the personal qualities of the Heads of Missions.

One specific problem concerns co-ordination between OSCE institutions and, in particular, between its dimensions. Not only are the different dimensions associated with different institutions, but in some areas, such as trafficking in human beings, operational capabilities are also shared between the Secretariat, ODIHR, and the Chairmanship. A system of this kind may have been adequate for the task of generating *ad hoc* activities to meet immediate and localized needs. The challenges of addressing transnational threats, however, demand more durable organizational structures. The organizational challenge the OSCE is facing thus consists in reforming its system of co-ordination and operational guidance.

As the leadership problems of the OSCE are the result of historical developments and political interests, they cannot be simply solved via organizational means. However, the OSCE's system of internal management can be substantially improved by redefining the division of labour between the Chairmanship and the Secretary General in a way that strengthens the latter:

- The Chairman should concentrate on political consultations and the preparation of the decision-making process among the participating States, on top-level co-operation with international partner organizations, and on providing political guidance.
- The Secretary General should be vested with overall executive responsibility, including operational leadership and the co-ordination of institutions and field operations. More tasks should be delegated to the Secretary General.

It should be stressed that the division of competencies between the Chairmanship and the Secretary General is not a zero-sum game. The CiO has an interest in the SG being provided with sufficient competencies and resources to fulfil his or her tasks, thereby freeing the Chairmanship from some of its more mundane activities and allowing more time for its core work.

5.2.3 Giving the OSCE Secretariat a Leadership Function

To adapt the Secretariat's structure to future needs, including those of the strengthened Secretary General, the following objectives should be pursued: *First*, the Secretariat should be provided with further organizational elements necessary for it to fulfil its expanded operational leadership role with regard to both institutions and issues. *Second*, experiences gained and lessons learned have to be fed back into the development of operational doctrines, procedures, and mandates. *Third*, the current structures of departments must be streamlined.

The OSCE should thus consolidate the structures of the Secretariat along the following lines:

- The Office of the Secretary General should be strengthened by the addition of a Political Unit, responsible for political planning, and an Analytical Unit. The Analytical Unit should include regional, conflict-management, and issue-oriented expertise, and should be tasked with running a lessons-learned and evaluation process independently from the more strictly operational departments.
- All functions concerning the support of field operations, apart from mission staffing –which should remain with the Department for Human Resources – should be united in a Department for Field Operations.
- The most important issue-oriented working units should be combined in a Department for Security-Building. These are the Strategic Police

Matters Unit, the Action against Terrorism Unit, and all working units dealing with border security, weapons transfers, and trafficking in human beings.

In order to provide inter-institutional and cross-dimensional co-ordination, the Secretary General should introduce Competence Teams in specific areas, e.g. anti-trafficking, policing, etc. They should include representatives of all relevant institutions as well as the OSCE's field operations, and liaise with external experts, think tanks, and NGOs. Competence Teams should meet regularly to co-ordinate policy. They should be chaired by the Secretary General or a representative of the SG, and supported for research and planning purposes by the Analytical Unit.

The institutional weakness of the OSCE is further aggravated by the fact that it lacks a convention on privileges and immunities. To better protect staff working in the field and to solve contractual problems, the participating States should adopt such a convention.

5.2.4 Reforming OSCE Field Operations

The OSCE's field operations are one of its greatest assets and constitute its most important comparative advantage. It is important to note that there is no standard format for field operations. The first type of field operations to be deployed (from 1992) were missions focused on early warning, early action, and conflict resolution. The large Balkan missions oriented towards specific post-conflict rehabilitation tasks, which have been deployed since 1995, represent the second type. The third type are the small OSCE Offices and Centres that have been established in the South Caucasus, Central Asia, and Eastern Europe since 1995 to deal with a range of more or less well defined stability risks and potential sources of conflict.

The problems of operating OSCE Field operations are as diverse as the missions themselves. In the following, we will concentrate on problems of country missions, introduce an example of a possible future thematic mission, and deal with the staffing of missions with seconded personnel.

Country-Specific Field Operations

Co-operation with the host state and co-ordination among missions. Two key aspects of country-specific field operations that need to be addressed are the modalities of co-operation with the host state, and operational guidance of and horizontal co-ordination among field operations and institutions.

The lack of co-operation between host states and missions is one of the most sensitive points of criticism raised against OSCE field operations. Heads of Mission, Centre, or Office should be aware that OSCE field operations are based on co-operation and that this must be reflected in a mission's day-to-day activities. The host state should thus be consulted regarding major

projects as well as the appointment of Heads of Mission, Centre, or Office. Field operations should engage more local staff, including professional staff.

Operational leadership and horizontal co-ordination. The Secretary General should be given overall responsibility for operational leadership of field missions and the co-ordination of issue-oriented activities. The Department for Field Operations and the Competence Teams should play an important role in enabling this. Joint activities between the field operations and the High Commissioner, ODIHR, and the OSCE Representative on Freedom of the Media (FOM) must respect the autonomy of the various mandates.

An Example of a Thematic Mission: The OSCE Mission on Trafficking in Human Beings

To address specific transnational challenges, new formats of field operations should be established alongside those that have a proven track record. Concepts that have been discussed include “Thematic Missions”. The example of a hypothetical OSCE Mission on Trafficking in Human Beings discussed here shall serve to illustrate this new concept.

The tasks of the OSCE Mission on Trafficking in Human Beings would consist in implementing a series of interconnected projects in countries of origin, transition, and destination that aim to help victims, create links with civil society and state actors in different countries, raise awareness in societies and governments, and assist governments and local administrations in taking key legislative and administrative action.

The thinking behind this kind of mission is based on two premises: first, that transnational threats can only be successfully countered by mobilizing broad coalitions of benign (trans)national actors, and second, that the OSCE should take on the role of a “force multiplier” by bringing these actors together and facilitating contacts and co-operation with other actors at state and international level. Accordingly, the primary partners of the OSCE Mission on Trafficking would be official contact persons and NGO networks in the target countries, whose activities would be co-ordinated, funded *via* and guided by the mission’s head office within the Secretariat’s Department for Field Operations. In contrast to traditional OSCE field operations, there would be no permanent OSCE offices staffed with international personnel in the targeted countries, but mission contact points would be established and staffed by the NGO networks themselves. The head office in Vienna would undertake the following tasks to safeguard the coherence of the mission’s work:

- Performing comprehensive needs analysis as a basis for selecting target countries and mission partners.
- Drafting an overall plan of action and discussing with the governments of the target countries and the mission partners how best to adapt it to local needs.

- Assisting governments in fulfilling commitments on trafficking they have undertaken in the OSCE and other contexts.
- Assisting NGOs in pressuring and monitoring governments and in playing an operational role in combating trafficking in human beings.
- Providing (full or partial) funding for local, regional, and countrywide activities carried out by the mission partners in the target countries.
- Closely following activities and providing support in the form of e.g., expert advice and rapidly deployable capacities.
- Liaising between NGO networks and local administrations, governments, and international organizations including OSCE decision-making bodies and institutions with a view to exploiting possible synergies.
- Organizing the exchange of information, skills, and best practices between NGO networks and state actors in the different countries.
- Evaluating the progress of the mission's work and reporting to OSCE bodies.

It is evident that a mission of this kind cannot operate with a six-month mandate, but rather needs one of at least two years.

Mission Staffing: Developing the Secondment System

The *secondment system* has great merits. Without personnel seconded by the participating States, the OSCE could have never been as successful as it has been over the years in staffing field operations rapidly and flexibly to address urgent challenges. It is therefore vital that the secondment system be retained. On the other hand, the disadvantages of the system for poorer states that cannot afford to second staff cannot be overlooked. For this reason, moderate reform is desirable in this area. A voluntary fund, comparable to the ODIHR funds for elections observation missions, should therefore be established to pay staff from countries that cannot afford to second. The existing selection criteria should be maintained in the secondment process.

As the CORE report *Working in OSCE Field Missions* has shown, there are still serious flaws in the implementation of the secondment system. According to this study, only 52 per cent of new mission members were given a proper briefing upon arrival at their duty stations, and only around 30 per cent of new mission members experienced an effective handover procedure.⁶ These flaws are mainly due to the briefness of six-month secondments. The minimum working period of seconded staff should therefore be lengthened to at least one year. At the same time, more local professional staff should be engaged in field operations to strengthen local capacities.

For *contracted staff* in the professional category, there is a maximum employment term of ten years. This rule, intended to underline the fact that the OSCE is not an organization where one can permanently pursue a career,

6 Cf. Annette Legutke, *Working in OSCE Field Missions*, Hamburg 2003 (Centre for OSCE Research), pp. 21-22.

constantly damages the Organization by excising its institutional memory and dismissing its most experienced staff members. Consequently, this rule should be dropped.

5.3 Deepening Co-operation with Mediterranean and Asian Partners and with International and Non-Governmental Organizations

Mediterranean Partners and Partners in Asia. OSCE participating States encourage their Mediterranean and Asian Partners to voluntarily implement OSCE principles and commitments. They frequently invite them to participate as observers in PC and FSC meetings (Maastricht 2003). Communication is maintained at all kinds of OSCE events – from Summits and Ministerials to seminars and workshops. Seminars focussing specifically on issues relating to partner states have become regular events. Two Contact Groups also exist whose task is to maintain dedicated regional lines of dialogue with the two groups of Partners. Discussions on the voluntary implementation of OSCE commitments and the further transfer of OSCE expertise should be concretized according to the political needs of partner states. Because of its heterogeneity, the OSCE can better serve as a model for co-operation outside Europe than the EU, which is, at least in part, a supranational organization. It would boost the OSCE's visibility if it could present its partners with a brief charter document summarizing its *acquis*.

The outreach activities of the OSCE are closely related to its co-operation with Mediterranean and Asian Partners. A further working group sounds out possible areas where outreach activities could allow the OSCE to share the benefits of its experience with its Partners. The Election Support Team sent to Afghanistan in the autumn of 2004 is one of the first examples of an OSCE outreach activity. As security challenges become increasingly global in character and security within the OSCE space is significantly affected by developments outside, the Organization should expand its outreach activities to partners and other interested states outside of Europe. Outreach activities should cover all the OSCE's spheres of competence, such as election assistance, policing, and border control. If the participating States want to support these activities, they will have to upgrade the Organization's outreach capacity, which is extremely limited at the moment. The OSCE should be willing to lend its advice and support to other regions of the globe that seek to develop or strengthen regional security organizations and could draw on the OSCE's experience.

Co-operation with international organizations. While the Platform for Co-operative Security adopted at the 1999 Istanbul Summit describes a model of co-operation with other international organizations, reality rarely conforms to such programmatic decisions. While there are regular high-level meetings between the OSCE and a number of relevant international organizations, and while, as a rule, good co-operative relations exist in the field,

staff-to-staff meetings at headquarter level are all too rare, and cross-representation is almost non-existent. All too often, attempts to co-ordinate the activities of different organizations come too late. The OSCE should therefore systematically strengthen co-ordination and co-operation with relevant international and sub-regional organizations:

- The OSCE should make more systematic use of its capacity as a regional arrangement of the UN and should support the UN in the regional implementation of global initiatives, as it has already done in the field of anti-terrorism. Consultations with the UN should cover regional issues, peace-building structures, peacekeeping, transnational threats, relevant aspects of economic and human development in the OSCE area, and lessons-learned mechanisms.
- The OSCE should open discussions with the EU on better co-ordination and co-operation, which should also cover those areas where the two organizations are in competition. This dialogue should take into account that there are issues (e.g. arms control, election monitoring, rights of persons belonging to national minorities) as well as regions (South Caucasus, Central Asia) where the EU needs to co-operate with the OSCE.
- In view of their substantial overlap in terms of issues and members, and the possible synergies between strong OSCE field operations and the strong Secretariat of the Council of Europe, the OSCE should strive to lead the Co-ordination Group with the Council of Europe to concrete results.

Co-operation with non-governmental organizations. Co-operation with NGOs is mainly focused on human-dimension issues, and insufficient advantage is taken of opportunities for co-operation in other fields and with other civic-society entities, including the world of research and education. Co-operation with NGOs should be expanded, and their access to OSCE meetings should be facilitated. This is of particular importance in view of the need to create broad transnational coalitions for addressing transnational threats.

6. Visions of the OSCE's Future

The presentation of the report of the Panel of Eminent Persons will be followed by high-level consultations in autumn of 2005. Whether these consultations will be a one-off occurrence or whether they can serve as a starting point for a longer negotiation process, is an open question. Currently, there is no way of foreseeing how much common ground the participating States will find. The range of choices the OSCE has for development is therefore sum-

marized here in terms of the two extremes on a continuum of options: a minimal and an optimal option.

6.1 Minimal Option: The OSCE as a Stand-by Organization

The minimal option assumes that the participating States fail to reach an agreement on the OSCE's changed functions and tasks and cannot bridge their political differences. Nonetheless, they agree that the OSCE ought not be dissolved formally in order to maintain some of its basic political functions.

This would result in a substantial decrease of the Organization's relevance, which would be reflected in the downsizing of its operational activities and its field operations in particular. The loss of operational capacity would be accompanied by a further *de facto* erosion of the normative *acquis*. While some states would continue to respect OSCE commitments, others would prefer a selective approach to them. The *acquis* would, however, not be formally revoked.

The OSCE would most probably not be dissolved in a formal sense. The Organization's decision-making bodies, at least the Permanent Council and a smaller Secretariat, would remain. In this scenario, the operational range of the OSCE's institutions – ODIHR, the HCNM, and the FOM – would be sharply reduced.

Such a development would not necessarily occur all at once, for example, with the simultaneous non-extension of several mission mandates, but could also take the form of a gradual process of decline, which might even be hidden behind a superficial progress on some measures to improve the OSCE's organizational effectiveness.

The minimal option would preserve the OSCE as a kind of stand-by organization, which could be revitalized to deal with future contingencies. This would be better than nothing, but security and stability in Europe would be severely damaged unless other actors take over the OSCE's tasks. The minimal option would represent a clear regression from what has already been achieved, both in normative and operational terms. At the same time, it would reflect the states' inability to agree on relevant multilateral approaches to the challenges ahead.

6.2 Optimal Option: A New Consensus on the OSCE's Future

The optimal option starts from the assumption that the participating States can agree on a new, politically substantial, and problem-oriented consensus on the future functions and tasks of the Organization. Such a consensus would start with the political acknowledgement that management of change in Europe is necessary and that the OSCE is the right organization to contribute to this task.

Such a consensus would almost certainly not provide the OSCE with a role as an overarching European security organization, brokering relations between major powers. However, it would define a specific role for the OSCE as an organization specializing in addressing certain categories of threats. The OSCE as a specialized organization based on comprehensive values, norms, and commitments – an organization positioned somewhere below the level of overall responsibility for European security, but helping to guide and harmonize as well as complement other institutions' work – is the optimal scenario.

The operational capabilities of the OSCE, in particular its field operations, and the related support structures would be reorganized according to changed needs. The OSCE institutions would continue to function. The OSCE's normative *acquis* would be maintained; attempts to use it in a selective way would be contained.

Such an outcome may not emerge in the immediate future, that is, after a brief round of high-level consultations, but could also be the result of a longer process that starts with agreements on institutional matters. Furthermore, even if the optimal option is achieved, it would still be desirable for the OSCE to prove its usefulness beyond its area by extending its outreach activities.

The key to achieving this second option, or something close to it, lies in finding a new political consensus on the functions of the Organization, and no amount of organizational engineering can substitute for this. Whether any such agreement is reached will reveal the participating States' ability to address today's and tomorrow's challenges in a truly multilateral and co-operative way.

7. Recommendations

The following recommendations aim at adapting the function and tasks of the OSCE to changed needs and building a consensus among participating States on the Organization's new role.

Key Recommendations:

1. Do not give up, compromise, or water down OSCE principles, norms, and commitments. Even if this might offer short-term political gains, it would be the beginning of the end of the OSCE as a values-driven organization.
2. Make the issue of addressing transnational threats and risks a priority for the OSCE and elaborate an operational cross-dimensional concept, building on the Organization's experiences and capacities in police matters, border management, anti-trafficking, and counter-terrorism.

3. Establish new initiatives to contribute to the resolution of the “frozen conflicts” in Transdniestria, South Ossetia, and Nagorno-Karabakh by making more use of high-level involvement, closer co-operation with the EU and other international organizations, and by supporting concepts for arms control and economic revitalization.
4. Convene an OSCE Summit Meeting to decide on the Organization’s reform agenda – as soon as the participating States have developed sufficient common ground.

Recommendations on Fields of Activity:

Politico-Military Dimension:

5. Reopen the discussion on current threat perceptions of the participating States with an OSCE seminar on military doctrines as a starting point for the elaboration of a new generation of regional and sub-regional Confidence and Security-Building Measures.
6. Bring the Adapted Conventional Armed Forces in Europe (ACFE) Treaty into force by honouring progress made by the Russian Federation in fulfilling its Istanbul commitment with progress in the ratification process. After the entry into force of the ACFE Treaty, admit new states parties.
7. Elaborate arms-control concepts to support possible political settlements of the conflicts in Transdniestria, South Ossetia, and Nagorno-Karabakh.
8. Operationalize and implement OSCE efforts to reduce the illicit flows of small arms and light weapons across national borders throughout the region.

Conflict Prevention and Crisis Management:

9. Start preparation of multi-functional field operations, which will be needed after the resolution of “frozen conflicts”, including arms-control, border-security, policing, and peacekeeping elements.
10. Make better use of the capabilities of the High Commissioner on National Minorities to assist in the resolution of ethno-political conflicts in all participating States, including Western ones.

Economic and Environmental Issues:

11. Include the Co-ordinator of OSCE Economic and Environmental Activities in the elaboration of a cross-dimensional approach to addressing transnational threats and risks, with the specific task of integrating the economic and environmental aspects of these challenges to regional security.

12. Elaborate plans for using economic instruments to contribute to the resolution of the conflicts in Transdniestria, South Ossetia, and Nagorno-Karabakh. Elaborate concepts for the economic revitalization of war-torn regions and discuss them with international financial organizations and other relevant donor organizations.

Human-Dimension Issues:

13. Create a general human-dimension monitoring instrument that covers all participating States without exception. Base monitoring on a questionnaire to be answered by states, or on the annual human rights report by the UN High Commissioner for Human Rights, and discuss states' replies at the OSCE's annual Human Dimension Implementation Meetings.
14. Amend the commitments of the 1990 Copenhagen Document relating to elections and election-monitoring. Establish a mechanism of political consultations to clarify disputes between the state concerned and the OSCE election observation mission.

Recommendations on Structures, Procedures, and Instruments:

Structures for Dialogue and Consultation:

15. Develop a system of informal working groups mirroring the working structures of the OSCE to enhance the inclusiveness of consultations and to give the participating States more opportunities to become involved in issues that particularly interest them.
16. Upgrade the framework for dialogue and consultation between the OSCE Parliamentary Assembly and the decision-making and operational bodies of the OSCE.

Secretary General and Secretariat:

17. Introduce a clear division of labour between the Chairmanship and the Secretary General that enlarges the competencies of the latter:
 - The Chairman should concentrate on political consultations and the preparation of the decision-making process among the participating States, on top-level co-operation with international partner organizations, and on providing political guidance.
 - The position of Secretary General should be strengthened by being vested with overall executive responsibility, including operational leadership and co-ordination of institutions and field operations. More tasks should be delegated to the Secretary General.

18. Provide the Secretariat with all the means it needs to fulfil an expanded operational leadership role with regard to both institutions and issues:
 - Strengthen the Office of the Secretary General by adding a Political Unit, responsible for policy planning, and an Analytical Unit, tasked with lessons-learned, evaluation, and analysis functions.
 - Unite all functions related to the support of field operations in a Department for Field Operations, apart from mission-staffing which should remain with the Department for Human Resources.
 - Unite the most important issue-oriented working units, such as counter-terrorism, police matters, border management, local arms control, and anti-trafficking in a Department for Security-Building.
19. Create Competence Teams as an instrument for the Secretary General to provide inter-institutional and cross-dimensional co-ordination within specific fields.
20. Adopt a convention on privileges and immunities for the practical purposes of better protecting staff in the field and solving contractual problems.

Field Operations:

21. Develop thematic missions directed at specific cross-border and regional challenges rather than specific states. Establish a Mission on Trafficking in Human Beings as a prototype for a future generation of thematic OSCE field operations.
22. Open a voluntary fund for seconding suitable personnel from countries that are underrepresented in the OSCE because they cannot afford to second staff; also extend the minimum working period for seconded staff to at least one year. Drop the rule on a maximum term of employment for professional staff.

Co-operation with International and Non-Governmental Organizations:

23. Make better use of the capacity of the OSCE as a regional arrangement of the UN; consult with the UN on regional issues, peacekeeping, transnational threats, peace-building structures, and lessons-learned mechanisms; and support the UN in the regional implementation of global initiatives.
24. Establish co-ordination groups with other international organizations on the model of the group set up jointly with the Council of Europe, and improve co-operation, for instance by holding regular staff-to-staff meetings and introducing cross representation both at headquarters and field-operations level.

25. Take better advantage of deepening co-operation with non-governmental organizations in all of the OSCE's dimensions, and include them as actors in broad transnational coalitions addressing new threats and risks.

Outreach:

26. Increase the impact of the OSCE beyond its area of application by offering the Organization's *acquis* and experiences as a model for other regions, by strengthening co-operation with the Asian and Mediterranean partner states, and by implementing more outreach activities.

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)

EAPC Observers

Partnership for Peace (PfP)

NATO-Russia Council

NATO-Ukraine Charter/NATO-Ukraine Commission

European Union (EU)

EU Accession Negotiations

EU Candidate Countries

EU Association Agreements

Stabilization and Association Process (SAP)

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 Defence Council

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 Cooperative Initiative (SECI)
South Eastern European Co-operation Process (SEECP)
SEECP Observers
Black Sea Economic Co-operation (BSEC)

North American Free Trade Area (NAFTA)

Sources:

OECD: www.oecd.org
Council of Europe: www.coe.int
NATO: www.nato.int
EU: europa.eu.int
WEU: www.w eu.int
Baltic Defence Council: 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.cefta.org
CEI: www.ceinet.org
SECI: www.sec inet.org
BSEC: www.bsec.gov.tr
NAFTA: www.nafta-sec-alena.org

The 55 OSCE Participating States – Facts and Figures¹

1. Albania

Date of accession: June 1991

Scale of distribution: 0.19 per cent (OSCE ranking: 32)²

Area: 28,748 km² (OSCE ranking: 45)³

Population: 3,563,112 (OSCE ranking: 41)⁴

GDP per capita in international dollars at PPP rates⁵: 4,900 (OSCE ranking: 46)⁶

GDP growth: 5.6 per cent (OSCE ranking: 20)⁷

Armed forces (active): 21,500 (OSCE ranking: 32)⁸

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), SAP, Stability Pact for South Eastern Europe, CEI (1995), SECI, SEECP, BSEC.

2. Andorra

Date of accession: April 1996

Scale of distribution: 0.125 per cent (43)

Area: 468 km² (50)

Population: 70,549 (51)

GDP per capita in international dollars at PPP rates: 26,800 (20)⁹

GDP growth: 2 per cent (44)¹⁰

Armed forces (active): none

Memberships and forms of co-operation: CoE (1994).

3. Armenia

Date of accession: January 1992

Scale of distribution: 0.11 per cent (49)

Area: 29,800 km² (44)

Population: 2,982,904 (42)

GDP per capita in international dollars at PPP rates: 4,600 (47)

GDP growth: 9 per cent (7)

1 Compiled by Jochen Rasch.

2 Of 55 states.

3 Of 55 states.

4 Of 55 states.

5 The international dollar is a hypothetical unit of currency used to compare different national currencies in terms of purchasing power parity (PPP). 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 48 states.

7 Of 53 states.

8 Of 54 states.

9 2003 (estimated).

10 2003 (estimated).

Armed forces (active): 44,874 (23)

Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

4. Austria

Date of accession: June 1973

Scale of distribution: 2.3 per cent (13)

Area: 83,870 km² (29)

Population: 8,184,691 (24)

GDP per capita in international dollars at PPP rates: 31,300 (10)

GDP growth: 1.9 per cent (45)

Armed forces (active): 35,000 (25)¹¹

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 distribution: 0.11 per cent (49)

Area: 86,600 km² (28)

Population: 7,911,974 (25)

GDP per capita in international dollars at PPP rates: 3,800 (48)

GDP growth: 9.8 per cent (4)

Armed forces (active): 66,490 (15)

Memberships and forms of co-operation: CoE (2001), EAPC, PfP (1994), CIS (1991), BSEC.

6. Belarus

Date of accession: January 1992

Scale of distribution: 0.51 per cent (28)

Area: 207,600 km² (19)

Population: 10,300,483 (20)

GDP per capita in international dollars at PPP rates: 6,800 (42)

GDP growth: 6.4 per cent (17)

Armed forces (active): 72,940 (14)

Memberships and forms of co-operation: EAPC, PfP (1995), CIS (1991), CEI (1995).

7. Belgium

Date of accession: June 1973

Scale of distribution: 3.55 per cent (10)

Area: 30,528 km² (43)

Population: 10,364,388 (19)

¹¹ Approximately.

GDP per capita in international dollars at PPP rates: 30,600 (11)
GDP growth: 2.6 per cent (38)
Armed forces (active): 40,800 (24)
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 distribution: 0.19 per cent (32)
Area: 51,129 km² (36)
Population: 4,430,494 (38)
GDP per capita in international dollars at PPP rates: 6,500 (43)
GDP growth: 5 per cent (25)
Armed forces (active): 24,600 (35)¹²
Memberships and forms of co-operation: CoE (2002), SAP, Stability Pact for South Eastern Europe, CEI (1992), SECI, SEECP.

9. Bulgaria

Date of accession: June 1973
Scale of distribution: 0.55 per cent (26)
Area: 110,910 km² (23)
Population: 7,450,349 (27)
GDP per capita in international dollars at PPP rates: 8,200 (37)
GDP growth: 5.3 per cent (22)
Armed forces (active): 51,000 (21)¹³
Memberships and forms of co-operation: CoE (1992), NATO (2004), EAPC, PfP (1994), EU Accession Negotiations (1999), EU Association Agreement (1993), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1995), SECI, SEECP, BSEC.

10. Canada

Date of accession: June 1973
Scale of distribution: 5.45 per cent (7)
Area: 9,984,670 km² (2)
Population: 32,805,041 (11)
GDP per capita in international dollars at PPP rates: 31,500 (9)
GDP growth: 2.4 per cent (40)
Armed forces (active): 52,300 (20)

12 OSCE ranking based on the total sum of the armed forces (active) of the Muslim-Croat Federation (16,400) and the Republika Srpska (8,200).

13 Approximately 10,000 construction troops not included.

Memberships and forms of co-operation: G8 (1976), OECD (1961), NATO (1949), EAPC, Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, NAFTA.

11. Croatia

Date of accession: March 1992

Scale of distribution: 0.19 per cent (32)

Area: 56,542 km² (35)

Population: 4,495,904 (36)

GDP per capita in international dollars at PPP rates: 11,200 (35)

GDP growth: 3.7 per cent (30)

Armed forces (active): 20,800 (34)

Memberships and forms of co-operation: CoE (1996), EAPC, PfP (2000), EU Accession Negotiations (2004), SAA (2001), Stability Pact for South Eastern Europe, CEI (1992), SECI, SEECP.

12. Cyprus

Date of accession: June 1973

Scale of distribution: 0.19 per cent (32)

Area: 9,250 km² (48)¹⁴

Population: 780,133 (47)¹⁵

GDP per capita in international dollars at PPP rates: 20,300

GDP growth: 3.2 per cent (35)

Armed forces (active): Greek sector: 10,000, Turkish sector: 5,000

Memberships and forms of co-operation: CoE (1961), EU (2004, Greek sector only), Stability Pact for South Eastern Europe.

13. Czech Republic

Date of accession: January 1993

Scale of distribution: 0.67 per cent (24)

Area: 78,866 km² (30)

Population: 10,241,138 (21)

GDP per capita in international dollars at PPP rates: 16,800 (28)

GDP growth: 3.7 per cent (30)

Armed forces (active): 45,000 (17)

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, CEFTA, CEI (1990/1993).

14. Denmark

Date of accession: June 1973

Scale of distribution: 2.05 per cent (15)

14 Greek sector: 5,895 km², Turkish sector: 3,355 km².

15 Total of Greek and Turkish sectors.

Area: 43,094 km² (39)
Population: 5,432,335 (29)
GDP per capita in international dollars at PPP rates: 32,200 (6)
GDP growth: 2.1 per cent (42)
Armed forces (active): 21,180 (31)
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 distribution: 0.19 per cent (32)
Area: 45,226 km² (38)
Population: 1,332,893 (46)
GDP per capita in international dollars at PPP rates: 14,300 (31)
GDP growth: 6 per cent (18)
Armed forces (active): 4,980 (44)
Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Defence Council, CBSS (1992), Stability Pact for South Eastern Europe.

16. Finland

Date of accession: June 1973
Scale of distribution: 2.05 per cent (15)
Area: 338,145 km² (13)
Population: 5,223,442 (31)
GDP per capita in international dollars at PPP rates: 29,000 (14)
GDP growth: 3 per cent (37)
Armed forces (active): 27,000 (29)
Memberships and forms of co-operation: OECD (1969), CoE (1989), EAPC, PfP (1994), EU (1995), WEU Observer (1995), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

17. France

Date of accession: June 1973
Scale of distribution: 9.1 per cent (1)
Area: 547,030 km² (7)
Population: 60,656,178 (5)
GDP per capita in international dollars at PPP rates: 28,700 (15)
GDP growth: 2.1 per cent (42)
Armed forces (active): 259,050 (6)¹⁶

16 8,600 *Service de santé* not included.

Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Eurocorps (1992), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

18. Georgia

Date of accession: March 1992

Scale of distribution: 0.11 per cent (49)

Area: 69,700 km² (32)

Population: 4,677,401 (34)

GDP per capita in international dollars at PPP rates: 3,100 (49)

GDP growth: 9.5 per cent (5)

Armed forces (active): 17,770 (36)¹⁷

Memberships and forms of co-operation: CoE (1999), EAPC, PfP (1994), CIS (1993), BSEC.

19. Germany

Date of accession: June 1973

Scale of distribution: 9.1 per cent (1)

Area: 357,021 km² (12)

Population: 82,431,390 (3)

GDP per capita in international dollars at PPP rates: 28,700 (15)

GDP growth: 1.7 per cent (48)

Armed forces (active): 284,500 (5)

Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1950), NATO (1955), EAPC, EU (1958), WEU (1954), Eurocorps (1992), Observer of the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe.

20. Greece

Date of accession: June 1973

Scale of distribution: 0.85 per cent (20)

Area: 131,940 km² (22)

Population: 10,668,354 (17)

GDP per capita in international dollars at PPP rates: 21,300 (23)

GDP growth: 3.7 per cent (30)

Armed forces (active): 170,800 (9)

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.

¹⁷ Estimated.

21. The Holy See

Date of accession: June 1973

Scale of distribution: 0.125 per cent (43)

Area: 0.44 km² (55)

Population: 932 (55)

GDP per capita in international dollars at PPP rates: n/a

GDP growth: n/a

Armed forces (active): 110 (49)¹⁸

Memberships and forms of co-operation: none.

22. Hungary

Date of accession: June 1973

Scale of distribution: 0.7 per cent (22)

Area: 93,030 km² (26)

Population: 10,006,835 (22)

GDP per capita in international dollars at PPP rates: 14,900 (29)

GDP growth: 3.9 per cent (28)

Armed forces (active): 32,300 (26)¹⁹

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, CEFTA, CEI (1989), SECI.

23. Iceland

Date of accession: June 1973

Scale of distribution: 0.19 per cent (32)

Area: 103,000 km² (24)

Population: 296,737 (50)

GDP per capita in international dollars at PPP rates: 31,900 (7)

GDP growth: 1.8 per cent (46)

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 distribution: 0.65 per cent (25)

Area: 70,280 km² (31)

Population: 4,015,676 (39)

18 Authorized strength 100-110 members of the Swiss Guard, cf. at: http://www.vatican.va/news_services/press/documentazione/documents/sp_ss_scv/informazione_generale/guardia-svizzera_it.html.

19 Estimated.

GDP per capita in international dollars at PPP rates: 31,900 (7)
GDP growth: 5.1 per cent (24)
Armed forces (active): 10,460 (40)²⁰
Memberships and forms of co-operation: OECD (1961), CoE (1949), EAPC, PfP (1999), EU (1973), WEU Observer (1992), Stability Pact for South Eastern Europe.

25. Italy

Date of accession: June 1973
Scale of distribution: 9.1 per cent (1)
Area: 301,230 km² (16)
Population: 58,103,033 (7)
GDP per capita in international dollars at PPP rates: 27,700 (18)
GDP growth: 1.3 per cent (49)
Armed forces (active): 194,000 (8)
Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, CEI (1989).

26. Kazakhstan

Date of accession: January 1992
Scale of distribution: 0.42 per cent (29)
Area: 2,717,300 km² (4)
Population: 15,185,844 (15)
GDP per capita in international dollars at PPP rates: 7,800 (38)
GDP growth: 9.1 per cent (6)
Armed forces (active): 65,800 (16)
Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991).

27. Kyrgyzstan

Date of accession: January 1992
Scale of distribution: 0.11 per cent (49)
Area: 198,500 km² (20)
Population: 5,146,281 (32)
GDP per capita in international dollars at PPP rates: 1,700 (53)
GDP growth: 6 per cent (18)
Armed forces (active): 12,500 (39)
Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991).

28. Latvia

Date of accession: September 1991
Scale of distribution: 0.19 per cent (32)

²⁰ Estimated.

Area: 64,589 km² (34)
Population: 2,290,237 (43)
GDP per capita in international dollars at PPP rates: 11,500 (34)
GDP growth: 7.6 per cent (10)
Armed forces (active): 4,880 (45)
Memberships and forms of co-operation: CoE (1995), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Defence Council, CBSS (1992), Stability Pact for South Eastern Europe.

29. Liechtenstein

Date of accession: June 1973
Scale of distribution: 0.125 per cent (43)
Area: 160 km² (52)
Population: 33,717 (52)
GDP per capita in international dollars at PPP rates: 25,000 (21)²¹
GDP growth: 11 per cent (2)²²
Armed forces (active): none²³
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 distribution: 0.19 per cent (32)
Area: 65,200 km² (33)
Population: 3,596,617 (40)
GDP per capita in international dollars at PPP rates: 12,500 (32)
GDP growth: 6.6 per cent (15)
Armed forces (active): 13,510 (38)
Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Baltic Defence Council, CBSS (1992), Stability Pact for South Eastern Europe.

31. Luxembourg

Date of accession: June 1973
Scale of distribution: 0.55 per cent (26)
Area: 2,586 km² (49)
Population: 468,571 (48)
GDP per capita in international dollars at PPP rates: 58,900 (1)
GDP growth: 2.3 per cent (41)

21 1999 (estimated).

22 1999 (estimated).

23 In 1868, the armed forces were dissolved, cf. at: <http://www.liechtenstein.li/pdf-fl-multimedia-information-liechtenstein-bildschirm.pdf>.

Armed forces (active): 900 (48)

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.

32. Former Yugoslav Republic of Macedonia

Date of accession: October 1995

Scale of distribution: 0.19 per cent (32)

Area: 25,333 km² (46)

Population: 2,045,262 (44)

GDP per capita in international dollars at PPP rates: 7,100 (41)

GDP growth: 1.3 per cent (49)

Armed forces (active): 10,890 (37)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1995), SAP, SAA (2001), Stability Pact for South Eastern Europe, CEI (1993), SECI, SEECP.

33. Malta

Date of accession: June 1973

Scale of distribution: 0.125 per cent (43)

Area: 316 km² (51)

Population: 398,534 (49)

GDP per capita in international dollars at PPP rates: 18,200 (26)

GDP growth: 1 per cent (53)

Armed forces (active): 2,140 (47)

Memberships and forms of co-operation: CoE (1965), EU (2004).

34. Moldova

Date of accession: January 1992

Scale of distribution: 0.11 per cent (49)

Area: 33,843 km² (42)

Population: 4,455,421 (37)

GDP per capita in international dollars at PPP rates: 1,900 (51)

GDP growth: 6.8 per cent (13)

Armed forces (active): 6,809 (41)

Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), CIS (1991), Stability Pact for South Eastern Europe, CEI (1996), SECI, BSEC.

35. Monaco

Date of accession: June 1973

Scale of distribution: 0.125 per cent (43)

Area: 1.95 km² (54)

Population: 32,409 (53)

GDP per capita in international dollars at PPP rates: 27,000 (19)²⁴
GDP growth: 0.9 per cent (54)²⁵
Armed forces (active): none
Memberships and forms of co-operation: CoE (2004), Member of the European Economic and Monetary Space by special agreement with France.

36. Netherlands

Date of accession: June 1973
Scale of distribution: 3.8 per cent (9)
Area: 41,526 km² (40)
Population: 16,407,491 (14)
GDP per capita in international dollars at PPP rates: 29,500 (13)
GDP growth: 1.2 per cent (51)
Armed forces (active): 53,130 (19)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1958), WEU (1954), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

37. Norway

Date of accession: June 1973
Scale of distribution: 2.25 per cent (14)
Area: 324,220 km² (14)
Population: 4,593,041 (35)
GDP per capita in international dollars at PPP rates: 40,000 (3)
GDP growth: 3.3 per cent (34)
Armed forces (active): 26,600 (30)
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1949), EAPC, EU Association Agreement (1996), Associate Member of the WEU (1992), Barents Euro-Arctic Council, Nordic Council (1952), CBSS (1992), Stability Pact for South Eastern Europe.

38. Poland

Date of accession: June 1973
Scale of distribution: 1.4 per cent (17)
Area: 312,685 km² (15)
Population: 38,557,984 (10)
GDP per capita in international dollars at PPP rates: 12,000 (33)
GDP growth: 5.6 per cent (20)
Armed forces (active): 141,500 (10)
Memberships and forms of co-operation: OECD (1996), CoE (1991), NATO (1999), EAPC, PfP (1994), EU (2004), Associate Member of the WEU

24 2000 (estimated).

25 2000 (estimated).

(1992), Observer of the Barents Euro-Arctic Council, CBSS (1992), Stability Pact for South Eastern Europe, CEFTA, CEI (1991).

39. Portugal

Date of accession: June 1973

Scale of distribution: 0.85 per cent (20)

Area: 92,391 km² (27)

Population: 10,566,212 (18)

GDP per capita in international dollars at PPP rates: 17,900 (27)

GDP growth: 1.1 per cent (52)

Armed forces (active): 44,900 (22)

Memberships and forms of co-operation: OECD (1961), CoE (1976), NATO (1949), EAPC, EU (1986), WEU (1990), Stability Pact for South Eastern Europe.

40. Romania

Date of accession: June 1973

Scale of distribution: 0.7 per cent (22)

Area: 237,500 km² (18)

Population: 22,329,977 (13)

GDP per capita in international dollars at PPP rates: 7,700 (39)

GDP growth: 8.1 per cent (9)

Armed forces (active): 97,200 (12)

Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU Accession Negotiations (1999), EU Association Agreement (1993), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1995), SECI, SEECP, BSEC.

41. Russian Federation

Date of accession: June 1973

Scale of distribution: 9 per cent (5)

Area: 17,075,200 km² (1)

Population: 143,420,309 (2)

GDP per capita in international dollars at PPP rates: 9,800 (36)

GDP growth: 6.7 per cent (14)

Armed forces (active): 1,212,700 (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.

42. San Marino

Date of accession: June 1973

Scale of distribution: 0.125 per cent (43)

Area: 61 km² (53)

Population: 28,880 (54)
GDP per capita in international dollars at PPP rates: 34,600 (4)²⁶
GDP growth: 7.5 per cent (11)²⁷
Armed forces (active): none
Memberships and forms of co-operation: CoE (1988).

43. Serbia and Montenegro

Date of accession: June 1973
Scale of distribution: 0.19 per cent (32)
Area: 102,350 km² (25)
Population: 10,829,175 (16)
GDP per capita in international dollars at PPP rates: 2,400 (50)
GDP growth: 6.5 per cent (16)
Armed forces (active): 65,300 (13)
Memberships and forms of co-operation: CoE (2003), SAP, Stability Pact for South Eastern Europe, CEI (1989/2000), SECI, SEECP.

44. Slovakia

Date of accession: January 1993
Scale of distribution: 0.33 per cent (31)
Area: 48,845 km² (37)
Population: 5,431,363 (30)
GDP per capita in international dollars at PPP rates: 14,500 (30)
GDP growth: 5.3 per cent (22)
Armed forces (active): 20,195 (32)
Memberships and forms of co-operation: OECD (2000), CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1990/1993).

45. Slovenia

Date of accession: March 1992
Scale of distribution: 0.19 per cent (32)
Area: 20,273 km² (47)
Population: 2,011,070 (45)
GDP per capita in international dollars at PPP rates: 19,600 (25)
GDP growth: 3.9 per cent (28)
Armed forces (active): 6,550 (42)
Memberships and forms of co-operation: CoE (1993), NATO (2004), EAPC, PfP (1994), EU (2004), Associate Partner of the WEU (1994), Stability Pact for South Eastern Europe, CEFTA, CEI (1992), SECI.

26 2001 (estimated).

27 2001 (estimated).

46. Spain

Date of accession: June 1973

Scale of distribution: 4 per cent (8)

Area: 504,782 km² (8)

Population: 40,341,462 (9)

GDP per capita in international dollars at PPP rates: 23,300 (22)

GDP growth: 2.6 per cent (38)

Armed forces (active): 150,700 (11)

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.

47. Sweden

Date of accession: June 1973

Scale of distribution: 3.55 per cent (10)

Area: 449,964 km² (10)

Population: 9,001,774 (23)

GDP per capita in international dollars at PPP rates: 28,400 (17)

GDP growth: 3.6 per cent (33)

Armed forces (active): 27,600 (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.

48. Switzerland

Date of accession: June 1973

Scale of distribution: 2.45 per cent (12)

Area: 41,290 km² (41)

Population: 7,489,370 (26)

GDP per capita in international dollars at PPP rates: 33,800 (5)

GDP growth: 1.8 per cent (46)

Armed forces (active): 4,000 (46)²⁸

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.

49. Tajikistan

Date of accession: January 1992

Scale of distribution: 0.11 per cent (49)

Area: 143,100 km² (21)

Population: 7,163,506 (28)

GDP per capita in international dollars at PPP rates: 1,100 (54)

²⁸ In addition, 24,000 conscripts, recruited twice a year for 15 weeks.

GDP growth: 10.5 per cent (3)
Armed forces (active): 7,600 (43)
Memberships and forms of co-operation: EAPC, PfP (2002), CIS (1991).

50. Turkey

Date of accession: June 1973
Scale of distribution: 1 per cent (18)
Area: 780,580 km² (5)
Population: 69,660,559 (4)
GDP per capita in international dollars at PPP rates: 7,400 (40)
GDP growth: 8.2 per cent (8)
Armed forces (active): 514,850 (3)²⁹
Memberships and forms of co-operation: OECD (1961), CoE (1949), NATO (1952), EAPC, EU Accession Negotiations (2005), EU Association Agreement (1964), Associate Member of the WEU (1992), Stability Pact for South Eastern Europe, SECI, SEECP, BSEC.

51. Turkmenistan

Date of accession: January 1992
Scale of distribution: 0.11 per cent (49)
Area: 488,100 km² (9)
Population: 4,952,081 (33)
GDP per capita in international dollars at PPP rates: 5,700 (45)
GDP growth: 7.5 per cent (11)
Armed forces (active): 26,000 (27)³⁰
Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991).

52. Ukraine

Date of accession: January 1992
Scale of distribution: 0.95 per cent (19)
Area: 603,700 km² (6)
Population: 46,996,765 (8)
GDP per capita in international dollars at PPP rates: 6,300 (44)
GDP growth: 12 per cent (1)
Armed forces (active): 272,500 (4)
Memberships and forms of co-operation: CoE (1995), EAPC, PfP (1994), NATO-Ukraine Charter/NATO-Ukraine Commission (1997), CIS (1991), CEI (1995), BSEC.

53. United Kingdom

Date of accession: June 1973
Scale of distribution: 9.1 per cent (1)

29 Estimated; being reduced.

30 Estimated.

Area: 244,820 km² (17)
Population: 60,441,457 (6)
GDP per capita in international dollars at PPP rates: 29,600 (12)
GDP growth: 3.2 per cent (35)
Armed forces (active): 207,630 (7)
Memberships and forms of co-operation: G8 (1975), OECD (1961), CoE (1949), NATO (1949), EAPC, EU (1973), WEU (1954), Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe.

54. USA

Date of accession: June 1973
Scale of distribution: 9 per cent (5)
Area: 9,631,418 km² (3)
Population: 295,734,134 (1)
GDP per capita in international dollars at PPP rates: 40,100 (2)
GDP growth: 4.4 per cent (26)
Armed forces (active): 1,433,600 (1)
Memberships and forms of co-operation: G8 (1975), OECD (1961), NATO (1949), EAPC, Observer of the Barents Euro-Arctic Council, Stability Pact for South Eastern Europe, NAFTA.

55. Uzbekistan

Date of accession: January 1992
Scale of distribution: 0.41 per cent (30)
Area: 447,400 km² (11)
Population: 26,851,195 (12)
GDP per capita in international dollars at PPP rates: 1,800 (52)
GDP growth: 4.4 per cent (26)
Armed forces (active): 55,000 (18)
Memberships and forms of co-operation: EAPC, PfP (1994), CIS (1991).

Sources:

Date of accession:

http://www.osce.org/general/participating_states/

Scale of distribution:

http://www.osce.org/documents/pc/2002/04/1133_en.pdf

Area:

<http://www.cia.gov/cia/publications/factbook/rankorder/2147rank.txt>

Population (estimated as of July 2005):

<http://www.cia.gov/cia/publications/factbook/rankorder/2119rank.txt>

GDP per capita in international dollars at PPP rates (estimated as of 2004, unless stated to the contrary):

<http://www.cia.gov/cia/publications/factbook/rankorder/2004rank.txt>

GDP growth: *(estimated as of 2004, 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 2004-2005, London 2004

OSCE Conferences, Meetings, and Events 2004/2005

2004

26 August	Anti-trafficking Seminar of the OSCE Office in Baku, Baku.
27-28 August	Conference on Guaranteeing Media Freedom on the Internet, Amsterdam.
7-9 September	Technical experts conference on border management and security organized by the OSCE Secretariat and the UN Office on Drugs and Crime, Vienna.
13-14 September	OSCE Conference on Tolerance and the Fight against Racism, Xenophobia and Discrimination, Brussels.
17 September	The Chairman-in-Office Solomon Passy visits Russia.
19 September	OSCE/ODIHR observation of the parliamentary elections in Kazakhstan.
23-24 September	Conference on Ensuring Human Rights Protection in Countries of Destination: Breaking the Cycle of Trafficking, Helsinki.
29 September- 2 October	OSCE Fall Meeting of the Parliamentary Assembly with focus on issues related to trafficking in human beings, Rhodes.
2 October	OSCE/ODIHR observation of municipal elections in Bosnia and Herzegovina.
4-15 October	Ninth Annual Human Dimension Implementation Meeting, Warsaw.
9 October	OSCE/ODIHR send an Election Support Team to assist with the Presidential elections in Afghanistan.
17 October	OSCE/ODIHR observation of the Belarus parliamentary elections, Belarus.
18-21 October	Visit of Miklós Haraszti, OSCE Representative for the Freedom of the Media to Moldova.
25-26 October	The OSCE Mission to Georgia and the OSCE Representative on Freedom of the Media organize the first South Caucasus Media Conference, Tbilisi.
28 October	OSCE Media Freedom Representative and the Council of Europe hold roundtable on decriminalising libel, Baku.
31 October	OSCE/ODIHR observation of the presidential election in Ukraine.
2 November	OSCE/ODIHR observation of the presidential election in the United States.
4-5 November	Supplementary Human Dimension Meeting on Internally Displaced Persons, Vienna.

7 November	OSCE/ODIHR observation of the referendum in the former Yugoslav Republic of Macedonia.
8-9 November	First preparatory seminar for the 13th Economic Forum on demographic trends, migration and integrating persons belonging to national minorities, Trieste.
18-19 November	2004 Mediterranean seminar on addressing threats to security in the twenty-first century, Sharm-el-Sheikh.
21 November	OSCE/ODIHR observation of the second round of the presidential election in Ukraine.
6 December	The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, and the OAS Special Rapporteur on Freedom of Expression sign a Joint Declaration on International Mechanisms for Promoting Freedom of Expression, London.
6-7 December	Twelfth Ministerial Council, Sofia.
13-15 December	The High Commissioner on National Minorities visits Turkmenistan.
26 December	OSCE/ODIHR limited observation of the parliamentary elections in Uzbekistan.
26 December	Observation of the repeat second round presidential election in Ukraine.

2005

1 January	Slovenia takes over the OSCE Chairmanship from Bulgaria. Slovenian Foreign Minister Dimitrij Rupel becomes Chairman-in-Office.
5 January	The Chairman-in-Office visits Ukraine.
10 January	Chairman-in-Office visit to Kosovo.
14 January	OSCE Troika Meeting, Vienna.
18 January	Annual High Level Tripartite Meeting between the United Nations, the Council of Europe and the OSCE, Geneva.
24-25 January	The OSCE Representative on Freedom of the Media visits Serbia and Montenegro.
24-25 January	Second Preparatory Seminar for the 13th OSCE Economic Forum: Migration from an economic, environmental and security perspective, Almaty.
26 January	The Chairman-in-Office visits NATO Headquarters, Brussels.
31 January- 6 February	A fact-finding mission of the Minsk Group of the OSCE visits the seven occupied territories of Azerbaijan.
1 February	The Chairman-in-Office visits Russia.

7 February	Visit of the Chairman-in-Office to Belgrade.
9-11 February	The OSCE Representative for the Freedom of the Media visits Belarus.
14-16 February	First Review Conference of the Treaty on Open Skies, Vienna.
15-16 February	Chairman-in-Office visit to Kazakhstan and Uzbekistan.
17 February	First meeting of the Panel of Eminent Persons to strengthen the effectiveness of the OSCE, Brdo.
23 February	14th high-level meeting between the OSCE and the Council of Europe, Strasbourg.
24-25 February	Fourth Winter Session of the OSCE Parliamentary Assembly, Vienna.
27 February	Observation of parliamentary elections in Tajikistan.
27 February	Observation of parliamentary elections in Kyrgyzstan.
28 February	Workshop organized by the Special Representative on Combating Trafficking in Human Beings: "Taking a Stand: Effective Assistance and Protection to Victims of Trafficking", Vienna.
4-5 March	The Chairman-in-Office visits Serbia and Montenegro.
6-9 March	Visit of the Chairman-in-Office to the USA.
6 March	Observation of parliamentary elections in Moldova.
8-9 March	15th Annual Implementation Assessment Meeting, Vienna.
10-11 March	Third Preparatory Seminar for the 13th OSCE Economic Forum: Integrating persons belonging to national minorities, Kyiv.
13 March	OSCE/ODIHR observation of municipal elections in the former Yugoslav Republic of Macedonia.
14 March	The Chairman-in-Office visits Moldova.
18 March	Alliance Against Trafficking in Persons Conference on Child Trafficking, Vienna.
25 March	The Chairman-in-Office visits Kosovo.
21-22 April	Supplementary Human Dimension Meeting on Challenges of Election Technologies and Procedures, Vienna.
25-26 April	2005 OSCE-Korea Conference on new security threats and a new security paradigm, Seoul.
28 April	Joint UN-OSCE seminar on violence against women, Paris.
2 May-11 July	Observation of the presidential election in Kyrgyzstan.
12-14 May	Fourth Sub-Regional Conference on the High North – Environment, Security and Co-operation, Tromsø.
13 May-4 July	Observation of parliamentary elections in Albania.

23-27 May	13th meeting of the Economic Forum on demographic trends, migration and integrating persons belonging to national minorities, Prague.
26 May	OSCE international conference on combating human trafficking, Belgrade.
30 May	Visit of the HCNM to Turkmenistan.
8-9 June	OSCE Conference on Anti-Semitism and on Other Forms of Intolerance, Córdoba.
17-18 June	Third Amsterdam Internet Conference on Media Freedom and Human Rights on the Internet, Amsterdam.
21-22 June	Third Annual Security Review Conference, Vienna.
1-5 July	14th Annual Session of the OSCE Parliamentary Assembly, Washington D.C.
14-15 July	Supplementary Human Dimension Meeting on Human Rights and the Fight against Terrorism, Vienna.

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Abbreviations

ACAC	Albanian Coalition Against Corruption
ACEEEO	Association of Central and Eastern European Election Officials
ACFE	Adapted Treaty on Conventional Armed Forces in Europe
AIAM	Annual Implementation Assessment Meeting (CSBMs)
ASEAN	Association of Southeast Asian Nations
ATAU	Anti-Trafficking Assistance Unit
ATC	Anti-Terrorist Centre (CIS)
ATU	Action against Terrorism Unit (OSCE)
AU	African Union
BMO	Border Monitoring Operation
BOMCA	Border Management Programme for Central Asia (EU)
BSEC	Black Sea Economic Co-operation
CACO	Central Asian Cooperation Organization
CAEC	Central Asian Economic Community
CAEU	Central Asian Economic Union
CALO	Central Asian Liaison Office (OSCE)
CARDS	Community Assistance for Reconstruction, Development and Stabilisation (EU)
CAREC	Central Asian Regional Environment Centre (TACIS)
CBMs	Confidence-Building Measures
CBSS	Council of the Baltic Sea States
CDE	Conference on Confidence- and Security-Building Measures and Disarmament in Europe
CEC	Central Elections Commission
CEEA	Co-ordinator of OSCE Economic and Environmental Activities
CEFTA	Central European Free Trade Agreement
CEI	Central European Initiative
CFE	Treaty on Conventional Armed Forces in Europe
CFSP	Common Foreign and Security Policy (EU)
CICA	Conference on Interaction and Confidence-Building Measures in Asia
CID	Cruel, inhuman or degrading treatment
CIL	Customary International Law
CiO	Chairman-in-Office
CIS	Commonwealth of Independent States
COPI	Citizen Outreach and Participation Initiative (Bosnia and Herzegovina)
CORE	Centre for OSCE Research

CPC	Conflict Prevention Centre (OSCE Secretariat)
CPSU	Communist Party of the Soviet Union
CSBMs	Confidence- and Security-Building Measures
CSCE	Conference on Security and Co-operation in Europe (since January 1995 OSCE)
CSDCs	Civil Society Development Centres (Albania)
CSTO	Collective Security Treaty Organization
CTC	Counter-Terrorism Committee (UN-Security Council)
EAPC	Euro-Atlantic Partnership Council
ECHR	European Convention on Human Rights
ECO	Economic Cooperation Organisation
ECRI	European Commission against Racism and Intolerance (Council of Europe)
ECtHR	European Court of Human Rights
EED	Economic and Environmental Dimension
EHU	European Humanities University (Belarus)
ENVSEC	Environment and Security Initiative
EOM	Election Observation Mission (ODIHR)
ESDP	European Security and Defence Policy (EU)
EU	European Union
EU BAM	EU Border Assistance Mission (to Moldova and Ukraine)
EUMC	European Monitoring Centre on Racism and Xenophobia
EUMM	European Union Monitoring Mission
FCNM	Framework Convention for the Protection of National Minorities
FOIA	Freedom of Information Act (Bosnia and Herzegovina)
FOM	Representative on Freedom of the Media
FSC	Forum for Security Co-operation (OSCE)
FTDP	Fair Trial Development Project
FYROM	The former Yugoslav Republic of Macedonia
G8	Group of Eight (Canada, France, Germany, Italy, Japan, Russia, UK, USA)
GEAP	Georgia Elections Assistance Programme
GTZ	Gesellschaft für Technische Zusammenarbeit/German Agency for Technical Co-operation
GUAM	Georgia, Ukraine, Azerbaijan, Moldova
States	
HCNM	High Commissioner on National Minorities
HDIM	Human Dimension Implementation Meeting
IAEA	International Atomic Energy Agency
ICAO	International Civil Aviation Organization
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross

ICTY	International Criminal Tribunal for the Former Yugoslavia
IFES	International Foundation for Electoral Systems
IGOs	International Governmental Organizations
IHF	International Helsinki Federation for Human Rights
IISEPS	Independent Institute of Socio-Economic and Political Studies (Belarus)
ILO	International Labour Organisation
IMF	International Monetary Fund
IMU	Islamic Movement of Uzbekistan
Interforza	Italian Interforce Police Liaison Office in Albania
IOM	International Organization for Migration
IRMA	Integrated Resource Management
ISAF	International Security Assistance Force (Afghanistan)
KGB	Komitet Gosudarstvennoy Bezopasnosti/Committee for State Security
LTOs	Long-Term Observers
MANPADS	Man-portable air defence systems
MBFR	Mutual and Balanced Force Reductions
MDPCs	Municipal Development Planning Committees (Bosnia and Herzegovina)
NAFTA	North American Free Trade Area
NATO	North Atlantic Treaty Organization
NGOs	Non-Governmental Organizations
NNCSDC	National Network of Civil Society Development Centres (Albania)
NPT	Nuclear Non-Proliferation Treaty
NRMs	National referral mechanisms
OAS	Organization of American States
OAU/AU	Organization of African Unity/African Union
OCEEA	Office of the Co-ordinator of OSCE Economic and Environmental Activities
ODIHR	Office for Democratic Institutions and Human Rights
OECD	Organization for Economic Cooperation and Development
OHCHR	Office of the (UN) High Commissioner for Human Rights
OHR	Office of the High Representative
OIC	Organization of the Islamic Conference
OSCE	Organization for Security and Co-operation in Europe
OSCCP	OSCE South-Eastern Europe Cross-Border Co-operation Programme
PA	Parliamentary Assembly (OSCE)
PACE	Parliamentary Assembly of the Council of Europe
PAMECA	Police Assistance Mission of the European Community to Albania
PC	Permanent Council (OSCE)

PCC	Project Co-ordination Cell (within the CPC)
PfP	Partnership for Peace (NATO)
PIC	Peace Implementation Council (Bosnia and Herzegovina)
PKK	Kurdish Workers Party
PLIP	Property Law Implementation Plan (Bosnia and Herzegovina)
PMSC/AHG	Political-Military Steering Committee/Ad Hoc Group on Cooperation in Peacekeeping (NATO)
PRCs	Political Resource Centres (Bosnia and Herzegovina)
PRT	Provincial Reconstruction Team (Afghanistan)
RATS	Regional Anti-Terrorism Structure (SCO)
RSFSR	Russian Soviet Federated Socialist Republic
SAA	Stabilization and Association Agreement (EU)
SAARC	South Asian Association for Regional Cooperation
SALW	Small Arms and Light Weapons
SAP	Stabilization and Association Process (EU)
SCO	Shanghai Co-operation Organization
SECI	Southeast European Co-operative Initiative
SEECp	South Eastern European Co-operation Process
SMI	Socialist Movement for Integration (Albania)
SNV	Netherlands Development Organization
SOAS	School of Oriental and African Studies (London)
SPMU	Strategic Police Matters Unit (OSCE Secretariat)
SSR	Soviet Socialist Republic
STOs	Short-Term Observers
TACIS	Technical Assistance for the CIS (EU)
TRACECA	Transport Corridor Europe-Caucasus-Asia
UÇK/KLA	Ushtria Çlirimtarë e Kosovës/Kosovo Liberation Army
UK	United Kingdom
UN/UNO	United Nations/United Nations Organization
UNCERD	United Nations Committee on the Elimination of Racial Discrimination
UNCHR	United Nations Commission on Human Rights
UNDCP	United Nations Drug Control Programme
UNDP	United Nations Development Programme
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
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
UNICEF	United Nations Children's Fund
UNIDO	United Nations Industrial Development Organization
UNODC	United Nations Office on Drugs and Crime (former UNODCCP)
UNODCCP	United Nations Office for Drug Control and Crime Preven- tion (since 1 October 2002 UNODC)
UNOMIG	United Nations Observer Mission in Georgia
UNOPS	United Nations Office for Project Services
UNSCR	United Nations Security Council Resolution
USA	United States of America
USAID	United States Agency for International Development
VCC	Voting Centre Commission (Albania)
VICS	Verification and Implementation Coordination Section (NATO)
WMD	Weapons of Mass Destruction
WTO	World Trade Organization
YES	Young Entrepreneurs Scheme (Georgia)
ZEC	Zone Election Commission (Albania)

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